

## **BILL ANALYSIS**

Senate Research Center  
86R27190 GRM-F

C.S.S.B. 2373  
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State Affairs  
4/16/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Social media websites have become the primary public forum for the exchange of ideas. While almost all speech is protected from governmental censorship, privately owned digital spaces that facilitate public speech present a novel challenge. Although these sites are privately owned, the nearly universal adoption of a few sites evidences a developing need for protection from speech selection by social media companies.

S.B. 2373 attempts to prevent the companies that control the new public square from choosing winners and losers in public discourse by providing redress for those who are silenced online. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2373 amends current law relating to certain deceptive trade practices by interactive computer services.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Provides that this Act may be cited as the Social Media Deceptive Trade Practices Act.

SECTION 2. Amends Chapter 17, Business & Commerce Code, by adding Subchapter M, as follows:

#### **SUBCHAPTER M. DISCOURSE ON INTERACTIVE WEB-BASED PLATFORMS**

Sec. 17.961. DEFINITIONS. Defines "interactive computer service" and "user."

Sec. 17.962. INAPPLICABILITY OF SUBCHAPTER. Provides that this subchapter does not apply to an Internet service provider as defined by Section 324.055 (Unauthorized Creation of, Access to, or Use of Zombies or Botnets; Private Action).

Sec. 17.963. UNLAWFUL ACTS. Prohibits an interactive computer service that represents the service as viewpoint neutral, impartial, or non-biased, except as provided by Subsection (b), from on the basis of the content or viewpoint expressed blocking a user's speech, censoring a user's speech, banning a user, removing a user's speech, shadow banning a user, de-platforming a user, de-boosting a user's speech, de-monetizing a user, or otherwise restricting the speech of a user.

(b) Provides that, pursuant to 47 U.S.C. Section 230(c), it is a defense to liability under this section that an interactive computer service:

(1) voluntarily and in good faith acted to restrict access to or availability of content that is objectively considered to be obscene, lewd, lascivious,

filthy, excessively violent, harassing, or otherwise objectionable, whether or not such content is constitutionally protected; or

(2) acted to enable or make available the technical means to restrict access to content described in Subdivision (1).

Sec. 17.964. DECEPTIVE TRADE PRACTICE. Provides that a violation of this subchapter is a false, misleading, or deceptive act or practice within the meaning of Section 17.46 and is actionable in a public suit brought under Subchapter E (Deceptive Trade Practices and Consumer Protection).

SECTION 3. Effective date: September 1, 2019.