

House Study Bill 235 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act prohibiting the state or a political subdivision of the
2 state from entering into contracts with, or providing tax
3 incentives or any other benefits to, certain companies that
4 censor online content, and including effective date and
5 applicability provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 15A.1, subsection 2, Code 2021, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. *e.* Whether a court has found by a
4 preponderance of the evidence that the person to whom the funds
5 will be dispersed has violated a provision of chapter 554E.

6 NEW PARAGRAPH. *f.* Whether the person to whom the funds will
7 be dispersed is involved in litigation in which it has been
8 alleged that the person has violated a provision of chapter
9 554E.

10 Sec. 2. Section 24.17, subsection 2, Code 2021, is amended
11 to read as follows:

12 2. *a.* One copy of the budget shall be retained on file
13 in the office by the county auditor and the other shall be
14 certified by the county auditor to the state board. The
15 department of management shall certify the taxes back to the
16 county auditor by June 15.

17 *b.* For budgets for fiscal years beginning on or after
18 July 1, 2021, if a political subdivision that is a city,
19 county, school district, or township has been found to have
20 intentionally violated a provision of chapter 554E during the
21 twelve-month period prior to the date taxes are certified back
22 to the county auditor under paragraph "a", the amount of the
23 political subdivision's budget certified under this chapter and
24 the amount of taxes certified back to the county auditor by
25 the department of management shall be reduced by ten percent.
26 If the political subdivision fails to remedy the violation
27 of chapter 554E prior to the date of certification of taxes
28 back to the county auditor by the department of management for
29 the subsequent fiscal year, the percentage reduction of the
30 political subdivision's budget certified under this chapter and
31 the amount of taxes certified back by the department of revenue
32 shall be reduced by a percentage equal to the total reduction
33 for the preceding fiscal year plus five percent.

34 Sec. 3. NEW SECTION. **554E.1 Definitions.**

35 As used in this chapter, unless the context otherwise

1 requires:

2 1. "*Company*" means and includes a person or an affiliate of
3 a person who owns or operates any of the following:

4 a. A massive online marketplace.

5 b. A massive online video sharing website.

6 c. A massive social networking website.

7 d. A monopolistic entity.

8 e. A pre-installed application store.

9 2. "*Excessively violent content*" means any image, video,
10 or other content that, taking the material as a whole and
11 applying contemporary community standards with respect to what
12 is suitable for public distribution, meets all of the following
13 criteria:

14 a. Depicts or involves killing, maiming, dismembering, or
15 sexually assaulting an individual.

16 b. Lacks serious literary, scientific, political, or
17 artistic value.

18 3. "*Expressive merchandise*" means and includes any tangible
19 personal property that contains or displays a viewpoint that
20 constitutes constitutionally protected speech.

21 4. "*Governmental entity*" means and includes all of the
22 following:

23 a. A unit of state government in the executive, legislative,
24 or judicial branch.

25 b. A political subdivision of the state, including a city,
26 county, township, school district, and any other governmental
27 entity authorized to levy taxes.

28 5. "*Internet site*" means the same as defined in section 4.1.

29 6. "*Massive online marketplace*" means and includes an
30 internet site that meets all of the following criteria:

31 a. Offers tangible personal property for sale to the general
32 public.

33 b. Sells or facilitates the sale of protected publications
34 or expressive merchandise.

35 c. Has at least seventy-five million subscribers or members

1 in the United States in the calendar year before the date a
2 court has found by a preponderance of the evidence that the
3 massive online marketplace violated this chapter, or has sold
4 goods to at least seventy-five million individuals in the
5 United States in the calendar year before the date a court
6 has found by a preponderance of the evidence that the massive
7 online marketplace has violated a provision of this chapter.

8 7. *“Massive online video sharing website”* means and includes
9 an internet site that meets all of the following criteria:

10 a. Allows users or the public to share videos with other
11 users or the public.

12 b. Hosts, stores, provides, or otherwise facilitates access
13 by individuals in the United States.

14 c. Has at least five hundred million videos available at any
15 point in time.

16 8. *“Massive social networking website”* means and includes an
17 internet site that meets all of the following criteria:

18 a. Allows users, through the creation of pages within
19 the internet site or profiles or by other means, to provide
20 information about themselves that is available to the public
21 or to other users.

22 b. Allows users a mechanism for communication with other
23 users.

24 c. Has at least twenty million subscribers or members in
25 the United States in the calendar year before the date a court
26 has found by a preponderance of the evidence that the massive
27 social networking website has violated a provision of chapter
28 554E, or has been used by at least twenty million individuals
29 in the United States in the calendar year before the date a
30 court has found by a preponderance of the evidence that the
31 massive social networking website has violated a provision of
32 this chapter.

33 9. *“Monopolistic entity”* means and includes all of the
34 following:

35 a. A person who, within the ten-year period preceding the

1 date a court has found by a preponderance of the evidence
2 that the person has violated a provision of this chapter, has
3 been found to have violated any state or federal antitrust or
4 price-fixing law.

5 *b.* A person who is involved in litigation in which it has
6 been alleged that the person has violated any state or federal
7 antitrust or price-fixing law.

8 10. "*Obscene material*" means any material depicting or
9 describing the genitals, sex acts, masturbation, excretory
10 functions, or sadomasochistic abuse which the average person,
11 taking the material as a whole and applying contemporary
12 community standards with respect to what is suitable material
13 for minors, would find appeals to the prurient interest and is
14 patently offensive; and the material, taken as a whole, lacks
15 serious literary, scientific, political, or artistic value.

16 11. "*Person*" means the same as defined in section 4.1.

17 12. "*Pre-installed application store*" means and includes
18 any program, application, service, or mechanism that is
19 pre-installed on a mobile telephone or other portable
20 electronic communication device capable of being used to write,
21 send, or view an electronic message that meets all of the
22 following criteria:

23 *a.* Facilitated at least one hundred million annual downloads
24 of programs or applications by individuals in the United
25 States in the calendar year before the date a court has found
26 by a preponderance of the evidence that the pre-installed
27 application store has violated a provision of this chapter.

28 *b.* Facilitated the download of programs or applications
29 that constitute a massive online marketplace, massive online
30 video sharing website, or massive social networking website
31 in the calendar year before the date a court has found by
32 a preponderance of the evidence that the pre-installed
33 application store has violated a provision of this chapter.

34 13. "*Protected publication*" means and includes any
35 newspaper, non-fiction book, periodical, religious text, or any

1 other publication that contains or displays a viewpoint that
2 constitutes constitutionally protected speech.

3 14. "*Social networking website*" means and includes an
4 internet site that meets all of the following criteria:

5 a. Allows users, through the creation of pages within
6 the internet site or profiles or by other means, to provide
7 information about themselves that is available to the public
8 or to other users.

9 b. Allows users a mechanism for communication with other
10 users.

11 Sec. 4. NEW SECTION. 554E.2 Prohibition on censorship —
12 ability to opt out of certain algorithms.

13 1. a. A company shall not intentionally affect the ability
14 of a citizen of this state to view, comment, or otherwise
15 interact with a United States citizen's content on the
16 company's internet site by limiting, blocking, or otherwise
17 restricting any content on the company's internet site if the
18 content constitutes constitutionally protected speech.

19 b. A company shall not intentionally restrict the ability of
20 a citizen of this state to download a social networking website
21 on a pre-installed application store.

22 c. A company shall not intentionally restrict the ability of
23 a citizen of this state to purchase any protected publication
24 or expressive merchandise on a massive online marketplace
25 if similar protected publications or expressive merchandise
26 were allowed for sale on the massive online marketplace at
27 the time the company restricted the ability of a citizen of
28 this state to purchase the protected publication or expressive
29 merchandise.

30 2. Notwithstanding subsection 1, a company may do any of the
31 following:

32 a. Restrict the ability of a citizen of this state to
33 view, comment, or otherwise interact with a United States
34 citizen's content on the company's internet site if the
35 content is criminal in nature, if the content does not

1 constitute constitutionally protected speech, or if the content
2 constitutes any of the following:

3 (1) Obscene material.

4 (2) Excessively violent content.

5 *b.* Restrict the ability of a citizen of this state to
6 download a social networking website program or application
7 from a pre-installed application store if the social networking
8 website is being used for criminal activity and the social
9 networking website does not have a policy in place to require
10 its employees to notify law enforcement upon receiving a
11 complaint or otherwise becoming aware of the criminal activity
12 being discussed or conducted on its social networking website,
13 or does not have a policy in place to require its employees
14 to refer the complaint or existence of criminal activity to
15 designated employees that carry out the policy.

16 3. *a.* A company shall provide its subscribers, members, and
17 users who are citizens of this state with the ability to opt
18 out of post promoting algorithms and shadow banning algorithms
19 on the company's massive online marketplace, massive online
20 video sharing website, or massive social networking website.

21 *b.* For purposes of this subsection:

22 (1) "*Post promoting algorithm*" means and includes the
23 mechanism, process, or set of rules that is used to sort the
24 content that is visible to a subscriber, member, or user based
25 on data or information possessed, used, or controlled by a
26 company which relates to the subscriber, member, or user.

27 (2) "*Shadow banning algorithm*" means and includes the
28 mechanism, process, or set of rules that is used to restrict
29 the visibility of a subscriber's, member's, or user's content
30 to other subscribers, members, or users in a way that is not
31 readily apparent to the subscriber, member, or user who created
32 the content.

33 **Sec. 5. NEW SECTION. 554E.3 Enforcement — companies.**

34 1. *a.* A court's finding by a preponderance of the evidence
35 that a company has violated a provision of this chapter shall

1 be conclusive proof of the company's breach of any agreement
2 between the company and a governmental entity in effect as of
3 the effective date of this Act, and the governmental entity
4 shall cancel the agreement effective as of the date the company
5 receives the notice the governmental entity provides pursuant
6 to section 554E.4, subsection 1, paragraph "b", or if the
7 governmental entity fails to send the notice, the governmental
8 entity shall cancel the agreement effective thirty days after
9 the effective date of this Act. Nothing in this subsection
10 shall be interpreted to provide a company that did not receive
11 notice a defense to a suit alleging a violation of this
12 chapter or a defense to a suit alleging the company breached an
13 agreement with the governmental entity.

14 *b.* A court's finding by a preponderance of the evidence
15 that a company has violated a provision of this chapter shall
16 be conclusive proof of the company's breach of any agreement
17 between the company and a governmental entity entered into
18 after the effective date of this Act, and the governmental
19 entity shall cancel the agreement effective as of the date of
20 the court's finding.

21 2. Notwithstanding any other provision of law to the
22 contrary, upon a court's finding by a preponderance of the
23 evidence that a company has violated a provision of this
24 chapter, the company shall be prohibited from entering into
25 any future agreement with a governmental entity and shall be
26 prohibited from receiving any future payments; tax credits;
27 assistance under section 15.335B; sales tax exemptions or
28 refunds under chapter 423; property tax credits, exemptions,
29 including but not limited to exemptions under chapter 427,
30 rebates, refunds, reimbursements, or grants for property taxes
31 paid; or any other special benefits from a governmental entity.
32 The prohibition provided in this subsection shall begin on the
33 date of the court's finding. Except as provided in section
34 554E.7, the prohibition shall be for a period of twenty years.
35 The twenty-year prohibition shall be reinstated for each

1 subsequent finding by a court pursuant to this subsection.

2 3. Notwithstanding any other provision of law to the
3 contrary, upon a court's finding by a preponderance of the
4 evidence that a company has violated a provision of this
5 chapter all of the following shall apply:

6 a. Tax credits; assistance from programs and funds under
7 section 15.335B; sales tax exemptions or refunds under chapter
8 423; property tax credits, exemptions, including but not
9 limited to exemptions under chapter 427, rebates, refunds,
10 reimbursements, or grants for property taxes paid; or any
11 other special benefits previously claimed by the company
12 shall be recaptured or terminated by the governmental entity.
13 The recapture or termination of any tax credits; assistance
14 under section 15.335B; sales tax exemptions or refunds under
15 chapter 423; property tax credits, exemptions, including but
16 not limited to exemptions under chapter 427, rebates, refunds,
17 reimbursements, or grants for property taxes paid; or any other
18 special benefits previously claimed by the company pursuant
19 to this subsection shall supersede any agreement previously
20 entered into with the governmental entity. Recapture or
21 termination pursuant to this subsection shall be accomplished
22 in the same manner as provided in section 15.330, subsection
23 2, by the method for resolving a breach described in the
24 agreement, through court action, or any other means determined
25 by the attorney general to result in the most expeditious
26 recapture or termination of tax credits; assistance under
27 section 15.335B; sales tax exemptions or refunds under chapter
28 423; property tax credits, exemptions, including but not
29 limited to exemptions under chapter 427, rebates, refunds,
30 reimbursements, or grants for property taxes paid; or any other
31 special benefits previously claimed by the company.

32 b. Payments or other quantifiable benefits received but not
33 earned by the company shall be returned to the governmental
34 entity.

35 4. Upon a court's finding by a preponderance of the evidence

1 that a company has violated a provision of this chapter, the
2 prohibition provided in subsection 1 and the return of received
3 but not earned amounts provided in subsection 3 shall not be
4 stayed during appeal proceedings.

5 **Sec. 6. NEW SECTION. 554E.4 Inventory of agreements with**
6 **companies — obligations.**

7 1. Within thirty days following the effective date of this
8 Act, a governmental entity shall do all of the following:

9 *a.* Conduct a review of currently effective agreements;
10 tax credits; assistance under section 15.335B; sales tax
11 exemptions or refunds under chapter 423; property tax credits,
12 exemptions, including but not limited to exemptions under
13 chapter 427, rebates, refunds, reimbursements, or grants for
14 property taxes paid; or any other special benefits provided by
15 the governmental entity beginning January 1, 2001, through the
16 effective date of this Act, to determine if any agreements, tax
17 credits; assistance under section 15.335B; sales tax exemptions
18 or refunds under chapter 423; property tax credits, exemptions,
19 including but not limited to exemptions under chapter 427,
20 rebates, refunds, reimbursements, or grants for property taxes
21 paid; or any other special benefits were entered into with, or
22 provided to, a company.

23 *b.* Provide notice to a company on the form provided by the
24 office of the attorney general pursuant to subsection 3, of
25 the governmental entity's rights pursuant to section 554E.3 by
26 certified mail return receipt requested if the governmental
27 entity determines pursuant to subsection 1 that a currently
28 effective agreement; tax credit; assistance under section
29 15.335B; sales tax exemption or refund under chapter 423;
30 property tax credit, exemption, including but not limited to
31 an exemption under chapter 427, rebate, refund, reimbursement,
32 or grant for property taxes paid; or any other special benefit
33 was entered into with, or provided to, the company beginning
34 January 1, 2001, through the effective date of this Act.

35 *c.* Provide the office of the attorney general with copies of

1 the notice and receipt of delivery provided in subsection 2.

2 2. A governmental entity shall include in all agreements
3 to which it is a party entered into on or after the effective
4 date of this Act a statement summarizing the governmental
5 entity's enforcement rights under section 554E.3 with respect
6 to agreements; tax credits; assistance under section 15.335B;
7 sales tax exemptions or refunds under chapter 423; property tax
8 credits, exemptions, including but not limited to exemptions
9 under chapter 427, rebates, refunds, reimbursements, or grants
10 for property taxes paid; or any other special benefits.

11 3. The office of the attorney general shall develop and
12 provide to governmental entities a form to be used for the
13 notice provided in subsection 2 within seven days of the
14 effective date of this Act.

15 Sec. 7. NEW SECTION. 554E.5 **Enforcement — governmental**
16 **entities.**

17 Notwithstanding any other provision of law to the contrary,
18 upon a court's finding by a preponderance of the evidence that
19 a governmental entity intentionally violated a provision of
20 this chapter, including but not limited to by making payments
21 or providing tax credits; assistance under section 15.335B;
22 sales tax exemptions or refunds under chapter 423; property tax
23 credits, exemptions, including but not limited to exemptions
24 under chapter 427, rebates, refunds, reimbursements, or grants
25 for property taxes paid; or any other special benefits in
26 violation of section 554E.3, all of the following shall apply:

27 1. The governmental entity's certified budget and amount of
28 taxes certified shall be reduced as provided in section 24.17,
29 subsection 2, paragraph "b".

30 2. If the governmental entity receives an appropriation,
31 the governmental entity's portion of each appropriation in the
32 fiscal year of the court's finding of an intentional violation
33 shall be reduced by ten percent. If the governmental entity
34 fails to remedy the violation of this chapter prior to the
35 beginning of the subsequent fiscal year, the governmental

1 entity's portion of each appropriation made by the general
2 assembly for the subsequent fiscal year shall be reduced by a
3 percentage equal to the percentage reduction for the preceding
4 fiscal year plus five percent. All appropriation amounts
5 reduced pursuant to this section shall be transferred to the
6 fund from which they were appropriated.

7 **Sec. 8. NEW SECTION. 554E.6 Obligations of the office of**
8 **the attorney general.**

9 1. The office of the attorney general shall enforce
10 the provisions of this chapter, including in all appeal
11 proceedings.

12 *a.* The office of the attorney general shall appeal a
13 district court's decision if a company prevails in the district
14 court in an action under this chapter.

15 *b.* The office of the attorney general shall file an
16 application for further review with the supreme court if, after
17 the appeal provided in paragraph "a", the supreme court issues
18 an order of transfer and transfers the case to the court of
19 appeals and the company prevails in the action before the court
20 of appeals.

21 *c.* When an appeal is taken by the office of the attorney
22 general, the office shall not be required to give an appeal
23 bond or security for costs.

24 2. *a.* Within sixty days following the effective date
25 of this Act, the office of the attorney general shall make
26 available on its internet site a system to allow a citizen of
27 this state to report potential violations of this chapter by a
28 company or by a governmental entity to the office.

29 *b.* The system required pursuant to paragraph "a" shall
30 include all of the following:

31 (1) A mechanism for the electronic submission of
32 photographs or other evidence of a company's potential
33 violation of this chapter.

34 (2) An annual accounting, on a calendar year basis, of the
35 number of complaints received by the office of the attorney

1 general related to the number of potential violations of this
2 chapter by companies and governmental entities. In addition
3 to the current year's accounting, the system shall display
4 annual accountings required by this subparagraph for the years
5 preceding the current calendar year.

6 (3) An annual accounting, on a calendar year basis, of the
7 number of investigations required pursuant to subsections 3
8 and 4 in which the office of the attorney general determines
9 there is a reasonable suspicion that a company or governmental
10 entity violated this chapter. In addition to the current
11 year's accounting, the system shall display annual accountings
12 required by this subparagraph for the years preceding the
13 current calendar year.

14 (4) A list of the companies that a court has found by a
15 preponderance of the evidence have violated this chapter.

16 (5) A list of the governmental entities that a court has
17 found by a preponderance of the evidence have violated this
18 chapter.

19 (6) A mechanism to ensure that the person submitting the
20 report is a citizen of this state.

21 3. Notwithstanding subsection 5, the office of the attorney
22 general shall complete the investigation of a report received
23 pursuant to subsection 2 within thirty days of the receipt
24 of the report if the report included a photograph or other
25 evidence that, in the opinion of the office, indicates a
26 company's potential violation of this chapter.

27 4. The office of the attorney general shall contact a person
28 who submits a report pursuant to subsection 2 related to a
29 company's potential violation of this chapter that did not
30 contain a photograph or other evidence within seven days of
31 the receipt of the report and inform the person of one of the
32 following:

33 a. The office will investigate the report, in which case the
34 office shall complete the investigation within thirty days of
35 the receipt of the report.

1 *b.* The person has thirty days to provide the office with
2 a photograph or other evidence that indicates a potential
3 violation of this chapter, in which case the office shall
4 complete the investigation within thirty days of the receipt of
5 the photograph or other evidence.

6 5. *a.* Upon completion of an investigation in which
7 the office of the attorney general determines there is a
8 reasonable suspicion that a company or governmental entity has
9 violated this chapter, the office shall file suit in a court
10 of competent jurisdiction to enforce the provisions of this
11 chapter.

12 *b.* The office of the attorney general shall file suit for a
13 violation of this chapter every four years from the date of the
14 most recent court's finding if the office determines there is
15 reasonable suspicion that a company has violated this chapter
16 at any point during the four-year period after the court's most
17 recent finding.

18 *c.* The office of the attorney general shall file suit to
19 enforce this chapter against a governmental entity every year
20 from the date of the most recent court's finding that the
21 governmental entity has violated this chapter if the office
22 determines there is reasonable suspicion that a violation of
23 this chapter has occurred at any point during the one-year
24 period after the court's most recent finding.

25 6. All records provided to the office of the attorney
26 general pursuant to this section shall be kept confidential and
27 are not subject to chapter 22.

28 Sec. 9. NEW SECTION. 554E.7 **Petition for stay.**

29 1. No sooner than four years after a court's finding that
30 a company violated a provision of this chapter pursuant to
31 section 554E.3, the company may petition the court for a stay
32 of the provisions of section 554E.3, subsection 1.

33 2. At the time the company petitions the court for a stay
34 pursuant to subsection 1, the company shall file with the court
35 a bond payable to the state in an amount deemed necessary by

1 the office of the attorney general.

2 3. Within thirty days after a company files a petition for
3 a stay pursuant to subsection 1, the office of the attorney
4 general shall file with the court a statement indicating any
5 reports received under section 554E.6, subsection 2, related
6 to the company from the date of the court's finding that
7 the company violated a provision of this chapter pursuant to
8 section 554E.3 through the date the company filed the petition
9 for a stay.

10 4. The court shall grant the petition for stay filed
11 pursuant to subsection 1 if it finds that the company did not
12 violate the provisions of this chapter from the date of the
13 court's finding that the company violated a provision of this
14 chapter pursuant to section 554E.3 through the date the company
15 filed the petition for a stay.

16 a. Beginning one year after the court grants the petition
17 for stay pursuant to this subsection, the company shall
18 annually file with the court an additional bond in the amount
19 of any payments; tax credits; assistance under section 15.335B;
20 sales tax exemptions or refunds under chapter 423; property tax
21 credits, exemptions, including but not limited to exemptions
22 under chapter 427, rebates, refunds, reimbursements, or grants
23 for property taxes paid; or any other special benefits the
24 company received from the state during the previous year.

25 b. A governmental entity shall not make any payments to
26 the company, or provide the company with any tax credits;
27 assistance under section 15.335B; sales tax exemptions or
28 refunds under chapter 423; property tax credits, exemptions,
29 including but not limited to exemptions under chapter 427,
30 rebates, refunds, reimbursements, or grants for property taxes
31 paid; or any other special benefits, until the company has
32 satisfied the requirements in paragraph "a" for the previous
33 year.

34 5. The company shall be permanently prohibited from
35 entering into any agreement with a governmental entity and

1 shall be permanently prohibited from receiving any payments;
2 tax credits; assistance under section 15.335B; sales tax
3 exemptions or refunds under chapter 423; property tax credits,
4 exemptions, including but not limited to exemptions under
5 chapter 427, rebates, refunds, reimbursements, or grants for
6 property taxes paid; or any other special benefits from a
7 governmental entity if the company violates a provision of
8 this chapter after a court has granted the company's petition
9 for stay pursuant to this section and before the end of the
10 twenty-year prohibition provided in section 554E.3, subsection
11 1.

12 6. The amount of any bond forfeited under this section shall
13 be deposited in the general fund of the state.

14 7. A company shall not file more than one petition for
15 a stay of the provisions of section 554E.3, subsection 1,
16 during the twenty-year prohibition provided in section 554E.3,
17 subsection 1.

18 8. Nothing in this section shall be construed to limit the
19 authority of the office of the attorney general under section
20 554E.6 to investigate potential violations of this chapter or
21 file suit to enforce the provisions of this chapter.

22 **Sec. 10. NEW SECTION. 554E.8 Right to intervene —**
23 **enforcement by citizens of this state.**

24 1. A governmental entity impacted by an action under this
25 chapter may intervene in any action under this chapter.

26 2. A citizen of this state who has reported a company's
27 potential violation of this chapter pursuant to section 554E.6
28 may intervene in any action related to the company under this
29 chapter.

30 3. Notwithstanding section 554E.6, subsection 1, a citizen
31 of this state who has reported a company's potential violation
32 of this chapter pursuant to section 554E.6 may file suit in a
33 court of competent jurisdiction to enforce the provisions of
34 this chapter if the company is not currently subject to the
35 prohibition provided in section 554E.3, subsection 2, and if

1 the company's potential violation of this chapter occurred at
2 least thirty days following the effective date of this Act.

3 Sec. 11. NEW SECTION. 554E.9 Rules.

4 The office of the attorney general shall adopt rules
5 pursuant to chapter 17A to administer and interpret this
6 chapter.

7 Sec. 12. LEGISLATIVE FINDINGS AND LEGISLATIVE INTENT. The
8 general assembly finds all of the following:

9 1. The United States Constitution and the Constitution of
10 the State of Iowa guarantee citizens of this state the freedom
11 of speech.

12 2. The ability of citizens of this state to voice their
13 opinions on matters that impact themselves or society generally
14 is of paramount importance in order to have a healthy,
15 functioning, and inclusive democracy in which every citizen can
16 participate.

17 3. Freedom of speech is not only necessary in order
18 for every citizen of this state to feel included in their
19 representative democracy, but also necessary for there to be
20 free and open debate so society can improve its knowledge,
21 understanding, and perspective on issues that impact science,
22 religion, academia, public officials, and public policy
23 generally, regardless of how popular or unpopular any
24 particular person, entity, speech, idea, or opinion may be.

25 4. The purpose of guaranteeing the freedom of speech in the
26 United States Constitution and Constitution of the State of
27 Iowa is to protect the people from government to ensure that
28 no one person, group, or entity controls what individuals or
29 society see as the truth, controls what individuals or society
30 are allowed to believe or think, or controls what is and is not
31 open for debate.

32 5. Without freedom of speech, free and open debate, and
33 freedom of thought in society, individuals begin to lose faith
34 and trust in science, religion, academia, public officials, and
35 the legitimacy of their representative government.

1 6. The majority of individuals and entities voice their
2 support, opposition, or opinions on science, religion,
3 academics, public officials, and public policy through the
4 internet.

5 7. A majority of individuals and entities now receive
6 information and opinions about science, religion, academia,
7 public officials, and public policy through the internet.

8 8. It can be safely concluded that the public forum where
9 individuals, entities, and society generally debate the issues,
10 voice their support, opposition, or opinions, obtain and
11 receive information, and learn about current events has largely
12 moved from the physical public square and print materials
13 distributed locally, to the internet through companies.

14 9. Congress has provided civil immunity to many companies
15 through 47 U.S.C. §230 (the Communications Decency Act),
16 which allows those companies to flourish by treating them
17 as distributors of information instead of publishers of
18 information, which allows the companies to label, reduce
19 distribution, or remove information on their platforms,
20 websites, marketplaces, application stores, and the internet
21 generally.

22 10. Certain companies have exploited and abused the
23 Communications Decency Act to the point where many citizens of
24 this state are losing faith and trust in science, religion,
25 academia, public officials, public policy generally, and the
26 legitimacy of their representative government at all levels.

27 11. Certain companies that exploit and abuse the
28 Communications Decency Act have grown to such an extent that
29 they dominate the marketplace such that citizens of this
30 state have no real alternatives if they do not agree with the
31 information moderation policies used by those companies, are
32 disallowed from voicing their opinions on the platforms created
33 by the companies, have their opinions and thoughts hidden
34 from the general public, or are disallowed from having their
35 publications sold to the general public in online marketplaces.

1 12. Members of Congress belonging to both parties have known
2 about these abuses and exploitations of the Communications
3 Decency Act for years, and congressional committees have
4 released reports detailing these exploitations and abuses,
5 but Congress has done nothing to reduce or prevent them from
6 continuing in the future.

7 13. Near the end of his presidency, President Donald J.
8 Trump attempted to force Congress to prevent any future harm
9 caused by the continued ability of companies to exploit and
10 abuse the Communications Decency Act by vetoing the National
11 Defense Authorization Act, but Congress decided to override
12 President Trump's veto instead of preventing the harm and abuse
13 from continuing by repealing or amending the Communications
14 Decency Act.

15 14. The general assembly does not have the authority to
16 enact any law that is inconsistent with the Communications
17 Decency Act.

18 15. The general assembly does have the ability to ensure
19 that the state and its political subdivisions do not give any
20 taxpayer money, tax incentives, or any other benefit to the
21 companies causing harm to our society by exploiting and abusing
22 the Communications Decency Act.

23 16. It is the intent of the general assembly that this
24 Act be interpreted broadly to prevent taxpayer money, tax
25 incentives, or any other benefits from being awarded to the
26 companies that are the subject of this Act.

27 Sec. 13. TRANSITIONAL COMPLAINT REPORTING SYSTEM. Within
28 thirty days following the effective date of this Act, and until
29 fifty-nine days following the effective date of this Act, the
30 office of the attorney general shall make available on its
31 internet site a transitional system to allow a citizen of
32 this state to report potential violations of chapter 554E by
33 a company or a governmental entity to the office. The system
34 shall include, at a minimum, a mechanism for the electronic
35 submission of reports of potential violations of chapter 554E

1 and the electronic evidence associated with the potential
2 violations.

3 Sec. 14. IMPLEMENTATION OF ACT. Section 25B.2, subsection
4 3, shall not apply to this Act.

5 Sec. 15. EFFECTIVE DATE. This Act, being deemed of
6 immediate importance, takes effect upon enactment.

7 Sec. 16. APPLICABILITY. This Act applies to agreements
8 between a company and a governmental entity in effect or
9 entered into on or after the effective date of this Act.

10

EXPLANATION

11
12

The inclusion of this explanation does not constitute agreement with
the explanation's substance by the members of the general assembly.

13 This bill prohibits the state or political subdivisions of
14 the state from entering into contracts with, or providing tax
15 incentives or any other benefits to, certain companies that
16 censor online content.

17 The bill requires that, before public funds are used for
18 economic development, the public body dispensing the public
19 funds shall consider whether a court has found that the person
20 to whom the funds will be dispersed has violated a provision
21 of new Code chapter 554E, and whether the person is involved
22 in litigation in which it has been alleged that the person
23 violated Code chapter 554E.

24 The bill modifies Code section 24.17 to provide that, for
25 fiscal years beginning on or after July 1, 2021, if a political
26 subdivision has been found to have violated new Code chapter
27 554E during the 12-month period prior to the date taxes are
28 certified, the amount of the political subdivision's budget
29 certified under Code chapter 24 and the amount of taxes
30 certified back to the county auditor by the department of
31 management shall be reduced as described in the bill.

32 The bill establishes new Code chapter 554E. The bill
33 adds several defined terms to the Code chapter, including
34 definitions for "company", "excessively violent content",
35 "expressive merchandise", "governmental entity", "internet

1 site", "massive online marketplace", "massive online video
2 sharing website", "massive social networking website",
3 "monopolistic entity", "obscene material", "pre-installed
4 application store", and "social networking website".

5 The bill prohibits a company from intentionally affecting
6 the ability of a citizen of this state to view, comment, or
7 otherwise interact with certain content on the company's
8 internet site by restricting such content.

9 The bill prohibits a company from intentionally affecting
10 the ability of a citizen of this state to interact with
11 certain content on the company's internet site, restricting
12 the ability of a citizen of this state to download a social
13 networking website on a pre-installed application store, or
14 restricting the ability of a citizen of this state to purchase
15 any protected publication or expressive merchandise on a
16 massive online marketplace as prescribed in the bill. The bill
17 provides, however, that a company may restrict the ability
18 of a citizen of this state to interact with a United States
19 citizen's content on the company's internet site in certain
20 enumerated cases.

21 The bill requires a company to provide its subscribers,
22 members, and users who are citizens of this state with
23 the ability to opt out of post promoting algorithms and
24 shadow banning algorithms on the company's massive online
25 marketplace, massive online video sharing website, or massive
26 social networking website. The bill defines "post promoting
27 algorithm" and "shadow banning algorithm".

28 The bill provides that a court's finding that a company has
29 violated the prohibition on censorship shall be conclusive
30 proof of the company's breach of any agreement between the
31 company and a governmental entity, and the governmental entity
32 shall cancel the agreement.

33 The bill provides that, upon a court's finding that a company
34 has violated this prohibition on censorship, the company shall
35 be prohibited from entering into any future agreement with a

1 governmental entity and shall be prohibited from receiving
2 any future payment or any other benefit from a governmental
3 entity. The bill establishes that this begins on the date of
4 the court's finding and shall extend for a period of 20 years,
5 unless a stay is granted pursuant to the terms of Code section
6 554E.7. Additionally, the bill establishes that this 20-year
7 prohibition shall be reinstated for each subsequent finding by
8 a court that a company violated the prohibition on censorship.

9 The bill provides that, upon a court's finding that a company
10 has violated the prohibition on censorship, tax credits;
11 assistance under Code section 15.335B; sales tax exemptions
12 or refunds; property tax rebates, refunds, reimbursements, or
13 grants for property taxes paid; and any other special benefits
14 previously claimed by the company shall be recaptured as
15 provided in the bill.

16 The bill provides that the prohibition on entering into any
17 agreement with a governmental entity and the requirement that
18 unearned amounts be returned to governmental entities shall not
19 be stayed during appeal proceedings.

20 The bill requires a governmental entity to take certain
21 enumerated steps with respect to companies it may have
22 agreements with within 30 days of the effective date of this
23 bill. The bill also requires a governmental entity to include
24 in its contracts a statement summarizing the governmental
25 entity's enforcement rights under Code section 554E.3. The
26 bill requires the office of the attorney general to develop a
27 form describing these enforcement rights within seven days of
28 the effective date of the bill.

29 The bill provides that if a governmental entity
30 intentionally violates Code chapter 554E, certain financial
31 penalties will apply.

32 The bill requires the attorney general to enforce the
33 provisions of Code chapter 554E. The bill requires the
34 attorney general to appeal a district court's decision if a
35 company prevails in the district court in an action under Code

1 chapter 554E. Additionally, the bill requires the attorney
2 general to file an application for further review with the
3 supreme court if, after the first appeal, the supreme court
4 transfers the case to the court of appeals and the company
5 prevails in the action before the court of appeals.

6 The bill provides that, within 60 days of the effective
7 date of the bill, the attorney general shall make available on
8 its internet site a system to allow a citizen of this state to
9 report potential violations of Code chapter 554E by a company
10 or by a governmental entity. The bill requires this system
11 to include several features. The bill establishes certain
12 investigative responsibilities of the attorney general with
13 respect to reports submitted through this system. The bill
14 requires the attorney general to file suit in a court of
15 competent jurisdiction to enforce the provisions of the Code
16 chapter. The bill requires the attorney general to file suit
17 for a violation of the Code chapter every four years from the
18 date of the most recent court's finding if the attorney general
19 determines there is reasonable suspicion that a company has
20 violated a provision of the Code chapter at any point during
21 the four-year period after the court's most recent finding.
22 Additionally, the bill requires the attorney general to file
23 suit to enforce the Code chapter against a governmental entity
24 every year from the date of the most recent court's finding
25 that the governmental entity has violated the Code chapter if
26 the office determines there is a reasonable suspicion that a
27 violation of this chapter has occurred at any point during the
28 one-year period after the court's most recent finding. The
29 bill provides that all records provided to the attorney general
30 under Code section 554E.6 shall be kept confidential and are
31 not subject to Code chapter 22.

32 The bill authorizes companies that have been found to have
33 violated a provision of Code chapter 554E to petition the court
34 for a stay of the provisions of the Code chapter. The bill
35 prescribes when this petition may be filed, how many petitions

1 may be filed, bonding requirements, statements that the
2 attorney general must file, when a court may grant the stay,
3 and what occurs in the event a company violates the provisions
4 of this Code chapter again after a stay has been granted.

5 The bill establishes that governmental entities impacted by
6 an action under Code chapter 554E may intervene in an action
7 under the Code chapter. Additionally, the bill establishes
8 that a citizen of this state who has reported a company's
9 violation of the bill to the attorney general may intervene
10 in any action related to that company under the Code chapter.
11 The bill authorizes a citizen of this state who has reported
12 a company's violation of the bill to file suit to enforce the
13 provisions of the Code chapter if the company is not currently
14 subject to the prohibition provided in Code section 554E.3,
15 subsection 2, and if the company's potential violation of the
16 Code chapter occurred at least 30 days following the effective
17 date of the bill.

18 The bill may include a state mandate as defined in Code
19 section 25B.3. The bill makes inapplicable Code section 25B.2,
20 subsection 3, which would relieve a political subdivision from
21 complying with a state mandate if funding for the cost of
22 the state mandate is not provided or specified. Therefore,
23 political subdivisions are required to comply with any state
24 mandate included in the bill.

25 The bill authorizes the attorney general to adopt rules to
26 administer and interpret Code chapter 554E.

27 The bill requires the attorney general to create a
28 transitional reporting system within 30 days following the
29 effective date of the bill that will operate until 59 days
30 following the effective date of the bill. The bill requires
31 the transitional reporting system to include, at a minimum, a
32 mechanism for the electronic submission of reports of potential
33 violations of chapter 554E and the electronic evidence
34 associated with the potential violations.

35 The bill contains legislative findings and legislative

1 intent provisions. The provisions provide that the bill
2 should be interpreted broadly to prevent taxpayer money, tax
3 incentives, or any other benefits from being awarded to the
4 companies that are the subject of the bill.

5 The bill takes effect upon enactment and applies to
6 agreements between a company and a governmental entity in
7 effect or entered into on or after the effective date of the
8 bill.