AN ACT concerning consumer protection; relating to terms of service for
social media websites; prohibiting censorship of certain speech made
via such websites.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) No contract between an interactive computer service
and a person that contains the terms of service for use of a social media
website operated by such service shall include any provisions that
authorize such service to restrict, censor or suppress information, including
political information and political expression, unless such information
pertains to obscene, lewd, lascivious, filthy, excessively violent, harassing
or otherwise objectionable subject matter.

(b) Any person using a social media website pursuant to terms of
service that violate this section may report such violation to the attorney
general. Upon receipt of any such report, the attorney general shall
investigate and may bring an action for injunctive relief to enjoin any
continuing violation. In addition to any injunctive relief, such action may
also seek to impose a civil penalty on the interactive computer service of
not less than $500 and not more than $10,000 for each such violation
instead of the penalty provided for in K.S.A. 50-636(a), and amendments
thereto. Each instance in which an interactive computer service enters into
a contract with a person containing terms of service that violate this
section shall constitute a separate violation.

(c) Any violation of this section is an unconscionable act and practice
under the Kansas consumer protection act.

(d) For purposes of the remedies and penalties provided by the
Kansas consumer protection act:

(1) The person alleging a violation of this section shall be deemed a
consumer, and the service whose terms of service violate this section shall
be deemed the supplier; and

(2) proof of a consumer transaction shall not be required.

(e) (1) Any person alleging a violation of this section may bring a
private action against the interactive computer service. Notwithstanding
the provisions of K.S.A. 50-634 and 50-636, and amendments thereto, a
person bring such action may seek the following relief:

(A) Statutory damages in an amount not less than $75,000 for each
instance in which the interactive computer service restricted, censored or
suppressed such person's content;
(B) actual damages;
(C) punitive damages, if aggravating factors are present; and
(D) injunctive and such other equitable relief.
(2) An interactive computer service that restores such person's
censored content within a reasonable time may assert such fact to mitigate
any damages.
(3) The prevailing party in any such action may be awarded
reasonable attorney fees and court costs.
(f) The provisions of this section shall not apply to an interactive
computer service that affirmatively states in the service's terms of service
that the service is a publisher.
(g) An interactive computer service may limit content on a social
media website to certain subject matters as explicitly provided in such
service's terms of service.
(h) (1) Information pertains to obscene, lewd, lascivious or filthy
subject matter if the average person applying contemporary community
standards would find that the information:
(A) (i) Appeals to the prurient interest; or
(ii) has patently offensive representations or descriptions of sexual
acts, whether normal or perverted, actual or simulated, including sexual
intercourse, sodomy, masturbation, excretory functions, sadomasochistic
abuse or exhibition of the genitals; and
(B) taken as a whole, lacks serious literary, educational, artistic,
political or scientific value.
(2) Information pertains to excessively violent, harassing or otherwise
objectionable subject matter if the average person applying contemporary
community standards would find that the information:
(A) (i) Represents or depicts the extreme use of physical violence
with the intention to hurt, maim or kill a person or animal;
(ii) is of a persistent harassing nature directed toward a specific
individual or group of individuals identified by race, religion, sex, color,
disability, nationality or ethnicity; or
(iii) has patently offensive representations or descriptions of specific
individuals or groups of individuals identified by race, religion, sex, color,
disability, nationality or ethnicity; and
(B) taken as a whole, lacks serious literary, educational, artistic,
political or scientific value.
(i) As used in this section:
(1) "Interactive computer service" means any information service,
system or access software that provides or enables computer access by
multiple users to a computer server, including specifically a service or
system that provides access to the internet and such systems operated or
services offered by libraries or educational institutions.

(2) "Social media website" means a website through which users are
able to share and generate content and find and connect with other users of
common interests.

(j) The provisions of this section shall be a part of and supplemental
to the Kansas consumer protection act.

Sec. 2. This act shall take effect and be in force from and after its
publication in the Kansas register.