



2021 SENATE BILL 581

September 24, 2021 - Introduced by Senators ROTH, STROEBEL, FELZKOWSKI, NASS and DARLING, cosponsored by Representatives SORTWELL, CABRAL-GUEVARA, ALLEN, BRANDTJEN, EDMING, HORLACHER, KNODL and KUGLITSCH. Referred to Committee on Utilities, Technology and Telecommunications.

- 1 **AN ACT to create** 100.75 of the statutes; **relating to:** prohibiting social media
2 Internet site censorship of journalistic enterprises.

Analysis by the Legislative Reference Bureau

This bill prohibits a social media Internet site from censoring, deplatforming, or shadow banning a journalistic enterprise on the basis of the content of its publication or broadcast. The bill applies to social media Internet sites or applications that enable users to communicate with each other and that have more than 150 million users. The bill defines a “journalistic enterprise” as an entity that publishes more than 10,000 words online with at least 5,000 paid subscribers or 10,000 monthly active users; publishes more than 100 hours of audio or video online with at least 100 million viewers annually; operates a cable television channel that provides more than 40 hours of content per week to more than 100,000 cable television subscribers; or operates under a broadcast license issued by the Federal Communications Commission.

Under the bill, a social media Internet site must also provide a mechanism for a journalistic enterprise to request the number of other individual users who were provided or shown the journalistic enterprise’s content or posts, and to provide that number to the journalistic enterprise upon request.

The bill also allows a journalistic enterprise to bring a private cause of action against a social media Internet site if the Internet site violates the bill’s requirements. The bill provides that, in a private cause of action, a court may award statutory damages of up to \$100,000 for each proven violation; actual damages; punitive damages if aggravating factors exist; other forms of equitable relief; and costs and attorney fees.

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For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 100.75 of the statutes is created to read:

2 **100.75 Social media Internet site censorship of journalistic**
3 **enterprises. (1) DEFINITIONS.** In this section:

4 (a) “Algorithm” means a mathematical set of rules that specifies how a group
5 of data behaves that will assist in ranking search results and maintaining order or
6 that is used in sorting or ranking content or material on the basis of relevancy or
7 other factors instead of using published time or chronological order of such content
8 or material.

9 (b) “Censor” includes any action taken by a social media Internet site to delete,
10 regulate, restrict, edit, alter, inhibit the publication or republication of, suspend a
11 right to post, remove, or post an addendum to any content or material posted by a
12 journalistic enterprise. “Censor” also includes actions to inhibit the ability of a
13 journalistic enterprise to be viewable by or to interact with another user of the social
14 media Internet site.

15 (c) “Deplatform” means to delete or ban a journalistic enterprise from a social
16 media Internet site for more than 60 days.

17 (d) “Journalistic enterprise” means an entity that does any of the following:

18 1. Publishes more than 10,000 words that are available online with at least
19 5,000 paid subscribers or 10,000 monthly active users.

20 2. Publishes more than 100 hours of audio or video that are available online
21 with at least 100 million viewers annually.

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1 3. Operates a cable television channel that provides more than 40 hours of
2 content per week to more than 100,000 cable television subscribers.

3 4. Operates under a broadcast license issued by the federal communications
4 commission.

5 (e) “Post prioritization” means an action by a social media Internet site to place,
6 feature, or prioritize certain content or material ahead of, below, or in a more or less
7 prominent position than other content in a newsfeed, feed, view, or search results.
8 “Post prioritization” does not include actions toward such content or material that
9 are based on payments by a 3rd party, including other users, to the social media
10 Internet site. “Post prioritization” also does not include any action toward a
11 journalistic enterprise’s posted content or material that is taken at the request of
12 that journalistic enterprise.

13 (f) “Shadow ban” means to limit or eliminate the exposure of a journalistic
14 enterprise, or content or material posted by a journalistic enterprise, to other users
15 of the social media Internet site through any means, regardless of whether the action
16 is determined by an individual or an algorithm, and regardless of whether the action
17 is readily apparent to a user.

18 (g) “Social media Internet site” means an Internet site or application that
19 enables users to communicate with each other by posting information, comments,
20 messages, or images and to which all of the following apply:

21 1. The Internet site or application is available to the public.

22 2. The Internet site or application has more than 150 million users.

23 (h) “User” means a person who subscribes to or has an account on a social media
24 Internet site, regardless of whether the person posts or has posted content or
25 material to the social media Internet site.

