

House Bill 250

By: Representatives Sainz of the 180th, Hitchens of the 161st, Kelley of the 16th, Townsend of the 179th, and Mathiak of the 74th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 9 of the Official Code of Georgia Annotated, relating to civil practice, so as
2 to prohibit censorship by social media platforms; to prohibit waivers of protections; to
3 provide for limitations; to provide for construction; to provide for user remedies; to provide
4 for action by the Attorney General; to amend Title 10 of the Official Code of Georgia
5 Annotated, relating to commerce and trade, so as to provide for disclosure requirements
6 regarding social media platforms; to provide for construction; to provide for acceptable use
7 policies; to provide for transparency reports; to provide for a complaint system; to provide
8 for removal of content and exceptions; to provide for appeals; to provide for action by the
9 Attorney General; to provide for definitions; to provide for applicability; to provide for
10 related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by
14 adding a new chapter to read as follows:

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15 "CHAPTER 1816 9-18-1.17 As used in this chapter, the term:

18 (1) 'Censor' or 'censorship' means any action taken to edit, alter, block, ban, delete,
19 remove, deplatform, demonetize, de-boost, regulate, restrict, inhibit the publication or
20 reproduction of, or deny equal access or visibility to expression; to suspend a right to
21 post, remove, or post an addendum to any content or material posted by a user; or to
22 otherwise discriminate against expression. Such term includes an action taken to inhibit
23 a social media platform or interactive computer service user's ability to be viewed by or
24 interact with another user of the platform or service.

25 (2) 'Expression' means any word, numeral music, sound, still or moving image, or other
26 perceivable communication.

27 (3) 'Interactive computer service' means an information service, system, or access
28 software provider that provides or enables computer access by multiple users to a
29 computer server. Such term does not include an internet access provider as defined by
30 Code Section 39-5-1.

31 (4) 'Receive' means, with respect to an expression, to read, hear, look at, access, or gain
32 access to the expression.

33 (5) 'Social media platform' means an internet website or application, internet system, or
34 access software provider that is available to the public, allows a user of the platform to
35 create an account, and enables users to communicate with other users for the primary
36 purpose of posting information, comments, messages, or images. Such term does not
37 include:

38 (A) An internet access provider as defined by Code Section 39-5-1;

39 (B) Email; or

40 (C) An online service, application, or website:

41 (i) That consists primarily of news, sports, entertainment, or other information or
42 content that is not user generated but is preselected by the platform; and

43 (ii) For which any chat, comments, or interactive functionality is incidental to,
44 directly related to, or dependent on the provision of the content described by division

45 (i) of this subparagraph.

46 (6) 'Unlawful expression' means an expression that is unlawful under the United States
47 Constitution, federal law, the Georgia Constitution, or the laws of this state, including
48 expression that constitutes a tort under the laws of this state or the United States.

49 (7) 'User' means a person who posts, uploads, transmits, shares, or otherwise publishes
50 or receives expression, through a social media platform or interactive computer service.

51 9-18-2.

52 (a) A social media platform or interactive computer service may not censor a user, a user's
53 expression, or a user's ability to receive the expression of another person based on:

54 (1) The viewpoint of the user or another person;

55 (2) The viewpoint represented in the user's expression or another person's expression; or

56 (3) A user's geographic location in this state or any part of this state.

57 (b) This Code section applies regardless of whether the viewpoint is expressed on a social
58 media platform or interactive computer service or through any other medium.

59 9-18-3.

60 (a) A waiver or purported waiver of the protections provided by this chapter is void as
61 unlawful and against public policy, and a court or arbitrator may not enforce or give effect
62 to the waiver, including in an action brought under Code Section 9-18-7, notwithstanding
63 any contract or choice-of-law provision in a contract.

64 (b) The waiver prohibition described by subsection (a) of this Code section is a public
65 policy limitation on contractual and other waivers of the highest importance and interest

66 to this state, and this state is exercising and enforcing this limitation to the full extent
67 permitted by the United States Constitution and the Georgia Constitution.

68 9-18-4.

69 (a) This chapter applies only to a user who:

70 (1) Resides in this state;

71 (2) Does business in this state; or

72 (3) Shares or receives expression in this state.

73 (b) This chapter applies only to expression that is shared or received in this state.

74 (c) This chapter applies only to a social media platform or interactive computer service
75 that functionally has more than 50 million active users in the United States in any calendar
76 month.

77 (d) This chapter applies to the maximum extent permitted by the United States
78 Constitution and the laws of the United States but no further than the maximum extent
79 permitted by the United States Constitution and the laws of the United States.

80 9-18-5.

81 This chapter does not subject a social media platform or interactive computer service to
82 damages or other legal remedies to the extent the social media platform or interactive
83 computer service is protected from those remedies under federal law.

84 9-18-6.

85 (a) This chapter does not prohibit a social media platform or interactive computer service
86 from:

87 (1) Censoring expression that the social media platform or interactive computer service
88 is specifically authorized to censor by federal law; or

89 (2) Censoring unlawful expression, including expression that unlawfully harasses
90 individuals or unlawfully incites violence.

91 (b) This chapter shall not be construed to prohibit or restrict a social media platform or
92 interactive computer service from authorizing or facilitating a user's ability to censor
93 specific expression on the user's account or page at the request of that user.

94 (c) This chapter may not be construed to expand or limit intellectual property law.

95 9-18-7.

96 (a) A user may bring an action against a social media platform or interactive computer
97 service that violates this chapter with respect to the user.

98 (b) If the user proves that the social media platform or interactive computer service
99 violated this chapter with respect to the user, the user is entitled to recover:

100 (1) Declaratory relief, including costs and reasonable and necessary attorney's fees; and

101 (2) Injunctive relief.

102 (c) If a social media platform or interactive computer service fails to promptly comply
103 with a court order in an action brought under this Code section, the court shall hold the
104 social media platform or interactive computer service in contempt and shall use all lawful
105 measures to secure immediate compliance with the order, including daily penalties
106 sufficient to secure immediate compliance.

107 (d) A user may bring an action under this Code section regardless of whether another court
108 has enjoined the Attorney General from enforcing this chapter or declared any provision
109 of this chapter unconstitutional unless that court decision is binding on the court in which
110 the action is brought.

111 (e) Nonmutual issue preclusion and nonmutual claim preclusion are not defenses to an
112 action brought under this Code section.

113 (f) A user may bring an action under this Code section to remedy censorship of the user's
114 ability to publish or receive expression that occurred before July 1, 2023, if the censorship
115 continues after June 30, 2023.

116 9-18-8.

117 (a) Any person may notify the Attorney General of a violation or potential violation of this
118 chapter by a social media platform or interactive computer service.

119 (b) The Attorney General may bring an action to enjoin a violation or a potential violation
120 of this chapter. If the injunction is granted, the Attorney General may recover costs and
121 reasonable attorney's fees incurred in bringing the action and reasonable investigative costs
122 incurred in relation to the action."

123 **SECTION 2.**

124 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
125 amended by adding a new chapter to read as follows:

126 "CHAPTER 16

127 10-16-1.

128 As used in this chapter, the term:

129 (1) 'Social media platform' means an internet website or application, internet system, or
130 access software provider that is available to the public, allows a user of the platform to
131 create an account, and enables users to communicate with other users for the primary
132 purpose of posting information, comments, messages, or images. Such term does not
133 include:

134 (A) An internet access provider as defined by Code Section 39-5-1;

135 (B) Email; or

- 136 (C) An online service, application, or website:
137 (i) That consists primarily of news, sports, entertainment, or other information or
138 content that is not user generated but is preselected by the platform; and
139 (ii) For which any chat, comments, or interactive functionality is incidental to,
140 directly related to, or dependent on the provision of the content described by
141 division (i) of this subparagraph.
142 (2) 'User' means a person who posts, uploads, transmits, shares, or otherwise publishes
143 or receives content through a social media platform.

144 10-16-2.

- 145 (a) This chapter applies only to a user who:
146 (1) Resides in this state;
147 (2) Does business in this state; or
148 (3) Shares or receives content on a social media platform in this state.
149 (b) This chapter applies only to a social media platform that functionally has more than 50
150 million active users in the United States in any calendar month.

151 10-16-3.

152 This chapter may not be construed to limit or expand intellectual property law.

153 10-16-4.

- 154 (a) A social media platform shall, in accordance with this chapter, publicly disclose
155 accurate information regarding its content management, data management, and business
156 practices, including specific information regarding the manner in which the social media
157 platform:
158 (1) Curates and targets content to users;

159 (2) Places and promotes content, services, and products, including its own content,
160 services, and products;

161 (3) Moderates user generated content;

162 (4) Uses search, ranking, or other algorithms or procedures that determine results on the
163 platform; and

164 (5) Provides users' performance data on the use of the platform and its products and
165 services.

166 (b) The disclosure required by subsection (a) of this Code section must be sufficient to
167 enable users to make an informed choice regarding the purchase of or use of access to or
168 services from the platform.

169 (c) A social media platform shall publish the disclosure required by subsection (a) of this
170 Code section on an internet website that is easily accessible by the public.

171 10-16-5.

172 (a) A social media platform shall publish an acceptable use policy in a location that is
173 easily accessible to users.

174 (b) A social media platform's acceptable use policy shall:

175 (1) Reasonably inform users about the types of content allowed on the social media
176 platform;

177 (2) Explain the steps the social media platform will take to ensure that content complies
178 with its policy;

179 (3) Explain the means by which users can notify the social media platform of content that
180 potentially violates its acceptable use policy or that is illegal content or illegal activity,
181 which includes:

182 (A) Subject to subsection (c) of this Code section, making available a live company
183 representative to take user complaints through a toll-free telephone number that users
184 may call during regular business hours;

185 (B) An email address or relevant complaint intake mechanism to handle user
186 complaints; and

187 (C) A complaint system as provided for in Code Sections 10-16-7 through 10-16-10;
188 and

189 (4) Include publication of a quarterly transparency report outlining actions taken to
190 enforce its acceptable use policy.

191 (c) The live company representative described by subparagraph (b)(3)(A) of this Code
192 section shall be available at a minimum eight hours a day, five days a week.

193 10-16-6.

194 (a) As part of a social media platform's acceptable use policy under Code Section 10-16-5,
195 the social media platform shall publish a quarterly transparency report that includes, with
196 respect to the preceding three-month period:

197 (1) The total number of instances in which the social media platform was alerted to
198 illegal content, illegal activity, or potentially policy-violating content by:

199 (A) A user complaint;

200 (B) An employee of or person contracting with the social media platform; or

201 (C) An internal automated detection tool;

202 (2) Subject to subsection (b) of this Code section, the number of instances in which the
203 social media platform took action with respect to illegal content, illegal activity, or
204 potentially policy-violating content known to the platform due to the nature of the content
205 as illegal content, illegal activity, or potentially policy-violating content, including:

206 (A) Content removal;

207 (B) Content demonetization;

208 (C) Content deprioritization;

209 (D) The addition of an assessment to content;

210 (E) Account suspension;

- 211 (F) Account removal; or
212 (G) Any other action taken in accordance with the platform's acceptable use policy;
213 (3) The country of the user who provided the content for each instance described in
214 paragraph (2) of this subsection;
215 (4) The number of coordinated campaigns, if applicable;
216 (5) The number of instances in which a user appealed the decision to remove the user's
217 illegal content, illegal activity, or potentially policy-violating content;
218 (6) The percentage of appeals described in paragraph (5) of this subsection that resulted
219 in the restoration of content; and
220 (7) A description of each tool, practice, action, or technique used in enforcing the
221 acceptable use policy.
- 222 (b) The information described in paragraph (2) of subsection (a) of this Code section shall
223 be categorized by:
- 224 (1) The specific policy violated; and
225 (2) The source for the alert of illegal content, illegal activity, or potentially
226 policy-violating content, including:
- 227 (A) A government;
228 (B) A user;
229 (C) An internal automated detection tool;
230 (D) Coordination with other social media platforms; or
231 (E) Persons employed by or contracting with the social media platform.
- 232 (c) A social media platform shall publish the information described in subsection (a) of
233 this Code section with an open license, in a machine-readable and open format, and in a
234 location that is easily accessible to users.

235 10-16-7.

236 A social media platform shall provide an easily accessible complaint system to enable a
237 user to submit a complaint in good faith and track the status of the complaint, including a
238 complaint regarding:

239 (1) Illegal content or activity; or

240 (2) A decision made by the social media platform to remove content posted by the user.

241 10-16-8.

242 A social media platform that receives notice of illegal content or illegal activity on its
243 platform shall make a good faith effort to evaluate the legality of the content or activity
244 within 24 hours of receiving the notice, subject to reasonable exceptions based on concerns
245 about the legitimacy of the notice.

246 10-16-9.

247 (a) Except as provided by subsection (b) of this Code section, if a social media platform
248 removes content based on a violation of the platform's acceptable use policy under Code
249 Section 10-16-5, the social media platform shall, concurrently with the removal:

250 (1) Notify the user who provided the content of the removal and explain the reason or
251 reasons why the content was removed;

252 (2) Allow the user to appeal the decision to remove the content to the platform; and

253 (3) Provide written notice to the user who provided the content of:

254 (A) The determination regarding an appeal requested under paragraph (2) of this
255 subsection; and

256 (B) In the case of a reversal of the social media platform's decision to remove the
257 content, the reason or reasons for the reversal.

258 (b) A social media platform is not required to provide a user with notice or an opportunity
259 to appeal under subsection (a) of this Code section if the social media platform:

260 (1) Is unable to contact the user after taking reasonable steps to make contact; or
261 (2) Knows that the illegal content, illegal activity, or potentially policy-violating content
262 relates to an ongoing law enforcement investigation.

263 10-16-10.

264 If a social media platform receives a user's complaint about the platform's removal of
265 content provided by the user that the user believes was not illegal content, illegal activity,
266 or potentially policy-violating content, the social media platform shall, not later than 14
267 days after the date the platform receives the complaint:

268 (1) Review the removed content;

269 (2) Determine whether the content adheres to the platform's acceptable use policy and
270 take appropriate steps based on such determination; and

271 (3) Notify the user regarding such determination and steps taken under paragraph (2) of
272 this Code section.

273 10-16-11.

274 (a) The Attorney General may bring an action against a social media platform to enjoin a
275 violation of this chapter.

276 (b) If an injunction is granted in an action brought under subsection (a) of this Code
277 section, the Attorney General may recover costs incurred in bringing the action, including
278 reasonable attorney's fees and reasonable investigative costs."

279 **SECTION 3.**

280 This Act shall apply to actions taken on or after July 1, 2023.

281 **SECTION 4.**

282 All laws and parts of laws in conflict with this Act are repealed.