

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING CENSORSHIP BY SOCIAL MEDIA SITE
5 PROVIDERS; PROVIDING FOR A CIVIL CAUSE OF ACTION AGAINST A SOCIAL MEDIA SITE THAT
6 CENSORS SPEECH; ALLOWING AN INTERACTIVE COMPUTER SERVICE PROVIDER TO LIMIT
7 CONTENT EXPLICITLY THROUGH THE PROVIDER'S TERMS OF SERVICE; AUTHORIZING THE AWARD
8 OF TREBLE DAMAGES, PUNITIVE DAMAGES, COSTS, AND ATTORNEY FEES; AND PROVIDING
9 DEFINITIONS."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 NEW SECTION. **Section 1. Censorship by social media site -- civil action.** (1) If an interactive
14 computer service provider restricts, censors, or suppresses information that does not pertain to obscene, lewd,
15 lascivious, filthy, excessively violent, harassing, or otherwise objectionable subject matter, the interactive
16 computer service provider is liable in a civil action for damages to:

- 17 (a) the consumer whose speech is restricted, censored, or suppressed; and
18 (b) any consumer who reasonably otherwise would have received the writing, speech, or publication.

19 (2) (a) An interactive computer service provider may state affirmatively in the provider's terms of
20 service that the provider is a publisher. If the consumer whose speech is restricted, censored, or suppressed or
21 if a consumer who reasonably otherwise would have received the writing, speech, or publication has agreed to
22 the provider's terms of service provided at the time the consumer initially signed up, subsection (1) does not
23 apply.

24 (b) Notwithstanding subsection (1), an interactive computer service provider may limit content to
25 subject matter that is expressly stated in the provider's terms of service provided at the time the consumer
26 initially signed up.

27 (3) An action for civil damages under this section may be brought in the district court in the county
28 where the consumer being restricted, censored, or suppressed resides or the district court in the county where

1 the consumer who reasonably otherwise would have received the writing, speech, or publication resides.

2 (4) (a) A consumer whose writing, speech, or publication is restricted, censored, or suppressed under
3 this section or a consumer that reasonably otherwise would have received the writing, speech, or publication, is
4 entitled to civil damages including treble damages for compensatory, consequential, and incidental damages.

5 (b) The court may award punitive damages.

6 (c) The court shall award costs and reasonable attorney fees to a plaintiff who prevails on an action
7 under this section.

8 (5) (a) This section only applies if the interactive computer service provider:

9 (i) is immune from civil liability under federal law;

10 (ii) is not considered a publisher;

11 (iii) has over 1 million users; and

12 (iv) is a provider of a social media site.

13 (b) An interactive computer service provider is not subject to civil liability under subsection (1) for an
14 action by an interactive computer service provider taken:

15 (i) voluntarily in good faith to restrict access to or the availability of material that is obscene, lewd,
16 lascivious, filthy, excessively violent, harassing, or otherwise objectionable, regardless of whether the material
17 is constitutionally protected; or

18 (ii) to enable or make available to information content providers or others the technical means to
19 restrict access to material listed in subsection (5)(b)(i).

20 (6) As used in this section, the following definitions apply:

21 (a) "Censor" or "censorship" means the suppression or prohibition of thoughts, ideas, speech,
22 opinions, or interpretations of facts pertinent to news or commentary provided by individual persons,
23 businesses, or organizations.

24 (b) "Consumer" means an individual, business, or organization that heavily uses and relies on social
25 media as a platform for the consumer's communications.

26 (c) "Interactive computer service provider" means any information service, system, or access software
27 provider that provides or enables computer access by multiple users to a computer server.

28 (d) "Social media site" means a website through which users can share and generate content and find

1 and connect with other users with common interests.

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3 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an

4 integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [section 1].

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