

REFERENCE TITLE: social media; censorship; civil action

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **HB 2280**

Introduced by  
Representatives Fillmore: Carter, Chaplik

AN ACT

AMENDING TITLE 18, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7: RELATING TO INFORMATION TECHNOLOGY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Title 18, Arizona Revised Statutes, is amended by adding  
3 chapter 7, to read:

4 CHAPTER 7  
5 SOCIAL MEDIA WEBSITES  
6 ARTICLE 1. GENERAL PROVISIONS

7 18-701. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ALGORITHM" MEANS A SET OF INSTRUCTIONS DESIGNED TO PERFORM A  
10 SPECIFIC TASK.

11 2. "HARMFUL TO MINORS" HAS THE SAME MEANING PRESCRIBED IN SECTION  
12 13-3501.

13 3. "HATE SPEECH" MEANS A PHRASE CONCERNING CONTENT THAT AN  
14 INDIVIDUAL FINDS OFFENSIVE BASED ON THE INDIVIDUAL'S PERSONAL MORAL CODE.

15 4. "OBSCENE MATERIAL" MEANS CONTENT THAT MEETS ANY OF THE  
16 FOLLOWING:

17 (a) WHEN CONSIDERED OR TAKEN AS A WHOLE, THE AVERAGE INDIVIDUAL  
18 APPLYING CONTEMPORARY COMMUNITY STANDARDS WOULD FIND APPEALS TO THE  
19 PRURIENT INTEREST.

20 (b) DEPICTS OR DESCRIBES SEXUAL ACTIVITY IN A PATENTLY OFFENSIVE  
21 WAY BY AUDIO OR VISUAL REPRESENTATIONS.

22 (c) WHEN CONSIDERED OR TAKEN AS A WHOLE, LACKS SERIOUS LITERARY,  
23 ARTISTIC, POLITICAL OR SCIENTIFIC VALUE.

24 5. "POLITICAL SPEECH":

25 (a) MEANS SPEECH RELATING TO THIS STATE, A GOVERNMENT, A BODY  
26 POLITIC OR A PUBLIC ADMINISTRATION AS THE SPEECH RELATES TO GOVERNMENTAL  
27 POLICYMAKING.

28 (b) INCLUDES SPEECH BY THE GOVERNMENT OR A CANDIDATE FOR OFFICE AND  
29 ANY DISCUSSION OF SOCIAL ISSUES.

30 6. "RELIGIOUS SPEECH" MEANS AN EXPRESSION OF A SINCERE AND  
31 MEANINGFUL BELIEF THAT ATTEMPTS TO EXPLAIN SUCH GREATER QUESTIONS AS HOW  
32 THE WORLD WAS CREATED, WHAT CONSTITUTES RIGHT AND WRONG ACTIONS BY HUMANS  
33 AND WHAT HAPPENS AFTER DEATH.

34 7. "SHADOWBAN" MEANS:

35 (a) THE ACT OF BLOCKING OR PARTIALLY BLOCKING A USER OR THE USER'S  
36 CONTENT FROM AN ONLINE COMMUNITY SO THAT IT IS NOT READILY APPARENT TO THE  
37 USER THAT THE USER HAS BEEN BANNED.

38 (b) STEALTH BANNING, GHOST BANNING OR COMMENT GHOSTING.

39 8. "SOCIAL MEDIA WEBSITE":

40 (a) MEANS AN INTERNET WEBSITE OR APPLICATION THAT ENABLES USERS TO  
41 COMMUNICATE WITH EACH OTHER BY POSTING INFORMATION, COMMENTS, MESSAGES OR  
42 IMAGES AND THAT MEETS ALL OF THE FOLLOWING:

43 (i) IS OPEN TO THE PUBLIC.

- 1 (ii) HAS MORE THAN SEVENTY-FIVE MILLION SUBSCRIBERS.  
2 (iii) FROM ITS INCEPTION HAS NOT BEEN SPECIFICALLY AFFILIATED WITH  
3 ANY ONE RELIGION OR POLITICAL PARTY.  
4 (iv) PROVIDES A MEANS FOR THE WEBSITE'S USERS TO REPORT OBSCENE  
5 MATERIALS AND HAS IN PLACE PROCEDURES FOR EVALUATING THOSE REPORTS AND  
6 REMOVING OBSCENE MATERIAL.  
7 (v) ALLOWS FOR SUBSCRIBERS TO SIGN UP FOR A PERSONAL USER PROFILE  
8 PAGE.  
9 (b) DOES NOT INCLUDE A WEBSITE THAT MERELY ALLOWS MEMBERS OF THE  
10 GENERAL PUBLIC TO POST COMMENTS ON CONTENT PUBLISHED BY THE OWNER OF THE  
11 WEBSITE.  
12 9. "USER PROFILE":  
13 (a) MEANS:  
14 (i) A COLLECTION OF SETTINGS AND INFORMATION ASSOCIATED WITH A USER  
15 OR SUBSCRIBER WHO SIGNS UP FOR AN ACCOUNT MADE AVAILABLE BY A SOCIAL MEDIA  
16 WEBSITE.  
17 (ii) AN ACCOUNT THAT ASSOCIATES CHARACTERISTICS WITH A USER OR  
18 SUBSCRIBER THAT MAY HELP IN ASCERTAINING THE INTERACTIVE BEHAVIOR OF THE  
19 USER ALONG WITH THE USER'S PERSONAL PREFERENCES AND BELIEFS.  
20 (b) INCLUDES THE EXPLICIT DIGITAL REPRESENTATION OF THE IDENTITY OF  
21 THE USER OR SUBSCRIBER WITH RESPECT TO THE OPERATING ENVIRONMENT OF A  
22 SOCIAL MEDIA WEBSITE.  
23 18-702. Social media websites; censorship prohibited;  
24 damages; costs; attorney general; enforcement;  
25 exceptions  
26 A. THE OWNER OR OPERATOR OF A SOCIAL MEDIA WEBSITE THAT CONTRACTS  
27 WITH A SOCIAL MEDIA WEBSITE USER IN THIS STATE MAY NOT PURPOSELY:  
28 1. DELETE OR CENSOR THE SOCIAL MEDIA WEBSITE USER'S RELIGIOUS  
29 SPEECH OR POLITICAL SPEECH.  
30 2. USE AN ALGORITHM TO DISFAVOR, SHADOWBAN OR CENSOR THE SOCIAL  
31 MEDIA WEBSITE USER'S RELIGIOUS SPEECH OR POLITICAL SPEECH.  
32 B. THE OWNER OR OPERATOR OF A SOCIAL MEDIA WEBSITE THAT VIOLATES  
33 SUBSECTION A OF THIS SECTION IS LIABLE FOR:  
34 1. UP TO \$75,000 IN DAMAGES PER DAY.  
35 2. ACTUAL DAMAGES.  
36 3. PUNITIVE DAMAGES, IF AGGRAVATING FACTORS ARE PRESENT.  
37 4. OTHER FORMS OF EQUITABLE RELIEF.  
38 C. A COURT MAY AWARD THE PREVAILING PARTY IN A CAUSE OF ACTION  
39 UNDER THIS SECTION REASONABLE ATTORNEY FEES AND COSTS.  
40 D. A SOCIAL MEDIA WEBSITE THAT RESTORES FROM DELETION OR REMOVES  
41 THE CENSORING OF THE SOCIAL MEDIA WEBSITE USER'S RELIGIOUS SPEECH OR  
42 POLITICAL SPEECH WITHIN A REASONABLE AMOUNT OF TIME MAY USE THAT FACT TO  
43 SEEK MITIGATION OF ANY DAMAGES AWARDED BY THE COURT.

1 E. A SOCIAL MEDIA WEBSITE MAY NOT USE THE SOCIAL MEDIA WEBSITE  
2 USER'S ALLEGED HATE SPEECH AS A BASIS FOR JUSTIFICATION OR DEFENSE OF THE  
3 SOCIAL MEDIA WEBSITE'S ACTIONS AT TRIAL.

4 F. THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION UNDER THIS SECTION  
5 ON BEHALF OF A SOCIAL MEDIA WEBSITE USER WHO RESIDES IN THIS STATE AND  
6 WHOSE RELIGIOUS SPEECH OR POLITICAL SPEECH WAS CENSORED BY A SOCIAL MEDIA  
7 WEBSITE. ANY VIOLATION OF THIS ARTICLE IS AN UNLAWFUL PRACTICE PURSUANT TO  
8 SECTION 44-1522. THE ATTORNEY GENERAL MAY INVESTIGATE THE VIOLATION AND  
9 TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44, CHAPTER 10, ARTICLE 7.

10 G. ONLY A SOCIAL MEDIA WEBSITE USER WHO IS AT LEAST EIGHTEEN YEARS  
11 OF AGE HAS STANDING TO SEEK ENFORCEMENT OF THIS SECTION.

12 H. THE VENUE FOR ANY CIVIL ACTION BROUGHT UNDER THIS SECTION SHALL  
13 BE IN THIS STATE.

14 I. THIS SECTION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

15 1. A SOCIAL MEDIA WEBSITE THAT DELETES OR CENSORS A SOCIAL MEDIA  
16 WEBSITE USER'S RELIGIOUS SPEECH OR POLITICAL SPEECH OR THAT USES AN  
17 ALGORITHM TO DISFAVOR, SHADOWBAN OR CENSOR SPEECH THAT MEETS ANY OF THE  
18 FOLLOWING:

19 (a) CALLS FOR IMMEDIATE ACTS OF VIOLENCE.

20 (b) CALLS FOR SOCIAL MEDIA WEBSITE USERS TO HARM THEMSELVES.

21 (c) IS OBSCENE MATERIAL OR IS MATERIAL HARMFUL TO MINORS.

22 (d) IS THE RESULT OF AN OPERATIONAL ERROR.

23 (e) IS THE RESULT OF A COURT ORDER.

24 (f) COMES FROM AN INAUTHENTIC SOURCE OR INVOLVES FALSE  
25 IMPERSONATION.

26 (g) ENTICES CRIMINAL CONDUCT.

27 (h) CONSTITUTES TRADEMARK OR COPYRIGHT INFRINGEMENT.

28 (i) IS EXCESSIVELY VIOLENT.

29 (j) CONSTITUTES HARASSMENT OF A COMMERCIAL, BUT NOT A RELIGIOUS OR  
30 POLITICAL, NATURE.

31 2. A SOCIAL MEDIA WEBSITE USER'S CENSORING OF ANOTHER SOCIAL MEDIA  
32 WEBSITE USER'S RELIGIOUS SPEECH OR POLITICAL SPEECH.

33 Sec. 2. Applicability

34 This act applies to owners and operators of social media websites  
35 that censor social media website users' religious speech and political  
36 speech beginning from and after the effective date of this act.

37 Sec. 3. Legislative findings

38 The Legislature finds that:

39 1. The Communications Decency Act was implemented to protect decent  
40 speech, not deceptive trade practices.

41 2. Repealing section 230 of the Communications Decency Act at the  
42 federal level is unnecessary because it already includes a state law  
43 exemption and this act is crafted to fall squarely in the state law  
44 exemption of section 230 to protect the consumers of this state.

1           3. Contract law is a state law issue and when citizens of this  
2 state sign up to use certain social media websites, they are entering into  
3 a contract.

4           4. This state has a compelling interest in holding certain social  
5 media websites to higher standards for having substantially created a  
6 digital public square through fraud, false advertising and deceptive trade  
7 practices.

8           5. Major social media websites have engaged in the greatest bait  
9 and switch of all times by marketing themselves as free, fair and open to  
10 all ideas to induce subscribers, only to then prove otherwise at great  
11 expense to consumer and election integrity.

12           6. Breach of contract, false advertising, bad faith, unfair  
13 dealing, fraudulent inducement and deceptive trade practices are not  
14 protected forms of speech for the purposes of the First Amendment to the  
15 United States Constitution or the Constitution of this state.

16           7. The major social media websites have already reached critical  
17 mass and they did through fraud, false advertising and deceptive trade  
18 practices at great expense to the health, safety and welfare of consumers  
19 of this state, while making it difficult for others to compete with them.

20           8. This state has an interest in helping its citizens enjoy their  
21 free exercise rights in certain semipublic forums commonly used for  
22 religious speech and political speech, regardless to which political party  
23 or religious organization they ascribe to.

24           9. This state is generally opposed to online censorship unless the  
25 content is injurious to children or promotes human trafficking; only then  
26 does this state accept limited censorship.

27           10. This article is not intended to apply to a social media website  
28 that merely deletes comments posted by members of the general public in  
29 response to material published by the website's owner.

30           Sec. 4. Purpose

31           This article is intended to create a statute that parallels the  
32 spirit of 47 United States Code section 230(e)(3) and that falls within  
33 the state law exemption under 47 United States Code section 230(e)(3) and  
34 to create a civil action that will deter the following:

- 35           1. Deceptive trade practices.
- 36           2. False advertising.
- 37           3. Breach of contract.
- 38           4. Bad faith.
- 39           5. Unfair dealing.
- 40           6. Fraudulent inducement.

41           7. The stifling of political speech and religious speech in the  
42 modern-day digital public square cultivated by social media websites that  
43 have achieved critical mass through fraud.

1           Sec. 5. Severability

2           If a provision of this act or its application to any person or  
3           circumstance is held invalid, the invalidity does not affect other  
4           provisions or applications of the act that can be given effect without the  
5           invalid provision or application, and to this end the provision of this  
6           act are severable.

7           Sec. 6. Short title

8           This act may be cited as the "Stop Social Media Censorship Act".

9           Sec. 7. Emergency

10          This act is an emergency measure that is necessary to preserve the  
11          public peace, health or safety and is operative immediately as provided by  
12          law.