**An Act To Stop Social Media Censorship**

**Be it enacted by the People of the State of Maine as follows:**

**Sec.** **1. 10 MRSA c. 1056** is enacted to read:

**CHAPTER** **1056**

**SOCIAL MEDIA DECEPTIVE TRADE PRACTICES**

**§****9555.** **Short title**

This Act may be known and cited as "the Stop Social Media Censorship Act."

**§****9556.** **Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1.** **Algorithm.** "Algorithm" means a set of electronic instructions designed to perform a specific task.

**2.** **Harassing spam.** "Harassing spam" means an unsolicited commercial message directed indiscriminately to users of a social media website.

**3.** **Hate speech.** "Hate speech" means a phrase communicating content that an individual finds offensive based on the individual's personal moral code.

**4.** **Lascivious matter.** "Lascivious matter" means matter that is overtly sexual in nature.

**5.** **Obscene matter.** "Obscene matter" has the same meaning as in Title 17, section 2911, subsection 1, paragraph D.

**6.** **Political speech.** "Political speech" means speech relating to the State, government or public administration as it relates to governmental policy making, including discussion of social issues and speech by government officials or candidates for office.

**7.** **Religious speech.** "Religious speech" means speech that is faith-based assumptions and assertions.

**8.** **Shadowban.** "Shadowban" means the act of blocking or partially blocking a social media website user or the social media website user's content from an online community such that it will not be readily apparent to the social media website user that the social media website user has been blocked. Shadowbanning is also referred to as stealth banning, ghost banning or comment ghosting.

**9.** **Social media website.** "Social media website" means an Internet website or application that enables users to communicate with one another by posting information, comments, messages or images and that:

A. Is open to the public;

B. Has more than 75,000,000 subscribers;

C. From its inception, has not been specifically affiliated with one religion or political party; and

D. Provides a means for the social media website's users to report obscene matter and has in place procedures for evaluating those reports and removing obscene matter.

**§****9557.** **Civil actions; deceptive trade practices**

**1.** **Private right of action.** A user of a social media website may bring a private action in Superior Court against an owner or operator of a social media website that contracts with the social media website user in this State if the social media website purposely:

A. Deletes or censors the social media website user's religious speech or political speech; or

B. Uses an algorithm to disfavor, shadowban or censor the social media website user's religious speech or political speech.

**2.** **Relief.** A social media website user may be awarded the following relief under this section:

A. Up to $75,000 in statutory damages for each purposeful deletion or censoring of the social media website user's religious speech or political speech;

B. Actual damages;

C. If aggravating factors are present, punitive damages; and

D. Other forms of equitable relief.

**3.** **Court costs and attorney's fees.** The prevailing party in an action under this section may be awarded court costs and reasonable attorney's fees.

**4.** **Reduction of damages.** If a social media website restores from deletion or removes the censoring of a social media website user's religious speech or political speech in a reasonable amount of time, a court may consider reducing damages awarded under subsection 2.

**5.** **Defenses.** A social media website may not use a social media website user's alleged hate speech as a basis for justification or defense of the social media website's actions in violation of subsection 1.

**6.** **Attorney General.** The Attorney General may bring a civil action under this chapter on behalf of a social media website user who resides in this State and whose religious speech or political speech has been censored by a social media website.

**7.** **Unfair and deceptive trade practice.** An owner or operator of a social media website that has engaged in practices described in subsection 1 has engaged in an unfair trade practice in violation of Title 5, chapter 10 and a deceptive trade practice in violation of chapter 206 and is subject to the penalties for violating those chapters in addition to relief and court costs and attorney's fees as described in subsections 2 and 3.

**8.** **Exclusions.** This chapter does not apply to the following:

A. A social media website that deletes or censors a social media website user's speech or that uses an algorithm to disfavor, shadowban or censor speech:

(1) That calls for immediate acts of violence;

(2) That calls for a user to self-harm;

(3) That is obscene matter or lascivious matter or material harmful to minors;

(4) As the result of operational error;

(5) As the result of a court order;

(6) That comes from an inauthentic source or involves false impersonation;

(7) That entices criminal conduct;

(8) That involves minors bullying minors;

(9) That constitutes copyright or trademark infringement;

(10) That is excessively violent; or

(11) That is harassing spam; or

B. The censoring of a social media website user's speech by another social media website user.

**9.** **Cause of action.** Social media website users under 18 years of age do not have a cause of action under this chapter.

**10.** **Venue.** A social media website user or the Attorney General may bring an action under this chapter in Superior Court.

**§****9558.** **Legislative findings**

The Legislature finds that:

**1.** **Federal Communications Decency Act.** While Section 230 of the federal Communications Decency Act of 1996 protects online service providers who host 3rd-party content, it does not protect against deceptive trade practices, bad faith transactions, unfair dealing and fraudulent inducements;

**2.** **No preemption.** State laws consistent with Section 230 of the federal Communications Decency Act of 1996 are not preempted by Section 230;

**3.** **Social media website standards.** This State has a compelling interest in holding certain social media websites that have created a digital semi-public square to higher standards, especially when those websites have engaged in fraud, false advertising and deceptive trade practices;

**4.** **Social media website practices.** Some social media websites have engaged in fraud, false advertising and deceptive trade practices at great expense to the health, safety, and welfare of consumers in this State, while making it difficult for others to compete with those websites;

**5.** **Compelling interest of State.** The State has a compelling interest in helping its citizens enjoy their free exercise of their rights in certain semi-public forums commonly used for religious and political speech, regardless of the political or religious affiliation they ascribe to; and

**6.** **Protection of freedom of religion and speech.** This Act is necessary to ensure the continued free practice by the citizens of Maine of religion and speech as guaranteed under the First Amendment to the United States Constitution and under the Constitution of Maine, Article I, Sections 3 and 4, respectively.

**SUMMARY**

This bill creates a private right of action for users of social media websites whose religious or political speech has been subject to deletion, censorship or other disfavor by the social media website. The bill also provides that the Attorney General may bring a civil action on behalf of a social media website user who resides in this State and whose religious or political speech has been censored by the social media website and makes violation an unfair and deceptive trade practice.