

By: Hughes
(Hayes)

S.B. No. 1626

A BILL TO BE ENTITLED

AN ACT

relating to censorship of or certain other interference with digital expression, including expression on social media platforms or through electronic mail messages.

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

SECTION 1. The legislature finds that:

(1) although H.B. 20, as passed by the 87th Legislature, 2nd Called Session, 2021, clearly applies to social media platforms only in their role as common carriers in facilitating public forums for public debate, the legislation has been misunderstood to apply more broadly and therefore requires clarification;

(2) an effective state remedy for social media censorship is essential because:

(A) the federal government has massively used the dominant social media platforms to abridge the freedom of speech;

(B) the combination of qualified immunity impeding damages for past censorship and doctrinal limits on injunctions against the breadth of future censorship leaves Texans and other Americans without adequate judicial remedies for federal censorship;

(C) dominant common carriers, especially when given exaggerated dominance by federal privilege, pressure, and coordination, must be available to persons of all points of view,

1 without discrimination; and

2 (D) the public square, which is now mainly on the
3 Internet and is enabled by the dominant social media platforms,
4 must be available to persons of all points of view, without
5 discrimination;

6 (3) damages are necessary for violations of H.B. 20
7 because, even though private enforcement of the legislation has
8 never been enjoined, the platforms subject to the legislation have
9 never complied with it;

10 (4) the First Amendment to the U.S. Constitution bars
11 the federal government from "abridging" the freedom of speech or of
12 the press, not merely coercing or otherwise "prohibiting" it;

13 (5) states have a structurally essential role, dating
14 back to the Sedition Act of 1798, of protecting individuals from
15 federal censorship; and

16 (6) since H.B. 20 was originally enacted:

17 (A) abundant evidence has come to light that the
18 federal government has massively used dominant social media
19 platforms to abridge the freedom of speech;

20 (B) it has become clear that common carrier
21 legislation like H.B. 20 is the only sort of legal mechanism that
22 can promptly and effectively prevent federal censorship through the
23 social media platforms; and

24 (C) this state has a compelling and even
25 existential interest in adopting this law to prevent the federal
26 threat to the freedom of speech.

27 SECTION 2. Section [120.001](#)(1), Business & Commerce Code, is

amended to read as follows:

(1) "Social media platform" means an Internet website or application that is open to the public, allows a user to create an account, and enables users to communicate with other users for the primary purpose of posting information, comments, messages, or images. The term does not include:

(A) an Internet service provider as defined by Section 324.055;

(B) electronic mail, including direct messaging or other electronically conveyed mail; or

(C) an online service, application, or website:

(i) that:

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

(b) primarily provides banking, financial, transportation, or sales services, services related to the playing or creation of video games, or another service that is not a communications service; and

(ii) for which any chat, comments, or interactive functionality is incidental to, directly related to, or dependent on the provision of the content or service described by Subparagraph (i).

SECTION 3. Section 143A.004(c), Civil Practice and Remedies Code, is amended to read as follows:

(c) This chapter applies only to a social media platform that functionally has more than 65 ~~[50]~~ million active users in the

1 United States in a calendar month.

2 SECTION 4. Section 143A.005, Civil Practice and Remedies
3 Code, is amended to read as follows:

4 Sec. 143A.005. LIMITATION ON EFFECT OF CHAPTER;
5 INTERPRETATION OF CHAPTER. (a) This chapter does not subject a
6 social media platform to damages or other legal remedies to the
7 extent the social media platform is protected from those remedies
8 under federal law.

9 (b) This chapter does not apply to a social media platform's
10 newsfeed, the platform's own homepage, or any other service that
11 is:

12 (1) intended to convey a particularized message where
13 the likelihood is great that such a message would be understood by
14 the viewer;

15 (2) not a common carrier service;

16 (3) not strongly analogous to a common carrier
17 service; or

18 (4) not primarily providing transmission of users'
19 expression.

20 (c) Nothing in this chapter may be interpreted to permit a
21 social media platform to discriminate in the carriage of users'
22 expression by disseminating the platform's own commentary or
23 expression in a manner that delays or otherwise diminishes the
24 visibility of a user's expression, or delays or otherwise denies
25 equal access to a user's expression, or otherwise censors a user's
26 expression, on the basis of viewpoint in violation of this chapter.

27 SECTION 5. Section 143A.007(b), Civil Practice and Remedies

Code, is amended to read as follows:

(b) If the user proves that the social media platform violated this chapter with respect to the user, the user is entitled to recover:

(1) declaratory relief under Chapter 37, including costs and reasonable and necessary attorney's fees under Section 37.009; ~~and~~

(2) injunctive relief;

(3) either:

(A) actual damages; or

(B) at the election of the user, statutory damages in the amount of:

(i) \$100,000 if the user or the user's expression was censored in violation of Section 143A.002; or

(ii) \$1,000 if the user's ability to receive another person's expression was censored in violation of Section 143A.002; and

(4) reasonable and necessary attorney's fees.

SECTION 6. Section 143A.007(b), Civil Practice and Remedies Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2025.