

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) "Private information" means information
2 acquired by an interactive computer service or social media
3 platform from any user who has not expressly given prior
4 authorization for the release or disclosure of the
5 information, including its specific content, form or
6 recipient of the information;

7

8 (vii) "Receive" means to read, hear, look at,
9 gain access to or otherwise receive;

10

11 (viii) "Share" means to speak, sing, publish,
12 post, upload, transmit, communicate or otherwise share;

13

14 (ix) "Social media platform" means any
15 information service, system or access software that
16 provides or enables computer access by multiple users to a
17 computer server and that allows a user to publish or share
18 expression with other persons. "Social media platform" does
19 not include an internet service provider;

20

21 (x) "Unlawful expression" means expression that
22 is unlawful under federal or state law;

23

1 (xi) "User" means a person who shares or
2 receives expression through an interactive computer
3 service.

4

5 **40-12-802. Interactive computer services;**
6 **discrimination prohibited; applicability.**

7

8 (a) No interactive computer service shall censor a
9 user, a user's expression, a user's sharing or ability to
10 share an expression or a user's receiving of expression
11 from another person based on:

12

13 (i) The race, religion or viewpoint of any user
14 or other person; or

15

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

18

19 (b) No interactive computer service shall censor a
20 user, a user's expression, a user's sharing or ability to
21 share an expression or a user's receiving of expression
22 based on the user's residing, doing business, sharing
23 expression or receiving expression in this state.

1

2 (c) The prohibitions of subsections (a) and (b) of
3 this section shall apply:

4

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

7

8 (ii) Only to an interactive computer service
9 that:

10

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

14

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

18

19 (iii) Only to protect:

20

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

23

1 (B) Expression, sharing expression or
2 receiving expression to the extent the expression, sharing
3 or receiving occurs in this state;

4

5 (C) Expression, sharing expression or
6 receiving expression to the extent the expression is shared
7 with or received from any other free speech state;

8

9 (D) Expression, sharing expression or
10 receiving expression to the extent the expression is shared
11 with, or received from, any other state or territory of the
12 United States.

13

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

15

16 (i) Subject an interactive computer service to
17 any action or require a remedy from an interactive computer
18 service for which the interactive computer service is
19 protected under the laws of Wyoming or of the United
20 States;

21

22 (ii) Prohibit an interactive computer service
23 from censoring any expression that it is specifically

1 authorized to censor under the laws of Wyoming or of the
2 United States;

3

4 (iii) Prohibit an interactive computer service
5 from censoring an unlawful expression.

6

7 (e) This chapter shall not apply to an interactive
8 computer service that:

9

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

12

13 (ii) Is engaged primarily in its own expression
14 and that allows users to comment on its expression,
15 provided that the commentary or ability to comment is
16 merely incidental to the expression.

17

18 **40-12-803. Remedies; procedures; fiduciary**
19 **requirements.**

20

21 (a) Any user residing, doing business, sharing
22 expression or receiving expression in this state may bring
23 a civil action in any court of this state against any

1 interactive computer service for a violation of this
2 article by an interactive computer service against the
3 user. The user may seek, and the court may grant,
4 declaratory or injunctive relief. The court shall award to
5 any user prevailing in an action under this section treble
6 damages or, at the user's election, fifty thousand dollars
7 (\$50,000.00). The court shall also award costs and
8 reasonable attorney fees to any prevailing user.

9

10 (b) Any user residing, doing business, sharing
11 expression or receiving expression in this state may bring
12 a civil action in any court of this state against any
13 person who aids or abets a violation of this article by an
14 interactive computer service against that user. The user
15 may seek, and the court may grant, declaratory or
16 injunctive relief. The court shall award to any user
17 prevailing in an action under this section treble damages
18 or, at the user's election, fifty thousand dollars
19 (\$50,000.00). The court shall also award costs and
20 reasonable attorney fees to any prevailing user.

21

22 (c) Notwithstanding any other provision of law, the
23 courts of Wyoming may exercise personal jurisdiction over

1 any interactive computer service subject to an action
2 initiated under this section or any person alleged to have
3 aided or abetted a violation of this article to the maximum
4 extent permitted by the United States constitution and
5 Wyoming constitution.

6

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

10

11 (e) The court may hold an interactive computer
12 service or a person in contempt if the interactive computer
13 service or person fails to promptly comply with any order
14 issued under this section. The court may use all lawful
15 measures to secure immediate compliance, including daily
16 penalties sufficient to secure immediate compliance.

17

18 (f) Any loss, release or distribution by an
19 interactive computer service of identifiable private
20 information that has been collected by the interactive
21 computer service shall be deemed a breach of fiduciary duty
22 and shall be subject to any remedy or recovery authorized
23 by law. For any intentional or reckless loss, release or

1 distribution by an interactive computer service of
2 identifiable private information, the court shall award to
3 a person whose information is lost, released or distributed
4 as damages treble damages or one million dollars
5 (\$1,000,000.00), whichever is greater.

6

7 **40-12-804. Social media platforms; discrimination**
8 **prohibited; applicability.**

9

10 (a) No social media platform shall censor a user, a
11 user's expression, a user's sharing or ability to share an
12 expression or a user's receiving of expression from another
13 person based on:

14

15 (i) The race, religion or viewpoint of any user
16 or other person; or

17

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

20

21 (b) No social media platform shall censor a user, a
22 user's expression, a user's sharing or ability to share an
23 expression or a user's receiving of expression based on the

1 user's residing, doing business, sharing expression or
2 receiving expression in this state.

3

4 (c) The prohibitions of subsections (a) and (b) of
5 this section shall apply:

6

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

9

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

11

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

15

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

19

20 (iii) Only to protect:

21

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

1

2 (B) Expression, sharing expression or
3 receiving expression to the extent the expression, sharing
4 or receiving occurs in this state;

5

6 (C) Expression, sharing expression or
7 receiving expression to the extent the expression is shared
8 with or received from any other free speech state;

9

10 (D) Expression, sharing expression or
11 receiving expression to the extent the expression is shared
12 with, or received from, any other state or territory of the
13 United States.

14

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

16

17 (i) Subject a social media platform to any
18 action or require a remedy from a social media platform for
19 which the social media platform is protected under the laws
20 of Wyoming or of the United States;

21

22 (ii) Prohibit a social media platform from
23 censoring any expression that it is specifically authorized

1 to censor under the laws of Wyoming or of the United
2 States;

3

4 (iii) Prohibit a social media platform from
5 censoring an unlawful expression.

6

7 (e) This chapter shall not apply to a social media
8 platform that:

9

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

12

13 (ii) Is engaged primarily in its own expression
14 and that allows users to comment on its expression,
15 provided that the commentary or ability to comment is
16 merely incidental to the expression.

17

18 **40-12-805. Remedies; procedures; fiduciary**
19 **requirements.**

20

21 (a) Any user residing, doing business, sharing
22 expression or receiving expression in this state may bring
23 a civil action in any court of this state against any

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

9

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

21

22 (c) Notwithstanding any other provision of law, the
23 courts of Wyoming may exercise personal jurisdiction over

1 any social media platform subject to an action initiated
2 under this section or any person alleged to have aided or
3 abetted a violation of this article to the maximum extent
4 permitted by the United States constitution and Wyoming
5 constitution.

6

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

10

11 (e) The court may hold a social media platform or a
12 person in contempt if the social media platform or person
13 fails to promptly comply with any order issued under this
14 section. The court may use all lawful measures to secure
15 immediate compliance, including daily penalties sufficient
16 to secure immediate compliance.

17

18 (f) Any loss, release or distribution by a social
19 media platform of identifiable private information that has
20 been collected by the interactive computer service shall be
21 deemed a breach of fiduciary duty and shall be subject to
22 any remedy or recovery authorized by law. For any
23 intentional or reckless loss, release or distribution by a

1 social media platform of identifiable private information,
2 the court shall award to a person whose information is
3 lost, released or distributed as damages, treble damages or
4 one million dollars (\$1,000,000.00), whichever is greater.

5

6 **Section 3.** If any provision of this act or its
7 application is held invalid, the invalidity shall not
8 affect other provisions or applications of this act that
9 can be given effect without the invalid provision or
10 application and to the end that the provisions of this act
11 are severable. It is the intent of the legislature that the
12 provisions of this section be liberally construed to the
13 maximum possible extent.

14

15 **Section 4.** The provisions of this act shall apply to
16 actions that may be deemed violations of W.S. 40-12-802 or
17 40-12-804, as created by section 2 of this act, that occur
18 on or after the effective date of this act.

19

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

21

22

(END)