

REFERENCE TITLE: social media platforms; standards; notification

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1106

Introduced by
Senators Rogers: Borrelli, Kern

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 ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM:

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

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

21 (c) TO ADD OR TAKE AWAY CREDIBILITY TO POLITICAL SPEECH THAT COULD
22 HAVE THE EFFECT OF SWAYING POLITICAL VIEWS, INCLUDING FACT-CHECKING,
23 ISSUING WARNINGS, FLAGGING, HIGHLIGHTING OR CAUTIONING USERS TO BELIEVE OR
24 DISBELIEVE CONTENT BASED ON POLITICAL VIEWS.

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

29 5. "JOURNALISTIC ENTERPRISE" MEANS AN ENTITY DOING BUSINESS IN THIS
30 STATE THAT DOES ANY OF THE FOLLOWING:

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

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

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

39 (d) OPERATES UNDER A BROADCAST LICENSE ISSUED BY THE FEDERAL
40 COMMUNICATIONS COMMISSION.

41 6. "POSTPRIORITIZATION":

42 (a) MEANS ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM TO PLACE,
43 FEATURE OR PRIORITIZE CERTAIN CONTENT OR MATERIAL AHEAD OF, BELOW OR IN A
44 MORE OR LESS PROMINENT POSITION THAN OTHER CONTENT OR MATERIAL IN A
45 NEWSFEED, FEED OR VIEW OR IN SEARCH RESULTS.

1 (b) DOES NOT INCLUDE ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM TO
2 PLACE, FEATURE OR PRIORITIZE THE CONTENT AND MATERIAL OF A THIRD PARTY,
3 INCLUDING OTHER USERS, BASED ON PAYMENTS BY THAT THIRD PARTY TO THE SOCIAL
4 MEDIA PLATFORM.

5 7. "SHADOW BAN":

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

10 (b) INCLUDES ANY ACTION THAT IS TAKEN BY A SOCIAL MEDIA PLATFORM TO
11 LIMIT OR ELIMINATE CONTENT OR MATERIAL AND THAT IS NOT READILY APPARENT TO
12 A USER.

13 8. "SOCIAL MEDIA PLATFORM" MEANS ANY INFORMATION SERVICE, SYSTEM,
14 INTERNET SEARCH ENGINE OR ACCESS SOFTWARE PROVIDER THAT MEETS ALL OF THE
15 FOLLOWING:

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

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

20 (c) DOES BUSINESS IN THIS STATE.

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

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

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

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

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

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

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

1 PLATFORM AND \$25,000 PER DAY FOR A CANDIDATE FOR ANY OTHER OFFICE WHO WAS
2 DEPLATFORMED BY THE SOCIAL MEDIA PLATFORM.

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

9 18-703. Censorship standards; notification requirements;
10 obscene content; cause of action; remedies;
11 exceptions

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

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

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

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

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

28 (a) BE IN WRITING.

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

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

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

37 2. IN A MANNER THAT VIOLATES THIS SECTION.

38 E. A SOCIAL MEDIA PLATFORM SHALL:

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

42 2. ON REQUEST, PROVIDE A USER WITH THE NUMBER OF OTHER INDIVIDUAL
43 SOCIAL MEDIA PLATFORM PARTICIPANTS WHO WERE PROVIDED OR SHOWN THE USER'S
44 CONTENT OR POSTS.

1 F. A SOCIAL MEDIA PLATFORM SHALL:
2 1. CATEGORIZE ALGORITHMS USED FOR POSTPRIORITIZATION AND SHADOW
3 BANNING.
4 2. ALLOW A USER TO OPT OUT OF POSTPRIORITIZATION AND SHADOW BANNING
5 ALGORITHM CATEGORIES TO ALLOW SEQUENTIAL OR CHRONOLOGICAL POSTS AND
6 CONTENT.
7 G. A SOCIAL MEDIA PLATFORM SHALL PROVIDE USERS WITH AN ANNUAL
8 NOTICE ON THE USE OF ALGORITHMS FOR POSTPRIORITIZATION AND SHADOW BANNING
9 AND ANNUALLY REOFFER THE OPT-OUT OPPORTUNITY PRESCRIBED IN SUBSECTION F OF
10 THIS SECTION.
11 H. A SOCIAL MEDIA PLATFORM MAY NOT APPLY OR USE POSTPRIORITIZATION
12 OR SHADOW BANNING ALGORITHMS FOR CONTENT AND MATERIAL POSTED BY OR ABOUT A
13 USER WHO IS KNOWN BY THE SOCIAL MEDIA PLATFORM TO BE A CANDIDATE,
14 BEGINNING ON THE DATE OF THE CANDIDATE'S QUALIFICATION AND ENDING ON THE
15 DATE OF THE ELECTION OR THE DATE THE CANDIDATE CEASES TO BE A CANDIDATE.
16 POSTPRIORITIZATION OF CERTAIN CONTENT OR MATERIAL FROM OR ABOUT A
17 CANDIDATE BASED ON PAYMENTS TO THE SOCIAL MEDIA PLATFORM BY THE CANDIDATE
18 OR A THIRD PARTY IS NOT A VIOLATION OF THIS SUBSECTION. A SOCIAL MEDIA
19 PLATFORM SHALL PROVIDE EACH USER WITH A METHOD BY WHICH THE USER MAY BE
20 IDENTIFIED AS A CANDIDATE AND THAT PROVIDES SUFFICIENT INFORMATION TO
21 ALLOW THE SOCIAL MEDIA PLATFORM TO CONFIRM THE USER'S QUALIFICATION AS A
22 CANDIDATE BY REVIEWING THE CANDIDATE'S STATEMENT OF ORGANIZATION FILED
23 PURSUANT TO SECTION 16-906.
24 I. A SOCIAL MEDIA PLATFORM SHALL ALLOW A USER WHO HAS BEEN
25 DEPLATFORMED TO ACCESS OR RETRIEVE ALL OF THE USER'S INFORMATION, CONTENT,
26 MATERIAL AND DATA FOR AT LEAST SIXTY DAYS AFTER THE USER RECEIVES THE
27 NOTICE REQUIRED UNDER SUBSECTION D OF THIS SECTION.
28 J. A SOCIAL MEDIA PLATFORM MAY NOT TAKE ANY ACTION TO CENSOR,
29 DEPLATFORM OR SHADOW BAN A JOURNALISTIC ENTERPRISE BASED ON THE CONTENT OF
30 THE JOURNALISTIC ENTERPRISE'S PUBLICATION OR BROADCAST.
31 POSTPRIORITIZATION OF CERTAIN JOURNALISTIC ENTERPRISE CONTENT BASED ON
32 PAYMENTS TO THE SOCIAL MEDIA PLATFORM BY THE JOURNALISTIC ENTERPRISE IS
33 NOT A VIOLATION OF THIS SUBSECTION. THIS SUBSECTION DOES NOT APPLY IF THE
34 CONTENT OR MATERIAL IS OBSCENE AS DESCRIBED IN SECTION 13-3501.
35 K. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, A SOCIAL
36 MEDIA PLATFORM IS NOT REQUIRED TO NOTIFY A USER IF THE CENSORED CONTENT OR
37 MATERIAL IS OBSCENE AS DESCRIBED IN SECTION 13-3501.
38 L. A VIOLATION OF THIS SECTION CONSTITUTES AN UNLAWFUL PRACTICE
39 UNDER SECTION 44-1522 AND IS IN ADDITION TO ALL OTHER CAUSES OF ACTION,
40 REMEDIES AND PENALTIES THAT ARE AVAILABLE TO THIS STATE. THE ATTORNEY
41 GENERAL MAY INVESTIGATE AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44,
42 CHAPTER 10, ARTICLE 7.

1 M. A USER WHO IS HARMED BY A SOCIAL MEDIA PLATFORM'S VIOLATION OF
2 SUBSECTION B OR SUBSECTION D, PARAGRAPH 1 OF THIS SECTION MAY BRING A
3 PRIVATE CAUSE OF ACTION FOR THE VIOLATION. IN A PRIVATE CAUSE OF ACTION
4 BROUGHT UNDER SUBSECTION B OR SUBSECTION D, PARAGRAPH 1 OF THIS SECTION,
5 THE COURT MAY AWARD THE FOLLOWING REMEDIES TO THE USER:
6 1. UP TO \$100,000 IN STATUTORY DAMAGES FOR EACH PROVEN CLAIM.
7 2. ACTUAL DAMAGES.
8 3. IF AGGRAVATING FACTORS ARE PRESENT, PUNITIVE DAMAGES.
9 4. OTHER FORMS OF EQUITABLE RELIEF, INCLUDING INJUNCTIVE RELIEF.
10 5. IF THE USER WAS DEPLATFORMED IN VIOLATION OF SUBSECTION B OF
11 THIS SECTION, COSTS AND REASONABLE ATTORNEY FEES.
12 N. FOR THE PURPOSES OF BRINGING AN ACTION IN ACCORDANCE WITH
13 SUBSECTION L OR M OF THIS SECTION:
14 1. EACH FAILURE OF A SOCIAL MEDIA PLATFORM TO COMPLY WITH
15 SUBSECTION F, PARAGRAPH 2 OF THIS SECTION SHALL BE TREATED AS A SEPARATE
16 VIOLATION, ACT OR PRACTICE.
17 2. A SOCIAL MEDIA PLATFORM THAT CENSORS, SHADOW BANS, DEPLATFORMS
18 OR APPLIES POSTPRIORITIZATION ALGORITHMS TO CANDIDATES AND USERS IN THIS
19 STATE IS CONCLUSIVELY PRESUMED TO BE BOTH ENGAGED IN SUBSTANTIAL AND NOT
20 ISOLATED ACTIVITIES WITHIN THIS STATE AND OPERATING, CONDUCTING, ENGAGING
21 IN OR CARRYING ON A BUSINESS AND DOING BUSINESS IN THIS STATE, AND THE
22 SOCIAL MEDIA PLATFORM IS THEREFORE SUBJECT TO THE JURISDICTION OF THE
23 COURTS OF THIS STATE.
24 O. THIS SECTION DOES NOT APPLY TO A PUBLISHER, BROADCASTER, PRINTER
25 OR OTHER PERSON ENGAGED IN DISSEMINATING INFORMATION OR REPRODUCING
26 PRINTED OR PICTORIAL MATTER IF THE INFORMATION OR MATTER HAS BEEN
27 DISSEMINATED OR REPRODUCED ON BEHALF OF OTHERS WITHOUT ACTUAL KNOWLEDGE
28 THAT IT VIOLATED THIS SECTION.