SENATE BILL 1106

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)
S.B. 1106

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 18, Arizona Revised Statutes, is amended by adding chapter 7, to read:

CHAPTER 7
SOCIAL MEDIA PLATFORMS
ARTICLE 1. GENERAL PROVISIONS

18-701. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

3. "CENSOR" INCLUDES ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM:
   (a) TO DELETE, REGULATE, RESTRICT, EDIT, ALTER, INHIBIT THE PUBLICATION OR REPUBLICATION OF, OR SUSPEND A RIGHT TO POST, REMOVE OR POST AN ADDENDUM TO ANY CONTENT OR MATERIAL POSTED BY A USER.
   (b) TO INHIBIT THE ABILITY OF A USER TO BE VIEWABLE BY OR TO INTERACT WITH ANOTHER USER OF THE SOCIAL MEDIA PLATFORM.
   (c) TO ADD OR TAKE AWAY CREDIBILITY TO POLITICAL SPEECH THAT COULD HAVE THE EFFECT OF SWAYING POLITICAL VIEWS, INCLUDING FACT-CHECKING, ISSUING WARNINGS, FLAGGING, HIGHLIGHTING OR CAUTIONING USERS TO BELIEVE OR DISBELIEVE CONTENT BASED ON POLITICAL VIEWS.

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

5. "JOURNALISTIC ENTERPRISE" MEANS AN ENTITY DOING BUSINESS IN THIS STATE THAT DOES ANY OF THE FOLLOWING:
   (a) PUBLISHES MORE THAN ONE HUNDRED THOUSAND WORDS THAT ARE AVAILABLE ONLINE WITH AT LEAST FIFTY THOUSAND PAID SUBSCRIBERS OR ONE HUNDRED THOUSAND MONTHLY ACTIVE USERS.
   (b) PUBLISHES AT LEAST ONE HUNDRED HOURS OF AUDIO OR VIDEO THAT IS AVAILABLE ONLINE WITH AT LEAST ONE HUNDRED MILLION VIEWERS ANNUALLY.
   (c) OPERATES A CABLE CHANNEL THAT PROVIDES MORE THAN FORTY HOURS OF CONTENT PER WEEK TO MORE THAN ONE HUNDRED THOUSAND CABLE TELEVISION SUBSCRIBERS.
   (d) OPERATES UNDER A BROADCAST LICENSE ISSUED BY THE FEDERAL COMMUNICATIONS COMMISSION.

6. "POSTPRIORITIZATION":
   (a) MEANS ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM TO PLACE, FEATURE OR PRIORITIZE CERTAIN CONTENT OR MATERIAL AHEAD OF, BELOW OR IN A MORE OR LESS PROMINENT POSITION THAN OTHER CONTENT OR MATERIAL IN A NEWSFEED, FEED OR VIEW OR IN SEARCH RESULTS.
(b) does not include any action taken by a social media platform to place, feature or prioritize the content and material of a third party, including other users, based on payments by that third party to the social media platform.

7. "Shadow Ban":
   (a) means any action taken by a social media platform through any means, whether the action is determined by a natural person or an algorithm, to limit or eliminate the exposure of a user or content or material posted by a user to other users of the social media platform.
   (b) includes any action that is taken by a social media platform to limit or eliminate content or material and that is not readily apparent to a user.

8. "Social Media Platform":
   (a) means any information service, system, internet search engine or access software provider that meets all of the following:
      (i) provides or enables computer access by multiple users to a computer server, including an internet platform or a social media site.
      (ii) operates as a sole proprietorship, partnership, limited liability company, corporation, association or other legal entity.
      (iii) does business in this state.
      (iv) has annual gross revenues of more than $100,000,000, as adjusted in January of each odd-numbered year to reflect any increase in the consumer price index or has at least one hundred million monthly individual platform participants globally.
   (b) does not include an online service, application or website:
      (i) that consists primarily of news, sports, entertainment or other information or content that is not user-generated but is preselected by the provider.
      (ii) for which any chat, comments or interactive functionality is incidental to, directly related to or dependent on the provision of the content described in item (i) of this subdivision.

9. "User" means a person who resides or is domiciled in this state and who has an account on a social media platform, regardless of whether the person posts or has posted content or material to the social media platform.

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

A. A social media platform may not wilfully deplatform a candidate who is known by the social media platform to be a candidate, beginning on the date of the candidate's qualification and ending on the date of the election or the date the candidate ceases to be a candidate. A social media platform shall provide each user with a method by which the user may be identified as a candidate and that provides sufficient information to allow the social media platform to confirm the candidate's qualification.
BY REVIEWING THE CANDIDATE'S STATEMENT OF ORGANIZATION FILED PURSUANT TO SECTION 16-906.

B. IF THE SECRETARY OF STATE FINDS THAT A SOCIAL MEDIA PLATFORM HAS VIOLATED SUBSECTION A OF THIS SECTION, THE SECRETARY OF STATE MAY IMPOSE A CIVIL PENALTY ON THE SOCIAL MEDIA PLATFORM OF $250,000 PER DAY FOR A CANDIDATE FOR STATEWIDE OFFICE WHO WAS DEPLATFORMED BY THE SOCIAL MEDIA PLATFORM AND $25,000 PER DAY FOR A CANDIDATE FOR ANY OTHER OFFICE WHO WAS DEPLATFORMED BY THE SOCIAL MEDIA PLATFORM.

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 SOCIAL MEDIA PLATFORM IN THE SAME OR A SIMILAR MANNER AS THE POSTS, CONTENT, MATERIAL AND COMMENTS OF OTHER USERS ARE NOT CONSIDERED FREE ADVERTISING.

18-703. Censorship standards; notification requirements; obscene content; cause of action; remedies; 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 THE SOCIAL MEDIA PLATFORM'S USERS.

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

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 MUST:

   (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 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 social media platform participants who were provided or shown the user's content or posts.

2. On request, provide a user with the number of other individual social media platform participants who were provided or shown the user's content or posts.

F. A social media platform shall:

1. Categorize algorithms used for postprioritization and shadow banning.

2. Allow a user to opt out of postprioritization and shadow banning algorithm categories to allow sequential or chronological posts and content.

G. A social media platform shall provide users with an annual notice on the use of algorithms for postprioritization and shadow banning and annually reoffer the opt-out opportunity prescribed in subsection F of this section.

H. A social media platform may not apply or use postprioritization or shadow banning algorithms for content and material posted by or about a user who is known by the social media platform to be a candidate, beginning on the date of the candidate's qualification and ending on the date of the election or the date the candidate ceases to be a candidate. Postprioritization of certain content or material from or about a candidate based on payments to the social media platform by the candidate or a third party is not a violation of this subsection. A social media platform shall provide each user with a method by which the user may be identified as a candidate and that provides sufficient information to allow the social media platform to confirm the user's qualification as a candidate by reviewing the candidate's statement of organization filed pursuant to section 16-906.

I. A social media platform shall allow a user who has been deplatformed to access or retrieve all of the user's information, content, material and data for at least sixty days after the user receives the notice required under subsection D of this section.

J. A social media platform may not take any action to censor, deplatform or shadow ban a journalistic enterprise based on the content of the journalistic enterprise's publication or broadcast. Postprioritization of certain journalistic enterprise content based on payments to the social media platform by the journalistic enterprise is not a violation of this subsection. This subsection does not apply if the content or material is obscene as described in section 13-3501.

K. Notwithstanding any other provisions of this section, a social media platform is not required to notify a user if the censored content or material is obscene as described in section 13-3501.
L. A VIOLATION OF THIS SECTION CONSTITUTES AN UNLAWFUL PRACTICE UNDER SECTION 44-1522 AND IS IN ADDITION TO ALL OTHER CAUSES OF ACTION, REMEDIES AND PENALTIES THAT ARE AVAILABLE TO THIS STATE. THE ATTORNEY GENERAL MAY INVESTIGATE AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44, CHAPTER 10, ARTICLE 7.

M. A USER WHO IS HARMED BY A SOCIAL MEDIA PLATFORM'S VIOLATION OF SUBSECTION B OR SUBSECTION D, PARAGRAPH 1 OF THIS SECTION MAY BRING A PRIVATE CAUSE OF ACTION FOR THE VIOLATION. IN A PRIVATE CAUSE OF ACTION BROUGHT UNDER SUBSECTION B OR SUBSECTION D, PARAGRAPH 1 OF THIS SECTION, THE COURT MAY AWARD THE FOLLOWING REMEDIES TO THE USER:

1. UP TO $100,000 IN STATUTORY DAMAGES FOR EACH PROVEN CLAIM.
2. ACTUAL DAMAGES.
3. IF AGGRAVATING FACTORS ARE PRESENT, PUNITIVE DAMAGES.
4. OTHER FORMS OF EQUITABLE RELIEF, INCLUDING INJUNCTIVE RELIEF.
5. IF THE USER WAS DEPLATFORMED IN VIOLATION OF SUBSECTION B OF THIS SECTION, COSTS AND REASONABLE ATTORNEY FEES.

N. FOR THE PURPOSES OF BRINGING AN ACTION IN ACCORDANCE WITH SUBSECTION L OR M OF THIS SECTION:

1. EACH FAILURE OF A SOCIAL MEDIA PLATFORM TO COMPLY WITH SUBSECTION F, PARAGRAPH 2 OF THIS SECTION SHALL BE TREATED AS A SEPARATE VIOLATION, ACT OR PRACTICE.

2. A SOCIAL MEDIA PLATFORM THAT CENSORS, SHADOW BANS, DEPLATFORMS OR APPLIES POSTPRIORITY ALGORITHMS TO CANDIDATES AND USERS IN THIS STATE IS CONCLUSIVELY PRESUMED TO BE BOTH ENGAGED IN SUBSTANTIAL AND NOT ISOLATED ACTIVITIES WITHIN THIS STATE AND OPERATING, CONDUCTING, ENGAGING IN OR CARRYING ON A BUSINESS AND DOING BUSINESS IN THIS STATE, AND THE SOCIAL MEDIA PLATFORM IS THEREFORE SUBJECT TO THE JURISDICTION OF THE COURTS OF THIS STATE.

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