

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 832
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40514-LU-17C

Short Title: Social Media Impartiality Act. (Public)

Sponsors: Representative Johnson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING A PROCESS UNDER THE CAMPAIGN FINANCE LAWS TO
3 ADDRESS WHEN A CANDIDATE FOR ELECTIVE OFFICE IS CENSORED ON A
4 SOCIAL MEDIA PLATFORM.

5 Whereas, "Big Tech" offers the ability to disperse information through paid
6 advertising or traditional post; and

7 Whereas, during the course of a campaign, the ability to disperse information has a
8 monetary value to the campaign; and

9 Whereas, "Big Tech" companies are a business like any other described in current
10 election law; and

11 Whereas, according to State campaign finance laws, companies cannot give direct
12 contributions or in-kind contributions to political candidates or campaign committees; and

13 Whereas, unmerited censorship of one candidate who has officially filed is by default
14 an in-kind contribution to that candidate's opponent; Now, therefore,

15 The General Assembly of North Carolina enacts:

16 SECTION 1. Part 1 of Article 22A of Chapter 163 of the General Statutes is amended
17 by adding a new section to read:

18 **"§ 163-278.18A. Social media censorship; penalties; appeals; remedies for separate cause**
19 **of action.**

20 (a) Notwithstanding any provision of law to the contrary, if any candidate, as defined in
21 G.S. 163-278.6, is censored on a social media platform or online interactive service by the
22 company providing the service, the company shall submit, in writing, to the State Board of
23 Elections the reason for censorship within three calendar days of censoring the candidate. The
24 State Board of Elections shall then hold a hearing within three calendar days from the date of the
25 required submission from the company to determine if the company's actions were justified
26 according to the terms and agreements that the candidate agreed to upon formation of the
27 candidate's social media page. Terms and conditions of the candidate's official social media page
28 shall not be modified to exclude any rights guaranteed by federal law.

29 (b) The State Board of Elections shall provide written notice to the candidate and the
30 company of its decision regarding whether the censorship was justified. If the State Board of
31 Elections determines that the company has censored a candidate without due cause, the company
32 shall be subject to civil penalties for illegal in-kind contributions. Civil penalties pursuant to this
33 section shall be a minimum of two hundred fifty dollars (\$250.00) and up to two hundred fifty
34 thousand dollars (\$250,000) per day for each day the candidate remains unable to access the
35 social media platform. Any monies the State Board of Elections receives for penalties under this
36 section shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.



1 (c) A candidate or company may appeal the State Board of Elections' decision. The Joint
2 Legislative Commission on Governmental Operations (Commission) shall hear and rule on
3 appeals pursuant to this section. The Commission shall convene and render its ruling within three
4 calendar days from the date the appeal is received.

5 (d) Nothing in this section shall be construed as prohibiting a candidate from seeking a
6 separate cause of action for wrongful censorship.

7 (e) Any candidate or political committee who files a cause of action in accordance with
8 subsection (d) of this section and successfully asserts a claim against a company for a violation
9 of this section is entitled to recover declaratory relief, including costs and reasonable attorneys'
10 fees, or injunctive relief. If the company fails to promptly comply with the court's order in an
11 action brought under this section, the court shall hold the company in contempt and use all lawful
12 measures to secure immediate compliance, including the imposition of any penalties."

13 **SECTION 2.** This act becomes effective at 5:00 P.M. on the day before the 2021
14 filing period begins for elective offices and applies to election cycles on or after that date.