

**Amendment - 1st Reading-white - Requested by: Matt Regier - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

Drafter: Laura Sankey Keip, 406-444-4410

HB0770.001.001

1 HOUSE BILL NO. 770  
2 INTRODUCED BY M. REGIER, K. ZOLNIKOV  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING REGULATION OF  
5 ELECTRONIC AND SOCIAL MEDIA COMMUNICATIONS; REQUIRING SOCIAL MEDIA PLATFORMS TO  
6 PUBLICLY DISCLOSE CERTAIN INFORMATION; REQUIRING SOCIAL MEDIA PLATFORMS TO PUBLISH  
7 ACCEPTABLE USE POLICIES AND TRANSPARENCY REPORTS; PROVIDING REQUIREMENTS FOR  
8 REMOVAL OF CONTENT FROM SOCIAL MEDIA PLATFORMS AND REQUIRING AN APPEAL  
9 PROCEDURE TO CHALLENGE THE REMOVAL; PROHIBITING CENSORSHIP BY SOCIAL MEDIA  
10 PLATFORMS; PROVIDING A CAUSE OF ACTION AND REMEDIES AGAINST A SOCIAL MEDIA  
11 PLATFORM; PROHIBITING TRANSMISSION OF CERTAIN COMMERCIAL E-MAIL MESSAGES;  
12 PROVIDING REQUIREMENTS FOR TRANSMISSION OF UNSOLICITED E-MAIL MESSAGES;  
13 PROHIBITING AN E-MAIL SERVICE PROVIDER FROM IMPEDING TRANSMISSION OF E-MAIL  
14 MESSAGES OR SELLING OR PROVIDING CERTAIN E-MAIL ADDRESSES TO ANOTHER; PROVIDING A  
15 CRIMINAL PENALTY FOR TRANSMISSION OF CERTAIN OBSCENE E-MAIL MESSAGES; PROVIDING  
16 CIVIL ACTIONS, DAMAGES, AND PENALTIES FOR VIOLATIONS INVOLVING TRANSMISSION OF E-MAIL  
17 MESSAGES; PROVIDING IMMUNITIES AND QUALIFIED IMMUNITIES FOR TELECOMMUNICATIONS  
18 CARRIERS, E-MAIL SERVICE PROVIDERS, AND E-MAIL MESSAGE SENDERS; PROVIDING  
19 DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

20  
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
22

23 NEW SECTION. **Section 1. Legislative findings.** The legislature finds that:

24 (1) each person in this state has a fundamental interest in the free exchange of ideas and  
25 information, including the freedom of others to share and receive ideas and information;

26 (2) this state has a fundamental interest in protecting the free exchange of ideas and information in  
27 this state;

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1 (3) social media platforms function as common carriers, are affected with a public interest, are  
2 central public forums for debate, and have enjoyed government support in the United States; and

3 (4) social media platforms with the largest numbers of users are common carriers by virtue of their  
4 market dominance.

5  
6 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 15], the following definitions  
7 apply:

8 (1) "Censor" means to block, ban, remove, deplatform, demonetize, deboost, restrict, deny equal  
9 access or visibility to, or otherwise discriminate against expression.

10 (2) "Expression" means any word, music, sound, still or moving image, number, or other  
11 perceivable communication.

12 (3) "Internet services provider" has the meaning provided in 2-17-602.

13 (4) "Receive" means, with respect to an expression, to read, hear, look at, access, or gain access  
14 to the expression.

15 (5) (a) "Social media platform" means a website or application that is open to the public, allows a  
16 user to create an account, and enables users to communicate with other users for the primary purpose of  
17 posting information, comments, messages, or images.

18 (b) The term does not include:

19 (i) an internet services provider;

20 (ii) electronic mail; or

21 (iii) an online service, application, or website:

22 (A) that consists primarily of news, sports, entertainment, or other information or content that is not  
23 user generated but is instead preselected by the provider; ~~or~~

24 (B) for which any chat, comments, or interactive functionality is incidental to or dependent on the  
25 provision of the content described in subsection (5)(b)(iii)(A); or

26 (C) whose primary purpose is related to academic or scholarly research.

27 (6) "Unlawful expression" means an expression that is unlawful under the United States

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1 constitution, the Montana constitution, federal law, or the laws of this state, including expression that constitutes  
2 a tort under federal law or the laws of this state.

3 (7) "User" means a person who posts, uploads, transmits, shares, or otherwise publishes or  
4 receives content or expression through a social media platform. The term includes a person who has a social  
5 media platform account that the social media platform has locked or disabled.

6  
7 **NEW SECTION. Section 3. Public disclosures.** (1) A social media platform shall, in accordance  
8 with [sections 1 through 15], publicly disclose accurate information regarding its content management, data  
9 management, and business practices, including specific information regarding the manner in which the social  
10 media platform:

- 11 (a) curates and targets content to users;
- 12 (b) places and promotes content, services, and products, including its own content, services, and  
13 products;
- 14 (c) moderates content;
- 15 (d) uses search, ranking, or other algorithms or procedures that determine results on the platform;
- 16 and
- 17 (e) provides users' performance data on the use of the social media platform and its products and  
18 services.

19 (2) The disclosures required under subsection (1) must be sufficient to enable users to make an  
20 informed choice regarding the purchase of, use of access to, or use of services from the platform.

21 (3) A social media platform shall publish the disclosure required under subsection (1) on a website  
22 that is easily accessible by the public.

23  
24 **NEW SECTION. Section 4. Acceptable use policy.** (1) A social media platform shall publish an  
25 acceptable use policy in a location that is easily accessible to a user.

26 (2) A social media platform's acceptable use policy must:

- 27 (a) reasonably inform users about the types of content allowed on the social media platform;

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1 (b) explain the steps the social media platform will take to ensure the content complies with the  
2 policy;

3 (c) explain the means by which users can notify the social media platform of illegal content, illegal  
4 activity, or content that potentially violates the acceptable use policy. The means of notification must include an  
5 e-mail address or relevant complaint intake mechanism to handle user complaints and a complaint system as  
6 required in [section 6].

7 (d) include publication of a transparency report every 6 months pursuant to [section 5] outlining  
8 actions taken to enforce the acceptable use policy.

9

10 **NEW SECTION. Section 5. Reporting requirements.** (1) As part of a social media platform's  
11 acceptable use policy under [section 4], the social media platform shall publish a transparency report every 6  
12 months that includes, with respect to the preceding 6-month period:

13 (a) the total number of instances in which the social media platform was alerted to illegal content,  
14 illegal activity, or content in potential violation of the acceptable use policy, broken out by:

15 (i) a user complaint;

16 (ii) a complaint by an employee of or person contracting with the social media platform; or

17 (iii) content flagged by an internal automatic detection tool;

18 (b) subject to subsection (2), the number of instances in which the social media platform took  
19 action with respect to illegal content, illegal activity, or content in potential violation of the acceptable use policy  
20 known to the social media platform due to the nature of the content, including:

21 (i) content removal;

22 (ii) content demonetization;

23 (iii) content deprioritization;

24 (iv) the addition of an assessment to content;

25 (v) account suspension;

26 (vi) account removal; or

27 (vii) any other action taken in accordance with the acceptable use policy;

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- 1 (c) the country of the user who provided the content for each instance provided for in subsection  
2 (1)(b);
- 3 (d) the number of coordinated campaigns, if applicable;
- 4 (e) the number of instances in which a user appealed the decision to remove the user's content  
5 that potentially violated the acceptable use policy;
- 6 (f) the percentage of appeals provided for in subsection (1)(e) that resulted in the restoration of  
7 the content; and
- 8 (g) a description of each tool, practice, action, or technique used in enforcing the acceptable use  
9 policy.
- 10 (2) The information provided for in subsection (1)(b) must be categorized by:
- 11 (a) the element of the acceptable use policy that was violated; and
- 12 (b) the source for the alert of illegal content, illegal activity, or content in potential violation of the  
13 acceptable use policy, including:
- 14 (i) a government;
- 15 (ii) a user;
- 16 (iii) an internal automated detection tool;
- 17 (iv) coordination with other social media platform; or
- 18 (v) persons employed by or contracting with the social media platform.
- 19 (3) A social media platform shall publish the information required under subsection (1) with an  
20 open license, in a machine-readable and open format, and in a location that is easily accessible to users.

21

22 **NEW SECTION. Section 6. Complaint system required.** A social media platform shall provide an  
23 easily accessible complaint system to enable a user to submit a complaint in good faith and track the status of  
24 the complaint, including a complaint regarding illegal content or illegal activity or a decision made by the social  
25 media platform to remove content posted by the user.

26

27 **NEW SECTION. Section 7. Processing of complaints.** A social media platform that receives a

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1 complaint of illegal content or illegal activity on the social media platform shall make a good faith effort to  
2 evaluate the legality of the content or activity within 48 hours of receiving the complaint, excluding weekends  
3 and holidays, and subject to reasonable expectations based on concerns about the legitimacy of the complaint.  
4

5 **NEW SECTION. Section 8. Removal of content -- exceptions.** (1) Except as provided in subsection  
6 (2), if a social media platform removes content based on a violation of the social media platform's acceptable  
7 use policy under [section 4], the social media platform shall, concurrently with the removal:

8 (a) notify the user who provided the content of the removal and explain the reason the content was  
9 removed;

10 (b) allow the user to appeal the decision to remove the content to the social media platform as  
11 provided for in [section 9]; and

12 (c) provide written notice to the user who provided the content:

13 (i) of the determination regarding an appeal requested under subsection (1)(b); and

14 (ii) in the case of a reversal of the social media platform's decision to remove the content, of the  
15 reason for the reversal.

16 (2) A social media platform is not required to provide a user with notice or an opportunity to appeal  
17 under subsection (1) if the social media platform:

18 (a) is unable to contact the user after taking reasonable steps to make contact; or

19 (b) knows that the content that potentially violates the acceptable use policy relates to an ongoing  
20 law enforcement investigation.  
21

22 **NEW SECTION. Section 9. Appeal procedures.** If a social media platform receives a user complaint  
23 about removal of content provided by the user that the user believes was not in violation of the acceptable use  
24 policy, within 14 days after receiving the complaint, excluding weekends and holidays, the social media platform  
25 shall:

26 (1) review the content;

27 (2) determine whether the content adheres to the social media platform's acceptable use policy;

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- 1 (3) take appropriate steps based on the determination under subsection (2); and  
2 (4) notify the user regarding the determination made under subsection (2) and the steps taken  
3 under subsection (3).  
4

5 **NEW SECTION. Section 10. Censorship prohibited.** (1) A social media platform may not censor a  
6 user, a user's expression, or a user's ability to receive the expression of another person based on:

- 7 (a) the viewpoint of the user or another person;  
8 (b) the viewpoint represented in the user's expression or another person's expression; or  
9 (c) a user's geographic location in this state.

10 (2) The provisions of this section apply regardless of whether the viewpoint is expressed on a  
11 social media platform or through any other medium.  
12

13 **NEW SECTION. Section 11. Waiver prohibited.** (1) A wavier or purported waiver of the protections  
14 provided by [sections 1 through 15] is void as unlawful and against public policy. A court or arbitrator may not  
15 enforce or give effect to the waiver, including in an action brought under [section 14], notwithstanding any  
16 contract or choice-of-law provision in a contract.

17 (2) The waiver prohibition provided for in this section is a public policy limitation on contractual and  
18 other waivers of the highest importance and interest to this state, and this state exercises and enforces this  
19 limitation to the fullest extent permitted by the United States constitution and the Montana constitution.  
20

21 **NEW SECTION. Section 12. Limitation on effect of laws.** [Sections 1 through 15] do not subject a  
22 social media platform to damages or other legal remedies to the extent the social media platform is protected  
23 from those remedies under federal law.  
24

25 **NEW SECTION. Section 13. Statutory construction.** [Sections 1 through 15] do not prohibit a social  
26 media platform from censoring expression that:

- 27 (1) the social media platform is specifically authorized to censor by federal law;

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1 (2) is the subject of a referral or request from an organization with the purpose of preventing the  
2 sexual exploitation of children and protecting survivors of sexual abuse from ongoing harassment;

3 (3) directly incites criminal activity or consists of specific threats of violence targeted against a  
4 person or group because of their race, color, disability, religion, national origin, ancestry, age, sex, or status as  
5 a peace officer or judge; or

6 (4) is an unlawful expression.  
7

8 **NEW SECTION. Section 14. Action by user -- remedies.** (1) A user may bring an action against a  
9 social media platform that violates [sections 1 through 15] with respect to the user. If the user proves that the  
10 social media platform violated [sections 1 through 15] with respect to the user, the user is entitled to:

11 (a) declaratory relief; and

12 (b) injunctive relief.

13 (2) If a social media platform fails to promptly comply with a court order in an action brought under  
14 this section, the court shall hold the social media platform in contempt and shall use all lawful measures to  
15 secure immediate compliance with the order, including daily penalties in an amount sufficient to secure  
16 immediate compliance.

17 (3) A user may bring an action under this section regardless of whether another court has enjoined  
18 the attorney general from enforcing [sections 1 through 15] or declared any provision of [sections 1 through 15]  
19 unconstitutional unless that court decision is binding on the court in which the action is brought.

20 (4) Nonmutual issue preclusion and nonmutual claim preclusion are not defenses to an action  
21 brought under this section.  
22

23 **NEW SECTION. Section 15. Action by attorney general.** (1) Any person may notify the attorney  
24 general of a violation or a potential violation of [sections 1 through 15] by a social media platform.

25 (2) The attorney general may bring an action against a social media platform to enjoin a violation  
26 or a potential violation of [sections 1 through 15]. If an injunction is granted, the attorney general may recover  
27 costs incurred in bringing the action, including reasonable attorney fees and reasonable investigative costs.



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2           **NEW SECTION. Section 16. Definitions.** As used in [sections 16 through 34], the following  
3 definitions apply:

4           (1) "Commercial e-mail message" means an electronic mail message that advertises, offers for  
5 sale or lease, or promotes any goods, services, business opportunity, property, or other article, commodity, or  
6 thing of value.

7           (2) "Electronic mail" or "e-mail" means a message, file, or other information that is transmitted  
8 through a local, regional, or global computer network, regardless of whether the message, file, or information is  
9 viewed, stored for retrieval at a later time, printed, or filtered by a computer program that is designed or  
10 intended to filter or screen the message, file, or information.

11           (3) "E-mail service provider" means a person who:

12           (a) is authorized to transact business in this state;

13           (b) is an intermediary in transmitting or receiving e-mail; and

14           (c) provides the ability to transmit or receive e-mail to an end user of an e-mail service.

15           (4) "Established business relationship" means a relationship that:

16           (a) is formed by a voluntary two-way communication between a person and another person,  
17 regardless of whether consideration is exchanged;

18           (b) pertains to a product or service offered by one of the persons; and

19           (c) has not been terminated by either person.

20           (5) "Internet domain name" means a globally unique, hierarchical reference to an internet host or  
21 service that is:

22           (a) assigned through a centralized internet naming authority; and

23           (b) composed of a series of character strings separated by periods, with the right-most string  
24 specifying the top of the hierarchy.

25           (6) "Malicious computer code" means an unwanted computer program or other set of instructions  
26 inserted into a computer's memory, operating system, or program that:

27           (a) is specifically constructed with the ability to replicate itself or to affect the other programs or

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1 files in the computer by attaching a copy of the unwanted program or other set of instructions to one or more  
2 computer programs or files; or

3 (b) is intended to perform an unauthorized process that will adversely impact the confidentiality of  
4 information contained in or the integrity or availability of the computer's memory, operating system, or program.

5 (7) "Obscene" has the meaning provided in 45-8-201.

6 (8) "Sender" means a person who initiates an e-mail message.

7 (9) "Sexual conduct" has the meaning provided in 45-5-625.

8 (10) "Telecommunications carrier" has the meaning provided in 69-3-803.

9 (11) (a) "Unsolicited commercial e-mail message" means a commercial e-mail message transmitted  
10 without the consent of the recipient by a person with whom the recipient does not have an established business  
11 relationship.

12 (b) The term does not include e-mail transmitted by an organization using e-mail to communicate  
13 exclusively with members, employees, or contractors of the organization.

14  
15 **NEW SECTION. Section 17. Transmission of certain commercial e-mail messages prohibited.** A  
16 person may not intentionally transmit a commercial e-mail message that:

17 (1) is an unsolicited commercial e-mail message and falsifies the e-mail transmission or routing  
18 information;

19 (2) contains false, deceptive, or misleading information in the subject line; or

20 (3) uses another person's internet domain name without the other person's consent.

21  
22 **NEW SECTION. Section 18. Transmission of unsolicited commercial e-mail messages --**  
23 **requirements.** (1) A person may not intentionally take an action to transmit an unsolicited commercial e-mail  
24 message unless:

25 (a) "ADV:" appears first in the subject line of the message or, if the message contains obscene  
26 material or material depicting sexual conduct, "ADV: ADULT ADVERTISEMENT" appears first in the subject  
27 line; and

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1 (b) the sender or person acting on behalf of the sender provides a functioning return e-mail  
2 address to which a recipient of the message may, at no cost to the recipient, send a reply requesting the  
3 removal of the recipient's e-mail address from the sender's e-mail list.

4 (2) A sender shall remove a person's e-mail address from the sender's e-mail list within 3 days  
5 after the date the sender receives a request for removal of that e-mail address under subsection (1)(b).  
6

7 **NEW SECTION. Section 19. Selling or providing certain e-mail addresses prohibited.** A sender  
8 or a person acting on behalf of a sender may not sell or otherwise provide to another person the e-mail address  
9 of a person who requests the removal of that e-mail address from the sender's e-mail list pursuant to [section  
10 18(1)(b)].  
11

12 **NEW SECTION. Section 20. Impeding e-mail messages prohibited.** An e-mail service provider  
13 may not intentionally impede the transmission of another person's e-mail message based on the content of the  
14 message unless:

15 (1) the provider is authorized to block the transmission under [section 34] or other applicable state  
16 or federal law; or

17 (2) the provider has a good faith, reasonable belief that the e-mail contains malicious computer  
18 code, obscene material, material depicting sexual conduct, or material that violates other law.  
19

20 **NEW SECTION. Section 21. Transmission of obscene e-mail message without required subject**  
21 **line -- criminal penalty.** A person commits a criminal offense if the person intentionally takes an action to  
22 transmit an e-mail message that contains obscene material or material depicting sexual conduct without the  
23 required language at the beginning of the subject line as required by [section 18(1)(a)]. An offense under this  
24 section is a misdemeanor.  
25

26 **NEW SECTION. Section 22. General civil penalty -- injunctive relief.** (1) A person who violates  
27 [sections 16 through 34] is liable for a civil penalty in an amount not to exceed the lesser of:

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- 1 (a) \$10 for each unlawful e-mail message or unlawful action; or
- 2 (b) \$25,000 for each day an unlawful e-mail message is received or each day an unlawful action is
- 3 taken.
- 4 (2) The attorney general or a county attorney in the county in which the violation occurs may:
- 5 (a) bring an action to recover the civil penalty; and
- 6 (b) obtain an injunction to prevent or restrain a violation of [sections 16 through 34].
- 7 (3) The attorney general or a county attorney may recover reasonable expenses incurred in
- 8 recovering the civil penalty, including court costs, reasonable attorney fees, investigative costs, witness fees,
- 9 and deposition expenses.
- 10 (4) The penalty in subsection (1) does not apply to a violation of [section 27].
- 11

12 **NEW SECTION. Section 23. Violations -- deceptive trade practice.** A violation of [sections 16

13 through 34] is a false, misleading, or deceptive act or practice under Title 30, chapter 14, and any public or

14 private right or remedy prescribed in Title 30, chapter 14, may be used to enforce the provisions of [sections 16

15 through 34].

16

17 **NEW SECTION. Section 24. Violations -- civil action for damages.** (1) A person who is injured by

18 a violation of [sections 16 through 34] may bring an action to recover:

- 19 (a) actual damages, including lost profits; or
- 20 (b) an amount provided for alternative recovery under [section 25] or [section 26], as applicable.
- 21 (2) A person who prevails in an action under this section is entitled to recover court costs and
- 22 reasonable attorney fees.
- 23

24 **NEW SECTION. Section 25. Alternative recovery -- persons other than e-mail service**

25 **providers.** (1) In lieu of actual damages, a person injured by a violation of [sections 16 through 34] arising from

26 the transmission of an unsolicited or commercial e-mail message or by a violation of [section 20] may recover

27 an amount equal to the lesser of:

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- 1 (a) \$10 for each unlawful message or each message unlawfully impeded, as applicable; or  
2 (b) \$25,000 for each day the unlawful message is received or the message is unlawfully impeded,  
3 as applicable.  
4 (2) This section does not apply to a person who is an e-mail service provider.  
5

6 NEW SECTION. Section 26. Alternative recovery -- e-mail service providers. In lieu of actual  
7 damages, an e-mail service provider injured by a violation of [sections 16 through 34] arising from the  
8 transmission of an unsolicited or commercial e-mail message may recover an amount equal to the greater of:

- 9 (1) \$10 for each unlawful message; or  
10 (2) \$25,000 for each day the unlawful message is received.  
11

12 NEW SECTION. Section 27. Civil action -- required notice to attorney general -- civil penalty. (1)  
13 A person who brings an action under [section 24] shall notify the attorney general of the action by mailing a  
14 copy of the petition by registered or certified mail not later than 30 days after the date the petition is filed and at  
15 least 10 days before the date set for a hearing on the action.

16 (2) A person who violates the notice requirement under subsection (1) is liable for a civil penalty in  
17 an amount of not more than \$200 for each violation. The attorney general may bring an action to recover the  
18 civil penalty in the court in which the action under [section 24] is brought.  
19

20 NEW SECTION. Section 28. Civil action -- intervention by attorney general. The attorney general  
21 may intervene in an action brought under [section 24] by:

- 22 (1) filing a notice of intervention with the court in which the action is pending; and  
23 (2) serving each party to the action with a copy of the notice of intervention.  
24

25 NEW SECTION. Section 29. Class action prohibited. A court may not certify an action brought  
26 under [sections 16 through 34] as a class action.  
27

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1            NEW SECTION. **Section 30. Protection of secrecy or security.** At the request of a party to an  
2 action brought under [sections 16 through 34], the court in its discretion may conduct a legal proceeding in a  
3 manner that protects:

4            (1) the secrecy and security of the computer, computer network, computer data, computer  
5 program, and computer software involved so as to prevent a possible recurrence of the same or a similar act by  
6 another person; or

7            (2) any trade secret of a party to the action.

8  
9            NEW SECTION. **Section 31. Immunity from liability -- commercial e-mail message -- error or**  
10 **accident.** A person may not be held liable under [sections 16 through 34] for a commercial e-mail message that  
11 is transmitted as a result of an error or accident.

12  
13            NEW SECTION. **Section 32. Immunity from liability -- telecommunications carriers and e-mail**  
14 **service providers.** (1) A telecommunications carrier or e-mail service provider may not be held liable under  
15 [section 17] or [section 18] and is not subject to a penalty pursuant to [sections 16 through 34].

16            (2) A person injured by a violation of [sections 16 through 34] does not have a cause of action  
17 against a telecommunications carrier or an e-mail service provider under [sections 16 through 34] solely  
18 because the carrier or service provider:

19            (a) is an intermediary between the sender or a person acting on behalf of the sender and the  
20 recipient in the transmission of an e-mail message that violates [sections 16 through 34];

21            (b) provides transmission, routing, relaying, handling, or storing through an automatic technical  
22 process of an unsolicited commercial e-mail message through the carrier's or the service provider's computer  
23 network or facilities; or

24            (c) provides telecommunications services, information services, or other services used in the  
25 transmission of an e-mail message that violates [sections 16 through 34].

26  
27            NEW SECTION. **Section 33. Qualified immunity from liability -- senders.** A sender may not be

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1 held viable for the transmission of an e-mail message that violates [sections 16 through 34] if the sender:

2 (1) contracts in good faith with an e-mail service provider to transmit e-mail messages for the  
3 sender; and

4 (2) has no reason to believe the e-mail service provider will transmit any of the sender's e-mail  
5 messages in violation of [sections 16 through 34].  
6

7 **NEW SECTION. Section 34. Qualified immunity from liability -- authority to block certain**

8 **commercial e-mail messages.** (1) An e-mail service provider may on its own initiative block the receipt or  
9 transmission through its service of a commercial e-mail message that the service provider reasonably believes  
10 is or will be transmitted in violation of [sections 16 through 34] if the service provider:

11 (a) provides a process for the prompt, good faith resolution of a dispute related to the blocking with  
12 the sender of the commercial e-mail message; and

13 (b) makes contact information for the resolution of the dispute accessible to the public on the  
14 service provider's website.

15 (2) An e-mail service provider who complies with subsection (1) may not be held liable for blocking  
16 the receipt or transmission through its service of a commercial e-mail message that the service provider  
17 reasonably believes is or will be transmitted in violation of [sections 16 through 34].  
18

19 **NEW SECTION. Section 35. Severability.** If a part of [this act] is invalid, all valid parts that are  
20 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
21 the part remains in effect in all valid applications that are severable from the invalid applications.  
22

23 **NEW SECTION. Section 36. Codification instruction.** (1) [Sections 1 through 15] are intended to  
24 be codified as a new part in Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1  
25 through 15].

26 (2) [Sections 16 through 34] are intended to be codified as a new part in Title 30, chapter 14, and  
27 the provisions of Title 30, chapter 14, apply to [sections 16 through 34].

**Amendment - 1st Reading-white - Requested by: Matt Regier - (H) Energy, Technology and Federal Relations**

- 2023

68th Legislature 2023

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1

2        NEW SECTION. Section 37. Effective date. [This act] is effective on passage and approval.

3

4        NEW SECTION. Section 38. Applicability. (1) [Sections 1 through 15] apply to:

5        (a) a user who:

6        (i) resides in this state;

7        (ii) does business in this state; or

8        (iii) shares or receives content or expression on a social media platform in this state;

9        (b) expression that is shared or received in this state; and

10       (c) a social media platform that functionally has more than 50 million active users in the United

11 States in a calendar month.

12       (2) [Sections 1 through 15] apply to a cause of action that accrues on or after [the effective date of  
13 this act].

14

- END -