

116TH CONGRESS
2D SESSION

S. 4062

To amend section 230 of the Communications Act of 1934 to require that providers and users of an interactive computer service meet certain standards to qualify for liability protections.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2020

Mrs. LOEFFLER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend section 230 of the Communications Act of 1934 to require that providers and users of an interactive computer service meet certain standards to qualify for liability protections.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stopping Big Tech’s
5 Censorship Act”.

6 **SEC. 2. SCOPE OF LIABILITY.**

7 Section 230 of the Communications Act of 1934 (47
8 U.S.C. 230) is amended—

1 (1) in subsection (c)—

2 (A) in paragraph (1)—

3 (i) by striking “No provider” and in-
4 serting the following:

5 “(A) IN GENERAL.—No provider”;

6 (ii) in subparagraph (A), as so des-
7 ignated, by inserting after “interactive
8 computer service” the following: “that
9 takes reasonable steps to prevent or ad-
10 dress the unlawful use of the interactive
11 computer service or unlawful publication of
12 information on the interactive computer
13 service”; and

14 (iii) by adding at the end the fol-
15 lowing:

16 “(B) DEFINITION.—For purposes of this
17 paragraph, the term ‘unlawful use of the inter-
18 active computer service or unlawful publication
19 of information on the interactive computer serv-
20 ice’ includes cyberstalking, sex trafficking, traf-
21 ficking in illegal products or activities, child
22 sexual exploitation, and any other activity relat-
23 ing to the use of, or publication of information
24 on, an interactive computer service that is oth-
25 erwise proscribed by Federal law.”;

1 (B) in paragraph (2)—

2 (i) by redesignating subparagraphs
3 (A) and (B) as clauses (i) and (ii), respec-
4 tively, and adjusting the margins accord-
5 ingly;

6 (ii) in the matter preceding clause (i),
7 as so redesignated, by striking “No pro-
8 vider” and inserting the following:

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), no provider”; and

11 (iii) by adding at the end the fol-
12 lowing:

13 “(B) FIRST AMENDMENT REQUIRE-
14 MENTS.—

15 “(i) IN GENERAL.—Subject to clause
16 (ii), a provider or user of an interactive
17 computer service that takes action under
18 clause (i) of subparagraph (A) to restrict
19 access to or availability of constitutionally
20 protected material shall not be eligible for
21 the protection under that subparagraph
22 unless—

23 “(I) the action is taken in a view-
24 point-neutral manner;

1 “(II) the restriction limits only
2 the time, place, or manner in which
3 the material is available; and

4 “(III) there is a compelling rea-
5 son for restricting that access or
6 availability.

7 “(ii) NO PUNITIVE DAMAGES.—A
8 court that holds a provider or user of an
9 information computer service liable on ac-
10 count of action taken to restrict access to
11 or availability of material as described in
12 subparagraph (A)(i) because the provider
13 or user did not meet the requirements
14 under clause (i) of this subparagraph may
15 not award punitive damages against the
16 provider or user for taking that action.”;
17 and

18 (C) by adding at the end the following:

19 “(3) NOTICE REQUIREMENTS.—To be eligible
20 for protection under this subsection—

21 “(A) a provider of an interactive computer
22 service shall, in any terms of service or user
23 agreement produced by the provider, clearly ex-
24 plain the practices and procedures used by the

1 provider in restricting access to or availability
2 of any material; and

3 “(B) a provider or user of an interactive
4 computer service that decides to restrict access
5 to or availability of any material shall provide
6 a clear explanation of that decision to the infor-
7 mation content provider that created or devel-
8 oped the material.

9 “(4) BURDEN OF PROOF.—In any action or
10 proceeding in which a party asserts paragraph (1) or
11 (2) as a defense to liability, the party alleging liabil-
12 ity shall bear the burden of demonstrating that the
13 other party is not entitled to immunity under that
14 paragraph.”;

15 (2) in subsection (e), by adding at the end the
16 following:

17 “(6) NO EFFECT ON FEDERAL CIVIL LIABIL-
18 ITY.—Nothing in this section shall be construed to
19 impair or limit any civil enforcement action brought
20 by a Federal agency, office, or other establishment
21 arising from any violation of a Federal statute or
22 regulation.”; and

23 (3) in subsection (f), by adding at the end the
24 following:

1 “(5) CONSTITUTIONALLY PROTECTED MATE-
2 RIAL.—The term ‘constitutionally protected mate-
3 rial’ means any material protected by a right under
4 the Constitution of the United States, regardless of
5 whether the right is otherwise enforceable against a
6 nongovernmental entity.”.

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