

SENATE FILE NO. SF0100

Internet freedom-prohibiting discrimination.

Sponsored by: Senator(s) Steinmetz, Biteman, French, Hicks,
Kolb and Salazar and Representative(s) Bear,
Gray, Hallinan, Haroldson, Hunt and Jennings

A BILL

for

1 AN ACT relating to trade and commerce; prohibiting
2 discrimination based on viewpoint, race, religion and
3 location by interactive computer services, social media
4 platforms and businesses as specified; providing
5 legislative findings; specifying a breach of fiduciary duty
6 for release or loss of private information; defining terms
7 related to the prohibitions on discrimination; providing
8 remedies for violations as specified; specifying
9 applicability of prohibitions; specifying severability; and
10 providing for an effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.**

15

1 (a) The legislature finds that:

2

3 (i) Interactive computer services and companies
4 are similar to common carriers, are affected with a public
5 interest, are central public forums for public debate and
6 have enjoyed governmental support in the United States;

7

8 (ii) Interactive computer services and companies
9 may owe a fiduciary duty to their users;

10

11 (iii) Interactive computer services and
12 companies appear to be increasingly censoring expression on
13 their services and platforms based on the point of view of
14 the person making the expression;

15

16 (iv) In *Hudgens v. NLRB*, 424 U.S. 507 (1976),
17 the United States Supreme Court has recognized that
18 statutory or common law may, in some situations, extend
19 protection or provide redress against a private corporation
20 or person who seeks to abridge the free expression of
21 others;

22

1 (v) The laws of the several states and of the
2 United States already protect against obscene, violent,
3 harassing and other dangerous expression.

4

5 **Section 2.** W.S. 40-12-801 through 40-12-805 are
6 created to read:

7

8

ARTICLE 8

9

DISCRIMINATION BY INTERACTIVE COMPUTER SERVICES AND SOCIAL

10

MEDIA PLATFORMS

11

12 **40-12-801. Definitions.**

13

14 (a) As used in this article:

15

16 (i) "Censor" means to block, ban, remove,
17 deplatform, demonetize, de-boost, restrict, deny equal
18 access or visibility to or otherwise discriminate against a
19 person;

20

21 (ii) "Expression" means any words, music,
22 sounds, still or moving images, numbers, video or
23 perceivable communication;

1

2 (iii) "Free speech state" means any state or
3 territory of the United States or the federal government
4 that protects expression from censorship by interactive
5 computer services based on the viewpoint, race or religion
6 of a person or of a person's expression;

7

8 (iv) "Identifiable private information" means
9 private information that may reasonably be expected to be
10 associated with a user or could reasonably be associated
11 with a user;

12

13 (v) "Interactive computer service" means any
14 information service, system or access software provider
15 that provides or enables computer access by multiple users
16 to a computer server. "Interactive computer service"
17 includes networks, websites and a service or system that
18 provides access to the internet including systems operated
19 or services offered by libraries or educational
20 institutions. "Interactive computer service" does not
21 include an internet service provider;

22

1 (vi) "Internet service provider" means any entity
2 that provides internet access services and that may also
3 provide associated internet services, such as internet
4 transport, encryption, account security services, email
5 hosting services, web hosting services, domain services,
6 data storage services, intranet services and cloud-based
7 solutions;

8
9 (vii) "Private information" means information
10 acquired by an interactive computer service or social media
11 platform from any user who has not expressly given prior
12 authorization for the release or disclosure of the
13 information, including its specific content, form or
14 recipient of the information;

15
16 (viii) "Receive" means to read, hear, look at,
17 gain access to or otherwise receive;

18
19 (ix) "Share" means to speak, sing, publish,
20 post, upload, transmit, communicate or otherwise share;

21
22 (x) "Social media platform" means any
23 information service, system or access software that

1 provides or enables computer access by multiple users to a
2 computer server and that allows a user to publish or share
3 expression with other persons. "Social media platform" does
4 not include an internet service provider;

5

6 (xi) "Unlawful expression" means expression that
7 is unlawful under federal or state law;

8

9 (xii) "User" means a person who shares or
10 receives expression through an interactive computer
11 service.

12

13 **40-12-802. Interactive computer services;**
14 **discrimination prohibited; applicability.**

15

16 (a) No interactive computer service shall censor a
17 user, a user's expression, a user's sharing or ability to
18 share an expression or a user's receiving of expression
19 from another person based on:

20

21 (i) The race, religion or viewpoint of any user
22 or other person; or

23

1 (ii) The viewpoint presented in any user's or
2 other person's expression.

3

4 (b) No interactive computer service shall censor a
5 user, a user's expression, a user's sharing or ability to
6 share an expression or a user's receiving of expression
7 based on the user's residing, doing business, sharing
8 expression or receiving expression in this state.

9

10 (c) The prohibitions of subsections (a) and (b) of
11 this section shall apply:

12

13 (i) Whether the viewpoint is expressed on an
14 interactive computer service or elsewhere;

15

16 (ii) Only to an interactive computer service
17 that:

18

19 (A) Functionally has more than twenty
20 million (20,000,000) active users within any thirty (30)
21 day period;

22

1 (B) Functionally has more than one hundred
2 fifty million (150,000,000) active users within one (1)
3 calendar month.

4

5 (iii) Only to protect:

6

7 (A) A user residing, doing business,
8 sharing expression or receiving expression in this state;

9

10 (B) Expression, sharing expression or
11 receiving expression to the extent the expression, sharing
12 or receiving occurs in this state;

13

14 (C) Expression, sharing expression or
15 receiving expression to the extent the expression is shared
16 with or received from any other free speech state;

17

18 (D) Expression, sharing expression or
19 receiving expression to the extent the expression is shared
20 with, or received from, any other state or territory of the
21 United States.

22

23 (d) This article shall not be construed to:

1

2 (i) Subject an interactive computer service to
3 any action or require a remedy from an interactive computer
4 service for which the interactive computer service is
5 protected under the laws of Wyoming or of the United
6 States;

7

8 (ii) Prohibit an interactive computer service
9 from censoring any expression that it is specifically
10 authorized to censor under the laws of Wyoming or of the
11 United States;

12

13 (iii) Prohibit an interactive computer service
14 from censoring an unlawful expression.

15

16 (e) This chapter shall not apply to an interactive
17 computer service that:

18

19 (i) Has been available to users for not more
20 than twelve (12) months; or

21

22 (ii) Is engaged primarily in its own expression
23 and that allows users to comment on its expression,

1 provided that the commentary or ability to comment is
2 merely incidental to the expression.

3

4 **40-12-803. Remedies; procedures; fiduciary**
5 **requirements.**

6

7 (a) Any user residing, doing business, sharing
8 expression or receiving expression in this state may bring
9 a civil action in any court of this state against any
10 interactive computer service for a violation of this
11 article by an interactive computer service against the
12 user. The user may seek, and the court may grant,
13 declaratory or injunctive relief. The court shall award to
14 any user prevailing in an action under this section treble
15 damages or, at the user's election, fifty thousand dollars
16 (\$50,000.00). The court shall also award costs and
17 reasonable attorney fees to any prevailing user.

18

19 (b) Any user residing, doing business, sharing
20 expression or receiving expression in this state may bring
21 a civil action in any court of this state against any
22 person who aids or abets a violation of this article by an
23 interactive computer service against that user. The user

1 may seek, and the court may grant, declaratory or
2 injunctive relief. The court shall award to any user
3 prevailing in an action under this section treble damages
4 or, at the user's election, fifty thousand dollars
5 (\$50,000.00). The court shall also award costs and
6 reasonable attorney fees to any prevailing user.

7

8 (c) Notwithstanding any other provision of law, the
9 courts of Wyoming may exercise personal jurisdiction over
10 any interactive computer service subject to an action
11 initiated under this section or any person alleged to have
12 aided or abetted a violation of this article to the maximum
13 extent permitted by the United States constitution and
14 Wyoming constitution.

15

16 (d) Notwithstanding any other provision of law, any
17 user initiating a civil action pursuant to this section
18 shall have the right to a jury trial.

19

20 (e) The court may hold an interactive computer
21 service or a person in contempt if the interactive computer
22 service or person fails to promptly comply with any order
23 issued under this section. The court may use all lawful

1 measures to secure immediate compliance, including daily
2 penalties sufficient to secure immediate compliance.

3

4 (f) Any loss, release or distribution by an
5 interactive computer service of identifiable private
6 information that has been collected by the interactive
7 computer service shall be deemed a breach of fiduciary duty
8 and shall be subject to any remedy or recovery authorized
9 by law. For any intentional or reckless loss, release or
10 distribution by an interactive computer service of
11 identifiable private information, the court shall award to
12 a person whose information is lost, released or distributed
13 as damages treble damages or one million dollars
14 (\$1,000,000.00), whichever is greater.

15

16 **40-12-804. Social media platforms; discrimination**
17 **prohibited; applicability.**

18

19 (a) No social media platform shall censor a user, a
20 user's expression, a user's sharing or ability to share an
21 expression or a user's receiving of expression from another
22 person based on:

23

1 (i) The race, religion or viewpoint of any user
2 or other person; or

3

4 (ii) The viewpoint presented in any user's or
5 other person's expression.

6

7 (b) No social media platform shall censor a user, a
8 user's expression, a user's sharing or ability to share an
9 expression or a user's receiving of expression based on the
10 user's residing, doing business, sharing expression or
11 receiving expression in this state.

12

13 (c) The prohibitions of subsections (a) and (b) of
14 this section shall apply:

15

16 (i) Whether the viewpoint is expressed on an
17 interactive computer service or elsewhere;

18

19 (ii) Only to a social media platform that:

20

21 (A) Functionally has more than twenty
22 million (20,000,000) active users within any thirty (30)
23 day period;

1

2 (B) Functionally has more than one hundred
3 fifty million (150,000,000) active users within one (1)
4 calendar month.

5

6 (iii) Only to protect:

7

8 (A) A user residing, doing business,
9 sharing expression or receiving expression in this state;

10

11 (B) Expression, sharing expression or
12 receiving expression to the extent the expression, sharing
13 or receiving occurs in this state;

14

15 (C) Expression, sharing expression or
16 receiving expression to the extent the expression is shared
17 with or received from any other free speech state;

18

19 (D) Expression, sharing expression or
20 receiving expression to the extent the expression is shared
21 with, or received from, any other state or territory of the
22 United States.

23

1 (d) This article shall not be construed to:

2

3 (i) Subject a social media platform to any
4 action or require a remedy from a social media platform for
5 which the social media platform is protected under the laws
6 of Wyoming or of the United States;

7

8 (ii) Prohibit a social media platform from
9 censoring any expression that it is specifically authorized
10 to censor under the laws of Wyoming or of the United
11 States;

12

13 (iii) Prohibit a social media platform from
14 censoring an unlawful expression.

15

16 (e) This chapter shall not apply to a social media
17 platform that:

18

19 (i) Has been available to users for not more
20 than twelve (12) months; or

21

22 (ii) Is engaged primarily in its own expression
23 and that allows users to comment on its expression,

1 provided that the commentary or ability to comment is
2 merely incidental to the expression.

3

4 **40-12-805. Remedies; procedures; fiduciary**
5 **requirements.**

6

7 (a) Any user residing, doing business, sharing
8 expression or receiving expression in this state may bring
9 a civil action in any court of this state against any
10 social media platform for a violation of this article by a
11 social media platform against the user. The user may seek,
12 and the court may grant, declaratory or injunctive relief.
13 The court shall award to any user prevailing in an action
14 under this section treble damages or, at the user's
15 election, fifty thousand dollars (\$50,000.00). The court
16 shall also award costs and reasonable attorney fees to any
17 prevailing user.

18

19 (b) Any user residing, doing business, sharing
20 expression or receiving expression in this state may bring
21 a civil action in any court of this state against any
22 person who aids or abets a violation of this article by any
23 social media platform against that user. The user may seek,

1 and the court may grant, declaratory or injunctive relief.
2 The court shall award to any user prevailing in an action
3 under this section treble damages or, at the user's
4 election, fifty thousand dollars (\$50,000.00). The court
5 shall also award costs and reasonable attorney fees to any
6 prevailing user.

7

8 (c) Notwithstanding any other provision of law, the
9 courts of Wyoming may exercise personal jurisdiction over
10 any social media platform subject to an action initiated
11 under this section or any person alleged to have aided or
12 abetted a violation of this article to the maximum extent
13 permitted by the United States constitution and Wyoming
14 constitution.

15

16 (d) Notwithstanding any other provision of law, any
17 user initiating a civil action pursuant to this section
18 shall have the right to a jury trial.

19

20 (e) The court may hold a social media platform or a
21 person in contempt if the social media platform or person
22 fails to promptly comply with any order issued under this
23 section. The court may use all lawful measures to secure

1 immediate compliance, including daily penalties sufficient
2 to secure immediate compliance.

3

4 (f) Any loss, release or distribution by a social
5 media platform of identifiable private information that has
6 been collected by the interactive computer service shall be
7 deemed a breach of fiduciary duty and shall be subject to
8 any remedy or recovery authorized by law. For any
9 intentional or reckless loss, release or distribution by a
10 social media platform of identifiable private information,
11 the court shall award to a person whose information is
12 lost, released or distributed as damages, treble damages or
13 one million dollars (\$1,000,000.00), whichever is greater.

14

15 **Section 3.** If any clause, sentence or provision of
16 this act or its application is held invalid, the invalidity
17 shall not affect other clauses, sentences or provisions or
18 applications of this act that can be given effect without
19 the invalid clause, sentence or provision or application
20 and to the end that the clauses, sentences and provisions
21 of this act are severable. It is the intent of the
22 legislature that the clauses, sentences and provisions of

1 this section be liberally construed to the maximum possible
2 extent.

3

4 **Section 4.** The provisions of this act shall apply to
5 actions that may be deemed violations of W.S. 40-12-802 or
6 40-12-804, as created by section 2 of this act, that occur
7 on or after the effective date of this act.

8

9 **Section 5.** This act is effective July 1, 2021.

10

11

(END)