

By: Senator(s) Sojourner

To: Judiciary, Division A

## SENATE BILL NO. 2852

1 AN ACT TO CREATE THE STOP SOCIAL MEDIA CENSORSHIP ACT  
2 RELATING TO INDECENT DECEPTIVE TRADE PRACTICES AND SOCIAL MEDIA  
3 CENSORSHIP TO CREATE A PRIVATE CAUSE OF ACTION AGAINST THE OWNER  
4 OR OPERATOR OF A SOCIAL MEDIA WEBSITE WHO CONTRACTS WITH A USER  
5 AND PURPOSELY DELETES CERTAIN PROTECTED SPEECH; TO PROVIDE FOR  
6 DAMAGES AND EQUITABLE RELIEF; TO PROVIDE EXCEPTIONS; AND FOR  
7 RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** This act shall be known and may be cited as the  
10 "Stop Social Media Censorship Act."

11 **SECTION 2.** The Legislature finds that:

12 (a) The Legislature is generally opposed to online  
13 censorship unless the content is injurious to children or promotes  
14 human trafficking, only then is the Legislature for limited  
15 censorship.

16 (b) The State of Mississippi has a compelling interest  
17 in holding certain social media websites to higher standards for  
18 having substantially created a digital public square.

19 (c) The State of Mississippi has an interest in helping  
20 its citizens enjoy their free exercise rights in certain



21 semi-public forums commonly used for religious and political  
22 speech, regardless of which political party or religious  
23 organization they ascribe to.

24 (d) The State of Mississippi has an interest in  
25 deterring the owners and operators of social media websites that  
26 have substantially created a digital public square from  
27 maliciously interfering in elections.

28 **SECTION 3.** The purpose of this act is to:

29 (a) Level the playing field between consumers and the  
30 major social media websites.

31 (b) Encourage the free-flow of political and religious  
32 ideas and robust debate.

33 (c) Hold major social media websites to a higher  
34 standard for having substantially created a digital public square.

35 (d) Deter bad faith, unfair dealing, fraud, breach of  
36 contract, unjust enrichment, and the marginalization or oppression  
37 of competing worldviews.

38 (e) Establish that:

39 (i) Without truth, there is no freedom;

40 (ii) Freedom comes from the truth;

41 (iii) The proliferation of truth is vital to the  
42 health of our Constitutional Republic; and

43 (iv) Social media censorship regarding religious  
44 and political ideology has the potential to suppress the truth by



preventing different doctrines and ideologies from competing and vying for superiority.

(f) Deter the owner or operator of a social media website from engaging in false advertising.

(g) Deter the owner or operator of a social media website from maliciously interfering with local, regional, and national elections.

**SECTION 4.** As used in this act:

(a) "Algorithm" means a set of instructions designed to perform a specific task.

(b) "Hate speech" means a phrase concerning content that an individual finds offensive based on his or her personal moral code.

(c) "Obscene material" shall have the meaning ascribed in Section 97-29-103(1), Mississippi Code of 1972.

(d) "Political speech" means speech relating to the state, government, body politic, or public administration as it relates to governmental policy-making, and the term includes speech by the government or candidates for office and any discussion of social issues.

(e) "Religious speech" means a set of unproven answers, truth claims, faith-based assumptions and naked assertions that attempt to explain such greater questions such as how the world was created, what constitutes right and wrong actions by humans, and what happens after death.



(f) "Shadowban" means the act of blocking or partially blocking a user or their content from an online community such that it will not be readily apparent to the user that they have been banned. The term also means stealth banning, ghost banning or comment ghosting.

(g) "Social media website" means an internet website or application that enables users to communicate with each other by posting information, comments, messages, or images and that meets all of the following requirements:

- (i) Is open to the public;
- (ii) Has more than seventy-five million (75,000,000) subscribers;
- (iii) From its inception has not been specifically affiliated with any one (1) religion or political party; and
- (iv) Provides a means for the website's users to report obscene materials and has in place procedures for evaluating those reports and removing obscene material.

**SECTION 5.** (1) The owner or operator of a social media website who contracts with a social media website user in this state is subject to a private cause of action by such user if the social media website purposely:

- (a) Deletes or censors the user's religious speech or political speech; and
- (b) Uses an algorithm to disfavor, shadowban, or censure the user's religious speech or political speech.



95           (2) A social media website user may be awarded all of the  
96 following damages under this section:

97           (a) A minimum of Seventy-five Thousand Dollars  
98 (\$75,000.00) in statutory damages per purposeful deletion or  
99 censoring of the social media website user's speech;

100           (b) Actual damages;

101           (c) If aggravating factors are present, punitive  
102 damages; and

103           (d) Other forms of equitable relief.

104           (3) The prevailing party in a cause of action under this  
105 section may be awarded costs and reasonable attorney fees.

106           (4) A social media website that restores from deletion or  
107 removes the censoring of a social media website user's speech in a  
108 reasonable amount of time may use that fact to mitigate any  
109 damages.

110           (5) A social media website may not use the social media  
111 website user's alleged hate speech as a basis for justification or  
112 defense of the social media website's actions at trial.

113           (6) The Attorney General may also bring a civil cause of  
114 action under this section on behalf of a social media website user  
115 who resides in this state and whose religious speech or political  
116 speech has been censored by a social media website.

117           (7) This section does not apply to any of the following:



(a) A social media website that deletes or censors a social media website user's speech or that uses an algorithm to disfavor or censure speech that:

- (i) Calls for immediate acts of violence;
- (ii) Calls for a user to harm themselves;
- (iii) Is obscene material or material harmful to minors;
- (iv) Is the result of operational error;
- (v) Is the result of a court order;
- (vi) Comes from an inauthentic source or involves false impersonation;
- (vii) Entices criminal conduct; and
- (viii) Involves minors bullying minors;

(b) A social media website user's censoring of another social media website user's speech.

(8) Only users who are eighteen (18) years of age or older have standing to seek enforcement of this section.

(9) The venue for any civil action brought under this section shall be in this state.

**SECTION 6.** This act shall take effect and be in force from and after July 1, 2020.

