

By: Hughes

S.B. No. 1626

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to censorship of or certain other interference with  
3 digital expression, including expression on social media platforms  
4 or through electronic mail messages.

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

6 SECTION 1. The legislature finds that:

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

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

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

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

22 (C) dominant common carriers, especially when  
23 given exaggerated dominance by federal privilege, pressure, and  
24 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16 (6) since H.B. 20 was originally enacted: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

1 amended to read as follows:

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

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

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

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

12 (i) that:

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

16 (b) primarily provides banking,  
17 financial, transportation, sales, or another service that is not a  
18 communications service; and

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

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

25 Sec. 143A.005. LIMITATION ON EFFECT OF CHAPTER;  
26 INTERPRETATION OF CHAPTER. (a) This chapter does not subject a  
27 social media platform to damages or other legal remedies to the

1 extent the social media platform is protected from those remedies  
2 under federal law.

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

6 (1) intended to convey a particularized message where  
7 the likelihood is great that such a message would be understood by  
8 the viewer;

9 (2) not a common carrier service;

10 (3) not strongly analogous to a common carrier  
11 service; or

12 (4) not primarily providing transmission of users'  
13 expression.

14 (c) Nothing in this chapter may be interpreted to permit a  
15 social media platform to discriminate in the carriage of users'  
16 expression by disseminating the platform's own commentary or  
17 expression in a manner that delays or otherwise diminishes the  
18 visibility of a user's expression, or delays or otherwise denies  
19 equal access to a user's expression, or otherwise censors a user's  
20 expression, on the basis of viewpoint in violation of this chapter.

21 SECTION 4. Section 143A.007(b), Civil Practice and Remedies  
22 Code, is amended to read as follows:

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

26 (1) declaratory relief under Chapter 37, including  
27 costs and reasonable and necessary attorney's fees under Section

1 37.009; ~~and~~

2 (2) injunctive relief;

3 (3) either:

4 (A) actual damages; or

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

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

9 (ii) \$1,000 if the user's ability to receive  
10 another person's expression was censored in violation of Section  
11 143A.002; and

12 (4) reasonable and necessary attorney's fees.

13 SECTION 5. Section 143A.007(b), Civil Practice and Remedies  
14 Code, as amended by this Act, applies only to a cause of action that  
15 accrues on or after the effective date of this Act. A cause of  
16 action that accrued before the effective date of this Act is  
17 governed by the law as it existed immediately before the effective  
18 date of this Act, and that law is continued in effect for that  
19 purpose.

20 SECTION 6. This Act takes effect September 1, 2025.