

117TH CONGRESS  
2D SESSION

# H. R. 9448

To prohibit the Federal Government from taking certain action relating to  
social media companies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2022

Mr. CLYDE (for himself, Mr. COMER, Mr. CAWTHORN, Mr. WEBER of Texas, Mrs. MILLER of Illinois, Mr. BABIN, Mr. LAMALFA, Mr. BIGGS, Mr. MASSIE, Mr. GAETZ, and Mr. MOORE of Alabama) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Oversight and Reform, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit the Federal Government from taking certain  
action relating to social media companies, 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Free Speech Defense  
5       Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

1           (1) The First Amendment guarantees freedoms  
2           concerning religion, expression, assembly, and peti-  
3           tion of the government. The First Amendment guar-  
4           antees the freedom of expression by prohibiting the  
5           government from restricting the press or the right of  
6           an individual to speak freely. The First Amendment  
7           also guarantees the right of an individual to assem-  
8           ble peaceably and to petition the government.

9           (2) The Fourth Amendment states that each in-  
10          dividual is secure from unreasonable searches and  
11          seizures of property by the government. The Fourth  
12          Amendment protects against arbitrary arrests, wire-  
13          taps, and other forms of surveillance conducted with-  
14          out a search warrant.

15          (3) In July 2021, the White House press sec-  
16          retary, Jen Psaki, admitted that the White House  
17          was working with social media companies to identify  
18          “misinformation.”

19          (4) Specifically, Psaki said, “[W]e’re regularly  
20          making sure social media platforms are aware of the  
21          latest narratives, dangerous to public health that we  
22          and many other Americans are seeing across all of  
23          social and traditional media.”. Psaki also said,  
24          “[W]e work to engage with them to better under-

1 stand the enforcement of social media platform poli-  
2 cies.”.

3 (5) 286 pages of documents produced in July  
4 2022 by the Centers for Disease Control and Pre-  
5 vention, in response to a Freedom of Information  
6 Act request submitted by the America First Legal  
7 Foundation, revealed shocking information, includ-  
8 ing the following:

9 (A) The Centers for Disease Control and  
10 Prevention sent to officials of Twitter a chart  
11 of tweets that the Centers for Disease Control  
12 and Prevention determined to be “misinforma-  
13 tion”.

14 (B) The Centers for Disease Control and  
15 Prevention held regular BOLO (Be On The  
16 Lookout) meetings in which the Centers for  
17 Disease Control and Prevention would share  
18 with social media companies, including Twitter  
19 and Facebook, what the Centers for Disease  
20 Control and Prevention determined to be “mis-  
21 information”. In the meetings, the Centers for  
22 Disease Control and Prevention would provide  
23 slide decks requesting, among other things,  
24 “[p]lease do not share outside your trust and  
25 safety teams”.

1 (C) The Centers for Disease Control and  
2 Prevention recommended to Twitter that infor-  
3 mation about the Vaccine Adverse Event Re-  
4 porting System be added to tweets.

5 (D) Officials from the Centers for Disease  
6 Control and Prevention directly engaged with  
7 Facebook, requesting that Facebook flag cer-  
8 tain posts as disinformation and ensure that  
9 “verifiable information sources” were not  
10 blocked because posts on Facebook by State  
11 Health Departments were being blocked as vac-  
12 cine misinformation.

13 (E) The Centers for Disease Control and  
14 Prevention created a COVID–19 Misinforma-  
15 tion Reporting Channel for the Centers for Dis-  
16 ease Control and Prevention and the Census  
17 Bureau to make reports to Facebook and held  
18 a “training meeting” about the Misinformation  
19 Reporting Channel.

20 (F) \$15,000,000 of Facebook advertising  
21 credits were provided to the Centers for Disease  
22 Control and Prevention and the Department of  
23 Health and Human Services as a “non-mone-  
24 tary gift” to promote vaccines, social  
25 distancing, travel, and priority communication

1           messages, which may have violated the limita-  
2           tion on voluntary services described in section  
3           1342 of the Antideficiency Act (31 U.S.C.  
4           1342).

5           (6) The Secretary of Homeland Security,  
6           Alejandro Mayorkas, failed to provide clear answers  
7           to Congress about the so-called “Disinformation  
8           Governance Board” and the selection of Nina  
9           Jankowicz to lead the Disinformation Governance  
10          Board.

11          (7) Damning whistleblower documents revealed  
12          by Senators Josh Hawley and Chuck Grassley show  
13          the shocking extent to which the Disinformation  
14          Governance Board was willing to spy on Americans,  
15          without a warrant, and flag posts for social media  
16          companies as so-called “disinformation”.

17 **SEC. 3. SENSE OF CONGRESS.**

18          It is the sense of Congress that:

19           (1) The records produced by the Centers for  
20          Disease Control and Prevention in response to the  
21          Freedom of Information Act request described in  
22          section 2(5) reveal the extent to which the Biden  
23          Administration is willing to engage in unconstitu-  
24          tional and otherwise unlawful activities in total dis-  
25          regard of the rights of the American people.

1           (2) The “Disinformation Governance Board”  
2           established by the Department of Homeland Secu-  
3           rity is unconstitutional and should be terminated im-  
4           mediately.

5           (3) The failure of Secretary Mayorkas to pro-  
6           vide clear answers about the Disinformation Govern-  
7           ance Board is disqualifying, and Secretary Mayorkas  
8           should resign immediately.

9           (4) The antidote to “misinformation” and  
10          “disinformation” is not censorship but more infor-  
11          mation, so the American people can make informed  
12          decisions independently.

13          (5) The Federal Government should not be al-  
14          lowed to circumvent the Constitution of the United  
15          States through intermediaries and third parties to  
16          violate the rights of the American people to informa-  
17          tion and freedom from intrusion by the Federal Gov-  
18          ernment, even if the information is not consistent  
19          with the views of officials in the Federal Govern-  
20          ment.

21 **SEC. 4. PROHIBITION AGAINST FEDERAL REGULATION OF**  
22 **SOCIAL MEDIA COMPANIES.**

23          (a) PROHIBITION AGAINST REGULATION.—

1           (1) PROHIBITION.—Except as provided in para-  
2           graph (2), the Federal Government may not direct  
3           or encourage a social media company to—

4                   (A) remove or suspend a user from the so-  
5           cial media platform of the social media com-  
6           pany;

7                   (B) label content on the social media plat-  
8           form of the social media company as informa-  
9           tion, disinformation, true, false, or any other  
10          similar characterization; or

11                  (C) share with the Federal Government  
12          data or information about a particular topic or  
13          group of users on the social media platform of  
14          the social media company, including—

15                   (i) the name, age, or demographic of  
16          the users; and

17                   (ii) the content such users share on  
18          the social media platform of the social  
19          media company.

20          (2) EXCEPTION.—The prohibitions described in  
21          subparagraphs (A) and (C) of paragraph (1) do not  
22          apply to an action taken by the Federal Government  
23          pursuant to a warrant—

24                  (A) issued by a Federal court of competent  
25          jurisdiction in accordance with the procedures

1 described in rule 41 of the Federal Rules of  
2 Criminal Procedure; or

3 (B) issued by a State court of competent  
4 jurisdiction.

5 (b) PROHIBITION AGAINST PUBLIC-PRIVATE PART-  
6 NERSHIPS.—

7 (1) PROHIBITION.—The Federal Government  
8 may not enter into a public-private partnership with  
9 a social media company to monitor any content dis-  
10 seminated on the social media platform of the social  
11 media company.

12 (2) TERMINATION OF EXISTING PUBLIC-PRI-  
13 VATE PARTNERSHIPS.—Any public-private partner-  
14 ship described in paragraph (1), if in existence on  
15 the date of the enactment of this Act, is terminated.

16 (c) TERMINATION OF DISINFORMATION GOVERN-  
17 ANCE BOARD.—

18 (1) TERMINATION.—The Disinformation Gov-  
19 ernance Board established by the Department of  
20 Homeland Security, if in existence on the date of the  
21 enactment of this Act, is terminated.

22 (2) PROHIBITION AGAINST FEDERAL FUND-  
23 ING.—Federal funds may not be used to fund any  
24 other entity that is substantially similar to the



1 Disinformation Governance Board terminated pursu-  
2 ant to paragraph (1).

3 (d) PROHIBITION AGAINST SOLICITING OR ACCEPT-  
4 ING FREE SOCIAL MEDIA ADVERTISING.—

5 (1) IN GENERAL.—An agency employee may  
6 not solicit or accept, or enter into a contract or  
7 other agreement (including a no-cost agreement) for,  
8 free advertising or other promotion on the social  
9 media platform of a social media company.

10 (2) LIMITATION ON FUNDS.—No Federal funds  
11 may be obligated or expended to—

12 (A) enter into a contract or other agree-  
13 ment (including a no-cost agreement) for free  
14 advertising or other promotion on the social  
15 media platform of a social media company; or

16 (B) pay the salary or expenses of any  
17 agency employee to solicit or accept free adver-  
18 tising or other promotion on the social media  
19 platform of a social media company.

20 (e) PRIVATE RIGHT OF ACTION.—An individual  
21 whose account, content, or information on the social media  
22 platform of a social media company has been affected in  
23 violation of this Act may file a civil action against the  
24 United States in the United States District Court for the

1 District of Columbia for reasonable attorneys' fees, injunc-  
2 tive relief, and actual damages.

3 (f) REPORT.—Not later than 180 days after the date  
4 of the enactment of this section, and annually thereafter,  
5 the Attorney General, in consultation with the Assistant  
6 Attorney General for Civil Rights, shall submit to the ap-  
7 propriate congressional committees a report evaluating the  
8 compliance by the Federal Government with this Act, in-  
9 cluding a description of any action by the head of an agen-  
10 cy to—

11 (1) consult with a social media company about  
12 labeling content on the social media platform of the  
13 social media company as described in subsection  
14 (a)(1)(B); or

15 (2) engage in any other prohibited activity  
16 under this Act.

17 (g) SEVERABILITY.—If any provision of this Act, or  
18 the application of any such provision to any person or cir-  
19 cumstance, is held to be unconstitutional, the remainder  
20 of this Act, and the application of such provision to any  
21 other person or circumstance, shall not be affected by the  
22 holding.

23 **SEC. 5. DEFINITIONS.**

24 In this Act:

1           (1) AGENCY.—The term “agency” has the  
2           meaning given such term in section 551 of title 5,  
3           United States Code.

4           (2) APPROPRIATE CONGRESSIONAL COMMIT-  
5           TEES.—The term “appropriate congressional com-  
6           mittees” means—

7                   (A) the Committee on Homeland Security,  
8                   the Committee on the Judiciary, and the Com-  
9                   mittee on Oversight and Reform of the House  
10                  of Representatives; and

11                   (B) the Committee on Homeland Security  
12                   and Governmental Affairs and the Committee  
13                   on the Judiciary of the Senate.

14           (3) SOCIAL MEDIA COMPANY.—The term “social  
15           media company” means a company that provides, in  
16           or affecting interstate or foreign commerce, a social  
17           media platform.

18           (4) SOCIAL MEDIA PLATFORM.—The term “so-  
19           cial media platform”—

20                   (A) means a website or internet medium  
21                  that—

22                           (i) permits a person to become a reg-  
23                           istered user, establish an account, or create  
24                           a profile for the purpose of allowing users

1 to create, share, and view user-generated  
2 content through such an account or profile;

3 (ii) primarily serves as a medium for  
4 users to interact with content generated by  
5 other users of the medium; and

6 (iii) enables one or more users to gen-  
7 erate content that can be viewed by other  
8 users of the medium; and

9 (B) does not include—

10 (i) any such platform that serves  
11 fewer than 100,000 users;

12 (ii) an email program, email distribu-  
13 tion lists, multi-person text message  
14 groups, or a website that is primarily for  
15 the purpose of internet commerce;

16 (iii) a private platform or messaging  
17 service used by an entity solely to commu-  
18 nicate with others employed by or affiliated  
19 with such entity; or

20 (iv) an internet-based platform whose  
21 primary purpose is—

22 (I) to allow users to post product  
23 reviews, business reviews, travel infor-  
24 mation and reviews; or

1 (II) to provide news or entertain-  
2 ment content, but that may also in-  
3 clude a comment section for users to  
4 discuss such news or entertainment  
5 content.

6 (5) STATE.—The term “State” means each  
7 State of the United States, the District of Columbia,  
8 each commonwealth, territory, or possession of the  
9 United States, and each federally recognized Indian  
10 Tribe.

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