

REFERENCE TITLE: social media platforms; standards; notification

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1344

Introduced by
Senator Rogers

AN ACT

AMENDING TITLE 18, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7; RELATING
TO SOCIAL MEDIA.

(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 PLATFORMS

6 ARTICLE 1. GENERAL PROVISIONS

7 18-701. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ALGORITHM" MEANS A MATHEMATICAL SET OF RULES THAT SPECIFIES HOW
10 A GROUP OF DATA BEHAVES AND THAT WILL ASSIST IN RANKING SEARCH RESULTS AND
11 MAINTAINING ORDER OR THAT IS USED IN SORTING OR RANKING CONTENT OR
12 MATERIAL BASED ON RELEVANCY OR OTHER FACTORS INSTEAD OF USING PUBLISHED
13 TIME OR CHRONOLOGICAL ORDER OF THE CONTENT OR MATERIAL.

14 2. "CANDIDATE" HAS THE SAME MEANING PRESCRIBED IN SECTION 16-901.

15 3. "CENSOR" INCLUDES:

16 (a) ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM TO DELETE,
17 REGULATE, RESTRICT, EDIT, ALTER, INHIBIT THE PUBLICATION OR REPUBLICATION
18 OF, SUSPEND A RIGHT TO POST, REMOVE OR POST AN ADDENDUM TO ANY CONTENT OR
19 MATERIAL POSTED BY A USER.

20 (b) ACTIONS TO INHIBIT THE ABILITY OF A USER TO BE VIEWABLE BY OR
21 TO INTERACT WITH ANOTHER USER OF THE SOCIAL MEDIA PLATFORM.

22 (c) ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM TO ADD OR TAKE AWAY
23 CREDIBILITY TO POLITICAL SPEECH THAT COULD HAVE THE EFFECT OF SWAYING
24 POLITICAL VIEWS, INCLUDING FACT CHECKING, ISSUING WARNINGS, FLAGGING,
25 HIGHLIGHTING OR CAUTIONING USERS TO BELIEVE OR DISBELIEVE CONTENT BASED ON
26 POLITICAL VIEWS.

27 4. "DEPLATFORM" MEANS THE ACT OR PRACTICE BY A SOCIAL MEDIA
28 PLATFORM OF PERMANENTLY DELETING OR BANNING A USER OR TEMPORARILY DELETING
29 OR BANNING A USER FOR MORE THAN FOURTEEN DAYS FROM THE SOCIAL MEDIA
30 PLATFORM.

31 5. "JOURNALISTIC ENTERPRISE" MEANS AN ENTITY DOING BUSINESS IN THIS
32 STATE THAT MEETS ANY OF THE FOLLOWING:

33 (a) PUBLISHES MORE THAN ONE HUNDRED THOUSAND WORDS THAT ARE
34 AVAILABLE ONLINE WITH AT LEAST FIFTY THOUSAND PAID SUBSCRIBERS OR ONE
35 HUNDRED THOUSAND MONTHLY ACTIVE USERS.

36 (b) PUBLISHES AT LEAST ONE HUNDRED HOURS OF AUDIO OR VIDEO THAT IS
37 AVAILABLE ONLINE WITH AT LEAST ONE HUNDRED MILLION VIEWERS ANNUALLY.

38 (c) OPERATES A CABLE CHANNEL THAT PROVIDES MORE THAN FORTY HOURS OF
39 CONTENT PER WEEK TO MORE THAN ONE HUNDRED THOUSAND CABLE TELEVISION
40 SUBSCRIBERS.

41 (d) OPERATES UNDER A BROADCAST LICENSE ISSUED BY THE FEDERAL
42 COMMUNICATIONS COMMISSION.

43 6. "POST-PRIORITIZATION":

44 (a) MEANS ACTION BY A SOCIAL MEDIA PLATFORM TO PLACE, FEATURE OR
45 PRIORITIZE CERTAIN CONTENT OR MATERIAL AHEAD OF, BELOW OR IN A MORE OR

1 LESS PROMINENT POSITION THAN OTHERS IN A NEWSFEED, FEED OR VIEW OR IN
2 SEARCH RESULTS.

3 (b) DOES NOT INCLUDE THE PLACEMENT, FEATURING OR PRIORITIZATION OF
4 CONTENT AND MATERIAL OF A THIRD PARTY, INCLUDING OTHER USERS, BASED ON
5 PAYMENTS BY THAT THIRD PARTY TO THE SOCIAL MEDIA PLATFORM.

6 7. "SHADOW BAN":

7 (a) MEANS ACTION BY A SOCIAL MEDIA PLATFORM, THROUGH ANY MEANS,
8 WHETHER THE ACTION IS DETERMINED BY A NATURAL PERSON OR AN ALGORITHM, TO
9 LIMIT OR ELIMINATE THE EXPOSURE OF A USER OR CONTENT OR MATERIAL POSTED BY
10 A USER TO OTHER USERS OF THE SOCIAL MEDIA PLATFORM.

11 (b) INCLUDES ACTS OF LIMITING OR ELIMINATING CONTENT OR MATERIAL BY
12 A SOCIAL MEDIA PLATFORM THAT ARE NOT READILY APPARENT TO A USER.

13 8. "SOCIAL MEDIA PLATFORM" MEANS ANY INFORMATION SERVICE, SYSTEM,
14 INTERNET SEARCH ENGINE OR ACCESS SOFTWARE PROVIDER THAT:

15 (a) PROVIDES OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A
16 COMPUTER SERVER, INCLUDING AN INTERNET PLATFORM OR A SOCIAL MEDIA SITE.

17 (b) OPERATES AS A SOLE PROPRIETORSHIP, PARTNERSHIP, LIMITED
18 LIABILITY COMPANY, CORPORATION, ASSOCIATION OR OTHER LEGAL ENTITY.

19 (c) DOES BUSINESS IN THIS STATE.

20 (d) SATISFIES AT LEAST ONE OF THE FOLLOWING THRESHOLDS:

21 (i) HAS ANNUAL GROSS REVENUES OF MORE THAN \$100,000,000, AS
22 ADJUSTED IN JANUARY OF EACH ODD-NUMBERED YEAR TO REFLECT ANY INCREASE IN
23 THE CONSUMER PRICE INDEX.

24 (ii) HAS AT LEAST ONE HUNDRED MILLION MONTHLY INDIVIDUAL PLATFORM
25 PARTICIPANTS GLOBALLY.

26 9. "USER" MEANS A PERSON WHO RESIDES OR IS DOMICILED IN THIS STATE
27 AND WHO HAS AN ACCOUNT ON A SOCIAL MEDIA PLATFORM, REGARDLESS OF WHETHER
28 THE PERSON POSTS OR HAS POSTED CONTENT OR MATERIAL TO THE SOCIAL MEDIA
29 PLATFORM.

30 18-702. Candidates; deplatforming prohibited; civil
31 penalties; free advertising

32 A. A SOCIAL MEDIA PLATFORM MAY NOT WILFULLY DEPLATFORM A CANDIDATE
33 WHO IS KNOWN BY THE SOCIAL MEDIA PLATFORM TO BE A CANDIDATE, BEGINNING ON
34 THE DATE OF THE CANDIDATE'S QUALIFICATION AND ENDING ON THE DATE OF THE
35 ELECTION OR THE DATE THE CANDIDATE CEASES TO BE A CANDIDATE. A SOCIAL
36 MEDIA PLATFORM SHALL PROVIDE EACH USER WITH A METHOD BY WHICH THE USER MAY
37 BE IDENTIFIED AS A CANDIDATE AND THAT PROVIDES SUFFICIENT INFORMATION TO
38 ALLOW THE SOCIAL MEDIA PLATFORM TO CONFIRM THE CANDIDATE'S QUALIFICATION
39 BY REVIEWING THE CANDIDATE'S STATEMENT OF ORGANIZATION FILED PURSUANT TO
40 SECTION 16-906.

41 B. IF THE SECRETARY OF STATE FINDS THAT THE SOCIAL MEDIA PLATFORM
42 HAS VIOLATED SUBSECTION A OF THIS SECTION, THE SECRETARY OF STATE MAY
43 IMPOSE A CIVIL PENALTY OF \$250,000 PER DAY FOR A CANDIDATE FOR STATEWIDE
44 OFFICE AND \$25,000 PER DAY FOR A CANDIDATE FOR ANY OTHER OFFICE.

C. A SOCIAL MEDIA PLATFORM THAT WILFULLY PROVIDES FREE ADVERTISING FOR A CANDIDATE SHALL INFORM THE CANDIDATE OF THE IN-KIND CONTRIBUTION. POSTS, CONTENT, MATERIAL AND COMMENTS BY CANDIDATES THAT ARE SHOWN ON THE PLATFORM IN THE SAME OR A SIMILAR WAY AS OTHER USERS' POSTS, CONTENT, MATERIAL AND COMMENTS ARE NOT CONSIDERED FREE ADVERTISING.

18-703. Censorship standards; notification; cause of action; exceptions

A. A SOCIAL MEDIA PLATFORM SHALL PUBLISH THE STANDARDS, INCLUDING DETAILED DEFINITIONS, THAT THE SOCIAL MEDIA PLATFORM USES OR HAS USED FOR DETERMINING HOW IT WILL CENSOR, DEPLATFORM AND SHADOW BAN.

B. A SOCIAL MEDIA PLATFORM SHALL APPLY CENSORSHIP, DEPLATFORMING AND SHADOW BANNING STANDARDS IN A CONSISTENT MANNER AMONG THE SOCIAL MEDIA PLATFORM'S USERS ON THE PLATFORM.

C. A SOCIAL MEDIA PLATFORM SHALL INFORM EACH USER ABOUT ANY CHANGES TO THE SOCIAL MEDIA PLATFORM'S USER RULES, TERMS AND AGREEMENTS BEFORE IMPLEMENTING THE CHANGES AND MAY NOT MAKE CHANGES MORE THAN ONCE EVERY THIRTY DAYS.

D. A SOCIAL MEDIA PLATFORM MAY NOT CENSOR OR SHADOW BAN A USER'S CONTENT OR MATERIAL OR DEPLATFORM A USER FROM THE SOCIAL MEDIA PLATFORM:

1. WITHOUT NOTIFYING THE USER WHO POSTED OR ATTEMPTED TO POST THE CONTENT OR MATERIAL. FOR THE PURPOSES OF THIS PARAGRAPH, A NOTIFICATION SHALL:

(a) BE IN WRITING.

(b) BE DELIVERED VIA EMAIL OR DIRECT ELECTRONIC NOTIFICATION TO THE USER WITHIN SEVEN DAYS AFTER THE CENSORING ACTION.

(c) INCLUDE A THOROUGH RATIONALE EXPLAINING THE REASON THAT THE SOCIAL MEDIA PLATFORM CENSORED THE USER.

(d) INCLUDE A PRECISE AND THOROUGH EXPLANATION OF HOW THE SOCIAL MEDIA PLATFORM BECAME AWARE OF THE CENSORED CONTENT OR MATERIAL, INCLUDING A THOROUGH EXPLANATION OF THE ALGORITHMS USED, IF ANY, TO IDENTIFY OR FLAG THE USER'S CONTENT OR MATERIAL AS OBJECTIONABLE.

2. IN A MANNER THAT VIOLATES THIS SECTION.

E. A SOCIAL MEDIA PLATFORM SHALL:

1. PROVIDE A MECHANISM THAT ALLOWS A USER TO REQUEST THE NUMBER OF OTHER INDIVIDUAL PLATFORM PARTICIPANTS WHO WERE PROVIDED OR SHOWN THE USER'S CONTENT OR POSTS.

2. PROVIDE, ON REQUEST, A USER WITH THE NUMBER OF OTHER INDIVIDUAL PLATFORM PARTICIPANTS WHO WERE PROVIDED OR SHOWN CONTENT OR POSTS.

F. A SOCIAL MEDIA PLATFORM SHALL:

1. CATEGORIZE ALGORITHMS USED FOR POST-PRIORITIZATION AND SHADOW BANNING.

2. ALLOW A USER TO OPT OUT OF POST-PRIORITIZATION AND SHADOW BANNING ALGORITHM CATEGORIES TO ALLOW SEQUENTIAL OR CHRONOLOGICAL POSTS AND CONTENT.

1 G. A SOCIAL MEDIA PLATFORM SHALL PROVIDE USERS WITH AN ANNUAL
2 NOTICE ON THE USE OF ALGORITHMS FOR POST-PRIORITIZATION AND SHADOW BANNING
3 AND REOFFER ANNUALLY THE OPT-OUT OPPORTUNITY PRESCRIBED IN SUBSECTION F OF
4 THIS SECTION.

5 H. A SOCIAL MEDIA PLATFORM MAY NOT APPLY OR USE POST-PRIORITIZATION
6 OR SHADOW BANNING ALGORITHMS FOR CONTENT AND MATERIAL POSTED BY OR ABOUT A
7 USER WHO IS KNOWN BY THE SOCIAL MEDIA PLATFORM TO BE A CANDIDATE,
8 BEGINNING ON THE DATE OF THE CANDIDATE'S QUALIFICATION AND ENDING ON THE
9 DATE OF THE ELECTION OR THE DATE THE CANDIDATE CEASES TO BE A CANDIDATE.
10 POST-PRIORITIZATION OF CERTAIN CONTENT OR MATERIAL FROM OR ABOUT A
11 CANDIDATE BASED ON PAYMENTS TO THE SOCIAL MEDIA PLATFORM BY THE CANDIDATE
12 OR A THIRD PARTY IS NOT A VIOLATION OF THIS SUBSECTION. A SOCIAL MEDIA
13 PLATFORM SHALL PROVIDE EACH USER WITH A METHOD BY WHICH THE USER MAY BE
14 IDENTIFIED AS A CANDIDATE AND THAT PROVIDES SUFFICIENT INFORMATION TO
15 ALLOW THE SOCIAL MEDIA PLATFORM TO CONFIRM THE USER'S QUALIFICATION AS A
16 CANDIDATE BY REVIEWING THE CANDIDATE'S STATEMENT OF ORGANIZATION FILED
17 PURSUANT TO SECTION 16-906.

18 I. A SOCIAL MEDIA PLATFORM SHALL ALLOW A USER WHO HAS BEEN
19 DEPLATFORMED TO ACCESS OR RETRIEVE ALL OF THE USER'S INFORMATION, CONTENT,
20 MATERIAL AND DATA FOR AT LEAST SIXTY DAYS AFTER THE USER RECEIVES THE
21 NOTICE REQUIRED UNDER SUBSECTION D OF THIS SECTION.

22 J. A SOCIAL MEDIA PLATFORM MAY NOT TAKE ANY ACTION TO CENSOR,
23 DEPLATFORM OR SHADOW BAN A JOURNALISTIC ENTERPRISE BASED ON THE CONTENT OF
24 ITS PUBLICATION OR BROADCAST. POST-PRIORITIZATION OF CERTAIN JOURNALISTIC
25 ENTERPRISE CONTENT BASED ON PAYMENTS TO THE SOCIAL MEDIA PLATFORM BY THE
26 JOURNALISTIC ENTERPRISE IS NOT A VIOLATION OF THIS SUBSECTION. THIS
27 SUBSECTION DOES NOT APPLY IF THE CONTENT OR MATERIAL IS OBSCENE AS DEFINED
28 IN SECTION 13-3501.

29 K. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, A SOCIAL
30 MEDIA PLATFORM IS NOT REQUIRED TO NOTIFY A USER IF THE CENSORED CONTENT OR
31 MATERIAL IS OBSCENE AS DEFINED IN SECTION 13-3501.

32 L. A VIOLATION OF THIS SECTION CONSTITUTES AN UNLAWFUL PRACTICE
33 UNDER SECTION 44-1522 AND IS IN ADDITION TO ALL OTHER CAUSES OF ACTION,
34 REMEDIES AND PENALTIES THAT ARE AVAILABLE TO THIS STATE. THE ATTORNEY
35 GENERAL MAY INVESTIGATE AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44,
36 CHAPTER 10, ARTICLE 7.

37 M. A USER MAY BRING A PRIVATE CAUSE OF ACTION FOR VIOLATIONS OF
38 SUBSECTION B OR SUBSECTION D, PARAGRAPH 1 OF THIS SECTION. IN A PRIVATE
39 CAUSE OF ACTION BROUGHT UNDER SUBSECTION B OR SUBSECTION D, PARAGRAPH 1 OF
40 THIS SECTION, THE COURT MAY AWARD THE FOLLOWING REMEDIES TO THE USER:

- 41 1. UP TO \$100,000 IN STATUTORY DAMAGES FOR EACH PROVEN CLAIM.
- 42 2. ACTUAL DAMAGES.
- 43 3. IF AGGRAVATING FACTORS ARE PRESENT, PUNITIVE DAMAGES.
- 44 4. OTHER FORMS OF EQUITABLE RELIEF, INCLUDING INJUNCTIVE RELIEF.

1 5. IF THE USER WAS DEPLATFORMED IN VIOLATION OF SUBSECTION B OF
2 THIS SECTION, COSTS AND REASONABLE ATTORNEY FEES.

3 N. FOR THE PURPOSES OF BRINGING AN ACTION IN ACCORDANCE WITH
4 SUBSECTION L OR M OF THIS SECTION, EACH FAILURE TO COMPLY WITH SUBSECTION
5 F, PARAGRAPH 2 OF THIS SECTION SHALL BE TREATED AS A SEPARATE VIOLATION,
6 ACT OR PRACTICE. FOR THE PURPOSES OF BRINGING AN ACTION IN ACCORDANCE
7 WITH SUBSECTION L OR M OF THIS SECTION, A SOCIAL MEDIA PLATFORM THAT
8 CENSORS, SHADOW BANS, DEPLATFORMS OR APPLIES POST-PRIORITIZATION
9 ALGORITHMS TO CANDIDATES AND USERS IN THIS STATE IS CONCLUSIVELY PRESUMED
10 TO BE BOTH ENGAGED IN SUBSTANTIAL AND NOT ISOLATED ACTIVITIES WITHIN THIS
11 STATE AND OPERATING, CONDUCTING, ENGAGING IN OR CARRYING ON A BUSINESS AND
12 DOING BUSINESS IN THIS STATE AND IS THEREFORE SUBJECT TO THE JURISDICTION
13 OF THE COURTS OF THIS STATE.

14 O. THIS SECTION DOES NOT APPLY TO A PUBLISHER, BROADCASTER, PRINTER
15 OR OTHER PERSON ENGAGED IN DISSEMINATING INFORMATION OR REPRODUCING
16 PRINTED OR PICTORIAL MATTER IF THE INFORMATION OR MATTER HAS BEEN
17 DISSEMINATED OR REPRODUCED ON BEHALF OF OTHERS WITHOUT ACTUAL KNOWLEDGE
18 THAT IT VIOLATED THIS SECTION.