

118TH CONGRESS
1ST SESSION

S. 1525

To amend the Communications Act of 1934 to address governmental interference in content moderation decisions by providers of interactive computer services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2023

Mr. SCHMITT introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to address governmental interference in content moderation decisions by providers of interactive computer services, 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 “Curtailing Online Lim-
5 itations that Lead Unconstitutionally to Democracy’s Ero-
6 sion Act” or the “COLLUDE Act”.

1 **SEC. 2. CONTENT MODERATION, CREATION AND DEVELOP-**
2 **MENT, AND DISTRIBUTION.**

3 Section 230 of the Communications Act of 1934 (47
4 U.S.C. 230) is amended—

5 (1) in subsection (c)—

6 (A) in paragraph (1)—

7 (i) by striking “No provider” and in-
8 serting the following:

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), no provider”; and

11 (ii) by adding at the end the fol-
12 lowing:

13 “(B) AFFIRMATIVE DEFENSE.—In a crimi-
14 nal or civil action against a provider or user of
15 an interactive computer service that treats the
16 provider or user as the publisher or speaker of
17 any information, the provider or user shall bear
18 the burden of proving that the provider or user
19 is not an information content provider with re-
20 spect to that information for purposes of sub-
21 paragraph (A).”;

22 (B) in paragraph (2)(B), by striking
23 “paragraph (1)” and inserting “subparagraph
24 (A)”; and

25 (C) by adding at the end the following:

1 “(3) LOSS OF PROTECTION IN CASES OF GOV-
2 ERNMENTAL CENSORSHIP.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), this subsection shall not
5 apply to a provider of an interactive computer
6 service that restricts access to or availability of
7 material—

8 “(i) in a manner that reasonably ap-
9 pears to express, promote, limit the visi-
10 bility of, or suppress legitimate political
11 speech, including a discernible viewpoint;
12 and

13 “(ii) as a result of a communication
14 that—

15 “(I) is sent to the provider by—

16 “(aa) a governmental entity;

17 or

18 “(bb) a non-governmental
19 entity that is acting at the re-
20 quest or behest of a govern-
21 mental entity; and

22 “(II) the applicable entity under
23 subclause (I) sends only to the pro-
24 vider and not to any other entity.

1 “(B) EXCEPTION.—A communication that
 2 is for a legitimate law enforcement purpose or
 3 a national security purpose shall not be consid-
 4 ered to be a communication that is described in
 5 subparagraph (A)(ii).”; and

6 (2) in subsection (f), by adding at the end the
 7 following:

8 “(5) LEGITIMATE LAW ENFORCEMENT PUR-
 9 POSE.—The term ‘legitimate law enforcement pur-
 10 pose’ means, with respect to a communication, that
 11 the purpose of the communication is so that a law
 12 enforcement agency can, within the lawful authority
 13 of that agency, investigate a criminal offense.

14 “(6) NATIONAL SECURITY PURPOSE.—The term
 15 ‘national security purpose’ means, with respect to a
 16 communication, that the purpose of the communica-
 17 tion relates to—

18 “(A) intelligence activities;

19 “(B) cryptologic activities that relate to
 20 the national security of the United States;

21 “(C) command and control of the Armed
 22 Forces;

23 “(D) equipment that is an integral part of
 24 a weapon or a weapons system; or

- 1 “(E) the direct fulfillment of a military or
- 2 intelligence mission.”.

