

BILL ANALYSIS

Senate Research Center

S.B. 2373
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Social media websites have become the primary public forum for the exchange of ideas. While almost all speech is protected from governmental censorship, privately owned digital spaces that facilitate public speech present a novel challenge. Although these sites are privately owned, the nearly universal adoption of a few sites evidences a developing need for protection from speech selection by social media companies.

S.B. 2373 attempts to prevent the companies that control the new public square from choosing winners and losers in public discourse by providing redress for those who are silenced online.

As proposed, S.B. 2373 amends current law relating to a cause of action for political or religious censorship of speech by a social media website.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 73A, as follows:

CHAPTER 73A. CENSORSHIP OF ONLINE SPEECH

Sec. 73A.01. DEFINITIONS. Defines "algorithm," "hate speech," "obscene," "political speech," and "social media website."

Sec. 73A.02. CAUSE OF ACTION. Authorizes a social media website user to bring a cause of action against the owner or operator of a social media website with users in this state if the social media website purposely censors a social media website user's religious or political speech or uses an algorithm to suppress religious or political speech.

Sec. 73A.03. DEFENSE. (a) Provides that it is a defense to a cause of action brought under this section that the censored speech calls for immediate acts of violence, is obscene or pornographic in nature, was censored as a result of operational error, was censored as a result of a court order, came from an inauthentic source or involved false impersonation, incited criminal conduct, or involved minors bullying minors.

(b) Provides that it is not a defense to a cause of action brought under this section that the social media website user's speech was hate speech.

Sec. 73A.04. DAMAGES. (a) Authorizes a social media website user to be awarded damages not to exceed \$75,000 for each purposeful censoring or suppression of the social media user's speech.

(b) Authorizes a social media website user to recover reasonable attorney's fees and costs incurred in bringing the action.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2019.