

NEW YORK STATE'S SOCIAL MEDIA BILL AND SECTION 230

OVERVIEW

In December, New York state Sen. Brad Hoylman introduced [a bill](#) that if passed would make social media platforms liable for recommending unlawful and false content such as vaccine misinformation. This bill seeks to challenge [Section 230](#) of the Communications Decency Act, which shields social media firms and other online services from liability for the content posted by others to their sites.

BACKGROUND

Section 230 was introduced in 1996 by US legislators concerned with protecting the innovative growth of the tech sector. At the time, Congress feared that the online business community would be deterred by the threat of lawsuits related to their user content and this would siphon growth.

Fast forward to present day, there is now a sustained effort to challenge this liability shield. Both Republican and Democratic legislators have introduced bills that aim to regulate how large social media platforms moderate user content - yet their motivations differ. For Republicans, Section 230 has permitted what [they see](#) as the unfair silencing of conservative viewpoints. Democrats on the other hand [argue that](#) platforms have not moderated harmful content enough, allowing misinformation related to elections and vaccines to remain online.

WHY IS THIS IMPORTANT?

The New York bill is the latest attempt by a state government to challenge Section 230. Earlier in 2021, [Texas](#) and [Florida](#) both passed laws that would have similarly reduced the liability protections of social media platforms had they not been [blocked](#) by Federal Judges. It remains to be seen whether Hoylman's bill will pass into law, however what is clear is the growing determination to make social media platforms more liable for their moderation decisions – both the content they take down and the content they leave up.

WHAT HAPPENS NEXT?

The New York bill is currently working its way through the state's legislative process. A Federal bill introduced just weeks prior will be worth keeping an eye on in tandem. The House Energy and Commerce Committee introduced [H.R. 5596](#), Justice Against Malicious Algorithms Act, which would amend Section 230 to revoke liability for the 'personalized recommendations' of social media platforms. Like the New York bill, the House bill targets the recommendation algorithms of social media platforms and would hold them liable for recommending harmful content.