

117TH CONGRESS
1ST SESSION

H. R. 5596

To amend section 230 of the Communications Act of 1934 to limit the liability protection provided by such section when a provider of an interactive computer service knew or should have known such provider was making a personalized recommendation of third-party information or recklessly made a personalized recommendation of such information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 2021

Mr. PALLONE (for himself, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. SCHAKOWSKY, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend section 230 of the Communications Act of 1934 to limit the liability protection provided by such section when a provider of an interactive computer service knew or should have known such provider was making a personalized recommendation of third-party information or recklessly made a personalized recommendation of such information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Justice Against Mali-
3 cious Algorithms Act of 2021”.

4 **SEC. 2. PERSONALIZED RECOMMENDATION OF THIRD-**
5 **PARTY INFORMATION.**

6 (a) IN GENERAL.—Section 230 of the Communica-
7 tions Act of 1934 (47 U.S.C. 230) is amended—

8 (1) by redesignating subsection (f) as sub-
9 section (g);

10 (2) by inserting after subsection (e) the fol-
11 lowing:

12 “(f) PERSONALIZED RECOMMENDATION OF INFOR-
13 MATION PROVIDED BY ANOTHER INFORMATION CONTENT
14 PROVIDER.—

15 “(1) IN GENERAL.—Subsection (c)(1) does not
16 apply to a provider of an interactive computer serv-
17 ice with respect to information provided through
18 such service by another information content provider
19 if—

20 “(A) such provider of such service—

21 “(i) knew or should have known such
22 provider of such service was making a per-
23 sonalized recommendation of such informa-
24 tion; or

25 “(ii) recklessly made a personalized
26 recommendation of such information; and

1 “(B) such recommendation materially con-
2 tributed to a physical or severe emotional injury
3 to any person.

4 “(2) EXEMPTIONS.—

5 “(A) SMALL BUSINESSES.—Paragraph (1)
6 of this subsection does not apply to an inter-
7 active computer service that (in combination
8 with each subsidiary and affiliate of the service)
9 has 5,000,000 or fewer unique monthly visitors
10 or users for not fewer than 3 of the preceding
11 12 months.

12 “(B) USER-SPECIFIED SEARCH.—Para-
13 graph (1) of this subsection does not apply to
14 a provider of an interactive computer service to
15 the extent that the recommendation was made
16 directly in response to a user-specified search.

17 “(C) INTERNET INFRASTRUCTURE.—Para-
18 graph (1) of this subsection does not apply to
19 a provider of an interactive computer service to
20 the extent that the service, system, or access
21 software of such provider is used by another
22 interactive computer service for the manage-
23 ment, control, or operation of such other inter-
24 active computer service, including for—

25 “(i) web hosting;

1 “(ii) domain registration;
2 “(iii) content delivery networks;
3 “(iv) caching;
4 “(v) data storage; and
5 “(vi) cybersecurity.”; and

6 (3) in subsection (g) (as so redesignated), by
7 adding at the end the following:

8 “(5) PERSONALIZED RECOMMENDATION.—The
9 term ‘personalized recommendation’ means, with re-
10 spect to information, the material enhancement,
11 using a personalized algorithm, of the prominence of
12 such information with respect to other information.

13 “(6) PERSONALIZED ALGORITHM.—The term
14 ‘personalized algorithm’ means an algorithm that re-
15 lies on information specific to an individual.

16 “(7) ALGORITHM.—The term ‘algorithm’ means
17 any computational process, model, or other auto-
18 mated means of processing to rank, order, promote,
19 recommend, amplify, or similarly alter the delivery
20 or display of information (including any text, image,
21 audio, or video post and any page, group, account,
22 channel, or affiliation).”.

23 (b) CONFORMING AMENDMENT.—Section 223(h)(2)
24 of the Communications Act of 1934 (47 U.S.C. 223(h)(2))

1 is amended by striking “section 230(f)(2)” and inserting
2 “section 230(g)(2)”.

3 (c) APPLICABILITY.—The amendments made by this
4 section shall apply with respect to recommendations made
5 after the date that is 180 days after the date of the enact-
6 ment of this Act.

