

PRELIMINARY DRAFT (March 9, 2023)
FREE TO SPEAK ACT

118TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

_____, 2023

M. _____ introduced the following bill which was referred to House Committee on Energy and Commerce.

A BILL

To amend section 230 of the Communications Act of 1934 (commonly referred to as the Communications Decency Act) to clarify to the courts and to return to Congress’s original “finding” which was to “offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and a myriad avenues for intellectual activity” and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Section 230 of the Communications Decency Act of 1996 (Title 47, United States Code, Section 230) is amended by striking all of Section 230 (c) and (d) and (f) and replace with the following:

SECTION 1. SHORT TITLE. This Act may be cited as the “**Free to Speak Act**” (“FSA”).

(c) PROTECTION FOR "GOOD SAMARITAN" BLOCKING AND SCREENING OF OFFENSIVE MATERIAL

(1) TREATMENT OF PUBLISHER, SPEAKER, DISTRIBUTOR. (Commonly referred to as the Shield of 230)

a) no provider of an interactive computer service shall be treated as the publisher, speaker, or distributor of content that is entirely provided, in whole or in part, by someone else i.e. a third-party.

(b) Exception: An interactive computer service shall not enjoy broad Section 230 immunity when they fail to take prompt action following receipt of notice that third-party content is likely to be

defamatory or otherwise unlawful. The source of such notice may include but not limited by interactive computer services' own content moderation teams, discovery by the services' algorithm or artificial intelligence systems, screening software that may evolve over time, or notice submitted by state or federal law enforcement agencies.

(2) CIVIL LIABILITY (Commonly referred to as the Sword of 230)

no provider of an interactive computer service will be held liable for action uniformly undertaken in good faith to restrict access or promotion of third-party materials when the provider reasonably considers or has received notice that such material is contrary to accepted morality or convention. (e.g., defamation, fraud, incitement, fighting words, true threats, advocating terrorism, speech integral to criminal behavior or conduct, child trafficking or exploitation, cyberstalking, sex trafficking, trafficking in illegal products or activities, sexual exploitation, or materials likely to be unlawful.)

(d) GOOD SAMARITAN OBLIGATIONS OF INTERNET COMPUTER SERVICE

For an internet computer service to meet its "Good Samaritan Obligations" and to maintain the liability protections granted under (c) (1) or (c) (2) such provider shall:

(1) make available directly, or through an access software provider, the technical means for users to restrict access to any speech or material that such user deems/finds objectionable, even when such speech or material is constitutionally protected.

(2) offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and a myriad of avenues for intellectual activity.

(3) provide immediate and detailed notice to the affected speaker or user why content was edited, labeled, blocked, or removed and cite the specific term of service upon which the decision was based. EXCEPT: Notice is not required if a law enforcement agency has asked that such notice not be made, or the internet service provider reasonably believes such notice would risk imminent harm to others.

(f) DEFINITIONS

As used in this section:

(1) INTERNET

The term "Internet" means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

(2) INTERACTIVE COMPUTER SERVICE

The term "interactive computer service" is a service that provides or enables computer access to the internet by multiple users, third-party individuals, authors or organizations and allows publishing and display of creative textual, audio, and visual content.

(3) ACCESS SOFTWARE PROVIDER

The term "access software provider" means a provider of software tools for users to utilize in the blocking or restricting content including but not limited to one or more of the following:

(A) filter, screen, allow, or disallow content;

(B) pick, choose, analyze, or digest content; or

(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(4) “GOOD SAMARITAN”

The phrase “Good Samaritan” enables and incentivizes internet computer service companies to engage in content-management practices, including the use of algorithmic content-moderation, to protect users from harmful content promotion, to render reasonable care for the protection of lawful speech, for the good of others, in the public’s interest, and free from inappropriate influence or unlawful government suggestion or interference.

(5) REASONABLY CONSIDERS

The phrase “reasonably considers” means using moderate, fair, and sound judgment to justify a decision based on intelligible and rational grounds or motive.

(g) SUNSET PROVISION

Title 47, United States Code, Section 230 shall be revoked by February 1, 202X, unless reauthorized.