

SENATE BILL No. 187

By Senator Steffen

2-9

1 AN ACT concerning consumer protection; relating to terms of service for
2 social media websites; prohibiting censorship of certain speech made
3 via such websites.
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) No contract between an interactive computer service
7 and a person that contains the terms of service for use of a social media
8 website operated by such service shall include any provisions that
9 authorize such service to restrict, censor or suppress information that does
10 not pertain to obscene, lewd, lascivious, filthy, excessively violent,
11 harassing or otherwise objectionable subject matter. For purposes of this
12 section, the terms "harassing" and "objectionable subject matter" do not
13 include content that provides political information or expression.

14 (b) Any person using a social media website pursuant to terms of
15 service that violate this section may report such violation to the attorney
16 general. Upon receipt of any such report, the attorney general shall
17 investigate and may bring an action for injunctive relief to enjoin any
18 continuing violation. In addition to any injunctive relief, such action may
19 also seek to impose a civil penalty on the interactive computer service of
20 not less than \$500 and not more than \$10,000 for each such violation
21 instead of the penalty provided for in K.S.A. 50-636(a), and amendments
22 thereto. Each instance in which an interactive computer service enters into
23 a contract with a person containing terms of service that violate this
24 section shall constitute a separate violation.

25 (c) Any violation of this section is an unconscionable act and practice
26 under the Kansas consumer protection act.

27 (d) For purposes of the remedies and penalties provided by the
28 Kansas consumer protection act:

29 (1) The person alleging a violation of this section shall be deemed a
30 consumer, and the service whose terms of service violate this section shall
31 be deemed the supplier; and

32 (2) proof of a consumer transaction shall not be required.

33 (e) (1) Any person alleging a violation of this section may bring a
34 private action against the interactive computer service. Notwithstanding
35 the provisions of K.S.A. 50-634 and 50-636, and amendments thereto, a
36 person bring such action may seek the following relief:

1 (A) Statutory damages in an amount not less than \$75,000 for each
2 instance in which the interactive computer service restricted, censored or
3 suppressed such person's content;

4 (B) actual damages;

5 (C) punitive damages, if aggravating factors are present; and

6 (D) injunctive and such other equitable relief.

7 (2) An interactive computer service that restores such person's
8 censored content within a reasonable time may assert such fact to mitigate
9 any damages.

10 (3) The prevailing party in any such action may be awarded
11 reasonable attorney fees and court costs.

12 (f) The provisions of this section shall not apply to an interactive
13 computer service that affirmatively states in the service's terms of service
14 that the service is a publisher.

15 (g) An interactive computer service may limit content on a social
16 media website to certain subject matters as explicitly provided in such
17 service's terms of service.

18 (h) As used in this section:

19 (1) "Interactive computer service" means any information service,
20 system or access software that provides or enables computer access by
21 multiple users to a computer server, including specifically a service or
22 system that provides access to the internet and such systems operated or
23 services offered by libraries or educational institutions.

24 (2) "Social media website" means a website through which users are
25 able to share and generate content and find and connect with other users of
26 common interests.

27 (i) The provisions of this section shall be a part of and supplemental
28 to the Kansas consumer protection act.

29 Sec. 2. This act shall take effect and be in force from and after its
30 publication in the statute book.