

RE: **Opposition to HB 3187**

February 2, 2023

While well intentioned, we respectfully ask that you **not** advance HB 3187, as it:

- Represents compelled speech in violation of the First Amendment
- Was already found unconstitutional when Maryland tried it
- Makes it harder to stop bad actors from influencing elections

We further outline our concerns below.

HB 3187 represents compelled speech in violation of the First Amendment

Today, online websites and platforms can remove unwanted content from their sites. However, HBV 3187 will force websites to host content related to elections they may not want.

Consider a website dedicated to only pets, or the sale of goods, HB 3187 would prevent its removal. The end result is that websites and platforms will err on the side of leaving up lewd, lascivious, dangerous, and extremist speech and content, making the internet a much more objectionable place to be. Further, users are already protected from unfair trade practices and the government can currently bring suits against the platforms if they truly believe these companies are engaging in unfair practices.

Funding requirements already found unconstitutional when Maryland tried it

When Maryland attempted to mandate disclosure like those found in HB 3187, the law was quickly enjoined and found unconstitutional – and the plaintiffs were the news media.¹ Likewise mandatory disclosure of funding have been unconstitutional for decades.²

These cases make clear that this law is not only unconstitutional but has been tried and failed in other states.

HB 3187 makes it harder to stop bad actors from influencing elections

Today platforms remove content for a myriad of reasons. But this legislation would require websites to essentially tell bad actors how to work around the security systems. By giving access to proprietary and security information to others, this is the type of information that can be weaponized against the citizens of West Virginia and to undermine confidence in elections.

Because of these threats we respectfully ask you to **oppose HB 3187**.

¹ See, *Washington Post, et al. v. David J. McManus, Jr., et al.* (Case No. PWG-18-2527) (4th Cir 2019).

² See, e.g. *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958).

We appreciate your consideration of our views, and please let us know if we can provide further information.

Sincerely,

Carl Szabo
Vice President and General Counsel, NetChoice