

1 HB378  
2 214952-1  
3 By Representatives Mooney, Holmes, Wingo, Kitchens, Carns,  
4 Wadsworth and Sorrell  
5 RFD: Technology and Research  
6 First Read: 17-FEB-22

8 SYNOPSIS: Existing law does not address the censorship  
9 and suppression of speech on websites or via use of  
10 Internet applications.

11 This bill would prohibit a major interactive  
12 computer service provider from taking certain  
13 restrictive or suppressive action against a user of  
14 its service based on either a viewpoint expressed  
15 or shared by the user or true statements of fact  
16 expressed or shared by the user.

17 This bill would also provide for civil  
18 remedies for an affected user against a major  
19 interactive computer service provider.

21 A BILL  
22 TO BE ENTITLED  
23 AN ACT

24  
25 Relating to freedom of speech; to prohibit certain  
26 service providers from taking certain restrictive or  
27 suppressive actions against their users based on type and

1 content of speech expressed on their platforms; and to provide  
2 for civil remedies.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited  
5 as the Alabama Freedom of Online Speech Act.

6 Section 2. The Legislature finds and declares the  
7 following:

8 (1) Free speech is the bedrock of our Republic, a  
9 sacred right protected by the Free Speech Clause of the First  
10 Amendment to the United States Constitution and the Free  
11 Speech Clause of Article 1, Section 4 of the Constitution of  
12 Alabama of 1901.

13 (2) As the United States Congress has recognized:  
14 "The Internet and other interactive computer services offer a  
15 forum for a true diversity of political discourse, unique  
16 opportunities for cultural development, and myriad avenues for  
17 intellectual activity."

18 (3) As the United States Supreme Court has  
19 recognized: "Social media allows users to gain access to  
20 information and communicate with one another on any subject  
21 that might come to mind," being "the modern public square"  
22 where Americans exercise their free-speech freedoms, with the  
23 ability to speak and listen on social-media platforms  
24 implicating First Amendment rights.

25 (4) Today, however, Big Tech companies tyrannize  
26 over "the modern public square," regularly wielding their  
27 great power to capriciously censor speech and deplatform

1 users, anointing themselves as the arbiters of truth and  
2 adjudgers of "good" speech and "bad" speech.

3 (5) Alarminglly, such conduct by Big Tech companies –  
4 anathema to the American free-speech tradition – is  
5 increasingly endorsed and even coerced by federal officials,  
6 entrenched media organizations, and other large corporations  
7 in the United States.

8 (6) The State of Alabama has a vital public interest  
9 in, and the right to provide, greater protections for online  
10 speech within her borders.

11 Section 3. For the purposes of this act, the  
12 following terms have the following meanings:

13 (1) ACCESS SOFTWARE PROVIDER. A provider of  
14 software, including client or server software, or enabling  
15 tools that do any one or more of the following:

- 16 a. Filter, screen, allow, or disallow content.
- 17 b. Pick, choose, analyze, or digest content.
- 18 c. Transmit, receive, display, forward, cache,  
19 search, subset, organize, reorganize, or translate content.

20 (2) INTERACTIVE COMPUTER SERVICE. Any information  
21 service, system, or access software provider that provides or  
22 enables computer access by multiple users to a computer  
23 server, including specifically a service or system that  
24 provides access to the Internet and such systems operated or  
25 services offered by libraries or educational institutions.

1           (3) INTERNET. The international computer network of  
2 both federal and non-federal interoperable packet switched  
3 data networks.

4           (4) MAJOR INTERACTIVE COMPUTER SERVICE. An entity  
5 that provides an interactive computer service in all of the  
6 following ways:

7           a. Through a website, online application, or mobile  
8 application, including a single interactive computer service  
9 that is provided through more than a single website or  
10 application.

11           b. Through which information provided by another  
12 information content provider is distributed.

13           c. That, in any month during the most recently  
14 completed 12-month period, either of the following are true:

15           1. More than 30,000,000 users in the United States  
16 accessed the service, without regard to the means by which the  
17 users accessed the service.

18           2. More than 300,000,000 users worldwide accessed  
19 the service, without regard to the means by which the users  
20 accessed the service.

21           d. That, during the most recently completed taxable  
22 year, had more than one billion dollars (\$1,000,000,000) in  
23 global revenue.

24           e. That does business in the State of Alabama.

25           Section 4. (a) It is unlawful for any major  
26 interactive computer service to take any of the following  
27 actions against a user based on either the viewpoint expressed

1 or shared by the user or true statements of fact expressed or  
2 shared by the user:

3 (1) Block, restrict, suspend, terminate, remove, or  
4 ban the account of a user.

5 (2) Reject content supplied by a user.

6 (3) Obscure, hide, or otherwise make less accessible  
7 content supplied by a user.

8 (4) Alter or delete content supplied by a user.

9 (5) Otherwise discriminate in any way against a  
10 user.

11 (b) Any major interactive computer service that  
12 violates this section shall forfeit to the affected user one  
13 hundred thousand dollars (\$100,000) for each offense, and an  
14 additional one hundred thousand dollars (\$100,000) for each  
15 day of the continuance of the offense.

16 Section 5. (a) Any person claiming to be damaged by  
17 any major interactive computer service subject to the  
18 provisions of this act may bring suit for the recovery of the  
19 damages for which the major interactive computer service may  
20 be liable under this act if either of the following are true:

21 (1) The person resides or is domiciled in this  
22 state.

23 (2) The person does business in this state.

24 (b) Any person bringing suit for the recovery of the  
25 damages for which a major interactive computer service may be  
26 liable under this act may do so in any circuit court of this  
27 state of competent jurisdiction.

1           Section 6. (a) This act does not apply to actions  
2 taken by a major interactive computer service with regard to  
3 expression that does either of the following:

4           (1) Violates a federal, state, or local law.

5           (2) Solicits, facilitates, or incites the commission  
6 of an unlawful act.

7           (b) This act shall not prohibit or restrict a major  
8 interactive computer service from providing users with the  
9 option to filter specific expression, including, but not  
10 limited to, explicit, indecent, violent, graphic, or profane  
11 content.

12           (c) The provisions of Section 4 of this act shall  
13 not include expressions transmitted by a user while the user  
14 was outside this state.

15           (d) No provision of this act shall be construed as  
16 allowing any suit to be brought or damages to be recovered  
17 that would in any way infringe upon the freedom of the press  
18 guaranteed by the Free Press Clause of the First Amendment to  
19 the United States Constitution or the Free Press Clause of  
20 Article 1, Section 4 of the Constitution of Alabama of 1901.

21           Section 7. The provisions of this act are severable.  
22 If any part of this act is declared invalid or  
23 unconstitutional, that declaration shall not affect the part  
24 which remains.

25           Section 8. This act shall become effective on the  
26 first day of the third month following its passage and  
27 approval by the Governor, or its otherwise becoming law.

