

By: Shaheen

H.B. No. 2188

A BILL TO BE ENTITLED

AN ACT

relating to civil liability for censorship by social media companies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 100D to read as follows:

CHAPTER 100D. LIABILITY FOR SOCIAL MEDIA CENSORSHIP

Sec. 100D.001. DEFINITIONS. In this chapter:

(1) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access to a computer server by multiple users, including a service or system that provides access to the Internet or a system operated or service offered by a library or educational institution.

(2) "Information content provider" means a person who is responsible, wholly or partly, for the creation or development of information provided through the Internet or any other interactive computer service.

(3) "Social media site" means an Internet website in which users share and generate content and locate and connect with users with common interests.

Sec. 100D.002. APPLICABILITY. This chapter applies only to an interactive computer service provider that:

(1) is immune from civil liability under federal law;

1           (2) is not considered a publisher in accordance with  
2 Section 100D.006(b);

3           (3) has over one million users; and

4           (4) provides a social media site.

5           Sec. 100D.003. LIABILITY FOR CENSORSHIP. Except as  
6 provided by Section 100D.006, an interactive computer service  
7 provider that restricts, censors, or suppresses information is  
8 liable to the information content provider and any person who may  
9 have received the information had the information not been  
10 restricted, censored, or suppressed for damages incurred by the  
11 restriction, censorship, or suppression.

12           Sec. 100D.004. REMEDIES. (a) A claimant who prevails in an  
13 action under this chapter shall be awarded:

14           (1) compensatory damages;

15           (2) treble any compensatory damages;

16           (3) court costs; and

17           (4) reasonable attorney's fees.

18           (b) In addition to an award under Subsection (a), a claimant  
19 who prevails in an action under this chapter may be awarded  
20 exemplary damages.

21           Sec. 100D.005. AUTHORIZED VENUE. A claimant may bring an  
22 action under this chapter in a district court in a county in which  
23 the claimant resides.

24           Sec. 100D.006. EXCEPTIONS. (a) An interactive computer  
25 service provider is not liable under Section 100D.003 if the  
26 provider:

27           (1) voluntarily takes an action in good faith to

1 restrict access to or availability of information that the provider  
2 or a user considers to be obscene, lewd, lascivious, filthy,  
3 excessively violent, harassing, or otherwise objectionable  
4 regardless of whether the information is constitutionally  
5 protected; or

6 (2) takes an action to enable or make available to a  
7 person, including an information content provider, the technical  
8 means to restrict access to information described by Subdivision  
9 (1).

10 (b) An interactive computer service provider may state in  
11 the terms of service that the provider is a publisher. If a claimant  
12 agrees to the terms of service, the claimant may not bring an action  
13 under this chapter.

14 (c) An interactive computer service provider may limit  
15 content to subject matter expressly stated in the provider's terms  
16 of service and is not liable under Section 100D.003 for the  
17 limitation.

18 SECTION 2. Section 100D.003, Civil Practice and Remedies  
19 Code, as added by this Act, applies only to a cause of action that  
20 accrues on or after the effective date of this Act.

21 SECTION 3. This Act takes effect September 1, 2021.