

Rand Paul
Paul Ist Deputy 2

AMENDMENT NO. _____ Calendar No. _____

Purpose: To prohibit Department of State employees from directing social media platforms to censor any speech that is protected by the First Amendment to the Constitution of the United States and by requiring each recipient of a grant awarded by the Department to certify that it will not designate any creator of news as a source of misinformation or disinformation.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. 2043

To provide for certain authorities of the Department of State, and for other purposes.

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. PAUL

Viz:

- 1 On page 104, line 1, strike "Sec. 608" and insert the
- 2 following:
- 3 **SEC. 608. EMPLOYEE PROHIBITIONS.**
- 4 (a) DEFINITIONS.—In this section:
- 5 (1) COVERED INFORMATION.—The term "cov-
- 6 ered information" means information relating to—
- 7 (A) a phone call;
- 8 (B) any type of digital communication, in-
- 9 cluding a post on a covered platform, an e-mail,
- 10 a text, and a direct message;
- 11 (C) a photo;

- 1 (D) shopping and commerce history;
- 2 (E) location data, including a driving route
- 3 and ride hailing information;
- 4 (F) an IP address;
- 5 (G) metadata;
- 6 (H) search history;
- 7 (I) the name, age, or demographic infor-
- 8 mation of a user of a covered platform; and
- 9 (J) a calendar item.

10 (2) COVERED PLATFORM.—The term “covered

11 platform”—

12 (A) means a website or internet medium

13 that—

14 (i) permits a person to become a reg-

15 istered user, establish an account, or create

16 a profile for the purpose of allowing the

17 person to create, share, and view user-gen-

18 erated content through that account or

19 profile;

20 (ii) primarily serves as a means by

21 which users of the website or medium

22 interact with content generated by other

23 users of the website or medium; and

24 (iii) enables a user of the website or

25 medium to generate content that other

1 users of the website or medium can view;
2 and

3 (B) includes—

4 (i) an interactive computer service, as
5 that term is defined in section 230(f) of
6 the Communications Act of 1934 (47
7 U.S.C. 230(f)); and

8 (ii) any platform through which a
9 media organization disseminates informa-
10 tion, without regard to whether the organi-
11 zation disseminates that information—

12 (I) through broadcast or print;

13 (II) online; or

14 (III) through any other channel.

15 (3) EMPLOYEE.—Except where otherwise ex-
16 pressly provided, the term “employee” means an em-
17 ployee of the Department.

18 (4) PROVIDER.—The term “provider” means a
19 provider of a covered platform.

20 (b) EMPLOYEE PROHIBITIONS.—

21 (1) IN GENERAL.—An employee acting under
22 official authority or influence may not—

23 (A) use any form of communication (with-
24 out regard to whether the communication is
25 visible to members of the public) to direct, co-

1 erce, compel, or encourage a provider to take,
2 suggest or imply that a provider should take, or
3 request that a provider take any action to cen-
4 sor speech that is protected by the Constitution
5 of the United States, including by—

6 (i) removing that speech from the ap-
7 plicable covered platform;

8 (ii) suppressing that speech on the ap-
9 plicable covered platform;

10 (iii) removing or suspending a par-
11 ticular user (or a class of users) from the
12 applicable covered platform or otherwise
13 limiting the access of a particular user (or
14 a class of users) to the covered platform;
15 or

16 (iv) labeling that speech as
17 disinformation, misinformation, or false, or
18 by making any similar characterization
19 with respect to the speech;

20 (B) direct or encourage a provider to share
21 with the Department covered information con-
22 taining data or information regarding a par-
23 ticular topic, or a user or group of users on the
24 applicable covered platform, including—

1 (i) the name, age, or demographic in-
2 formation of such a user; or

3 (ii) any covered information shared or
4 stored by users on the covered platform;

5 (C) work in conjunction with any private
6 entity to take an action that is prohibited under
7 subparagraph (A) or (B); or

8 (D) on behalf of the Department or the
9 subagency of the Department that is employing
10 the employee—

11 (i) enter into a partnership with a
12 provider to monitor any content dissemi-
13 nated on the applicable covered platform;
14 or

15 (ii) solicit, accept, or enter into a con-
16 tract or other agreement (including a no-
17 cost agreement) for free advertising or an-
18 other promotion on a covered platform.

19 (2) EXCEPTION.—Notwithstanding subpara-
20 graph (B) of paragraph (1), the prohibition under
21 that subparagraph shall not apply with respect to an
22 action by the Department or an employee pursuant
23 to a warrant that is issued by—

24 (A) a court of the United States of com-
25 petent jurisdiction in accordance with the proce-

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

3 (B) a State court of competent jurisdic-
4 tion.

5 (3) EMPLOYEE DISCIPLINE.—Notwithstanding
6 any provision of title 5, United States Code, the Sec-
7 retary shall impose on an employee who violates any
8 provision of paragraph (1)—

9 (A) disciplinary action consisting of re-
10 moval, reduction in grade, debarment from em-
11 ployment with the United States for a period of
12 not longer than 5 years, or suspension;

13 (B) a civil penalty in an amount that is
14 not less than \$1,000 and not more than
15 \$10,000; or

16 (C) a combination of the penalties de-
17 scribed in subparagraphs (A) and (B), as deter-
18 mined by the Secretary.

19 (c) PRIVATE RIGHT OF ACTION.—

20 (1) IN GENERAL.—A person, the account, con-
21 tent, or information of which has been affected in
22 violation of subsection (b), may bring a civil action
23 against the Department in the United States Dis-
24 trict Court for the District of Columbia for reason-

1 able attorneys' fees, injunctive relief, and actual
2 damages.

3 (2) PRESUMPTION OF LIABILITY.—In a civil ac-
4 tion brought pursuant to paragraph (1), there shall
5 be a rebuttable presumption against the Department
6 if the person bringing the action demonstrates that
7 the applicable employee communicated with a pro-
8 vider on a matter relating to—

9 (A) covered information with respect to
10 such person; or

11 (B) a statement made by such person on
12 the applicable covered platform.

13 **SEC. 609. GRANT TERMS.**

14 (a) CERTIFICATION.—The recipient of a grant award-
15 ed by the Department or a subagency of the Department
16 on or after the date of the enactment of this Act shall
17 certify to the Secretary that the recipient (or a subgrantee
18 of the recipient), during the term of the grant, will not
19 designate any creator of news, regardless of medium, as
20 a source of misinformation or disinformation.

21 (b) PUBLICATION.—The Department shall publish
22 each certification described in subsection (a) on a publicly
23 accessible website of the Department not later than 10
24 days after awarding the associated grant.

1 (c) PENALTY.—Upon a determination by the Sec-
2 retary that a recipient of a grant awarded by the Depart-
3 ment (or a subgrantee of such recipient) has violated a
4 certification published pursuant to subsection (b) the re-
5 cipient or subgrantee—

6 (1) shall repay any grant amount associated
7 with such certification; and

8 (2) shall be ineligible to receive another grant
9 from the Department.

10 **SEC. 610.**

11 On page 104, line 9, strike “Sec. **609**” and insert
12 “Sec. **611**”.