

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 587

Introduced by Assembly Member Gabriel
(Principal coauthor: Assembly Member Cunningham)
(Coauthors: Assembly Members Bauer-Kahan, Lee, McCarty,
Robert Rivas, and Wicks)

February 11, 2021

An act to ~~amend Section 320~~ add Chapter 22.8 (commencing with Section 22675) to Division 8 of the Business and Professions Code, relating to ~~consumers~~: social media.

LEGISLATIVE COUNSEL'S DIGEST

AB 587, as amended, Gabriel. ~~Consumers~~. Social media companies: terms of service.

Existing law requires an operator of a commercial website or online service that collects personally identifiable information through the internet about individual consumers residing in California who use or visit its commercial website or online service to make its privacy policy available to consumers, as specified.

This bill would require a social media company, as defined, to post their terms of service in a specified manner and with additional specified information. The bill would define "terms of service" to mean a policy adopted by a social media company that specifies, at least, the user behavior and activities that are permitted on the internet-based service owned or operated by the social media company, and the user behavior and activities that may subject the user to temporary or permanent prohibition from using the internet-based service. The bill would provide that failure to comply with those posting provisions within 30 days of

being notified of noncompliance by the Attorney General will be considered a violation of those provisions.

This bill would also require the social media company to submit biannual and quarterly reports, as specified, starting July 1, 2022, to the Attorney General. The bill would specify the information required by the reports, including, but not limited to, the current version of the terms of service on a biannual basis, what content violates the terms of service and specify those categories on a biannual basis, and data related to violations of the terms of service on a quarterly basis. The bill would require the Attorney General to post on its official website all terms of service reports submitted pursuant to those provisions.

The bill would state the intent of the Legislature that a social media company that violates the above provisions should be subject to injunction and liability for civil penalties, and would specify that a violation of these provisions is actionable under the Unfair Competition Law or any other applicable law. The bill would authorize the Attorney General to require social media companies to submit or disclose to the Attorney General any documents or records relevant to information included in the reports required by these provisions.

~~Existing law authorizes the Director of Consumer Affairs or the Attorney General, whenever any matter or proceeding that the director finds may affect substantially the interests of consumers within California is pending before any state commission, regulatory agency, department, or other state agency, or any state or federal court or agency, to intervene in the matter or proceeding in any appropriate manner to represent the interests of consumers.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Chapter 22.8 (commencing with Section 22675)*
- 2 *is added to Division 8 of the Business and Professions Code, to*
- 3 *read:*

1
2 *CHAPTER 22.8. CONTENT MODERATION REQUIREMENTS FOR*
3 *INTERNET TERMS OF SERVICE*

4
5 22675. *For purposes of this chapter, the following definitions*
6 *apply:*

7 (a) *“Actioned” means a social media company, due to a*
8 *suspected or confirmed violation of the terms of service, has taken*
9 *some form of disciplinary action, including, but not limited to,*
10 *removal, demonetization, deprioritization, or banning, against the*
11 *relevant user or relevant item of content.*

12 (b) *“Content” means media, including, but not limited to, text,*
13 *images, videos, and groups of users that are created, posted,*
14 *shared, or otherwise interacted with by users on an internet-based*
15 *service.*

16 (c) (1) *“Social media company” means a person or entity that*
17 *owns or operates a public-facing internet-based service that*
18 *generated at least one hundred million dollars (\$100,000,000) in*
19 *gross revenue during the preceding calendar year, and that allows*
20 *users in the state to do all of the following:*

21 (A) *Construct a public or semipublic profile within a bounded*
22 *system created by the service.*

23 (B) *Populate a list of other users with whom an individual shares*
24 *a connection within the system.*

25 (C) *View and navigate a list of the individual’s connections and*
26 *the connections made by other individuals within the system.*

27 (2) *“Social media company” does not include a person or entity*
28 *that exclusively owns and operates an electronic mail service.*

29 (d) *“Terms of service” means a policy adopted by a social media*
30 *company that specifies, at least, the user behavior and activities*
31 *that are permitted on the internet-based service owned or operated*
32 *by the social media company, and the user behavior and activities*
33 *that may subject the user to temporary or permanent prohibition*
34 *from using the internet-based service. This may include, but is not*
35 *limited to, a terms of service document or agreement, rules or*
36 *content moderation guidelines, community guidelines, acceptable*
37 *uses, and other policies and established practices that outline these*
38 *policies.*

39 22676. (a) *A social media company shall post their terms of*
40 *service in a manner reasonably designed to inform all users of the*

1 *internet-based service owned or operated by the social media*
2 *company of the existence of the terms of service.*

3 *(b) The terms of service posted pursuant to subdivision (a) shall*
4 *include all of the following:*

5 *(1) Contact information for the purpose of allowing users to*
6 *ask the social media company questions about the terms of service.*

7 *(2) A description of the process that users must follow to flag*
8 *content, groups, or other users that they believe violate the terms*
9 *of service, and the social media company's commitments on*
10 *response and resolution time.*

11 *(3) A list of potential disciplinary actions the social media*
12 *company may take against an item of content or a user, including,*
13 *but not limited to, removal, demonetization, deprioritization, or*
14 *banning.*

15 *(c) The terms of service posted pursuant to subdivision (a) shall*
16 *be available in all languages that are supported by and accessible*
17 *on the internet-based service that is owned or operated by the*
18 *social media company.*

19 *(d) A social media company shall be in violation of this section*
20 *if the social media company fails to comply with the provisions of*
21 *this section within 30 days of being notified of noncompliance by*
22 *the Attorney General.*

23 *22677. (a) On a biannual basis, a social media company shall*
24 *submit to the Attorney General a terms of service report, covering*
25 *activity within the six months previous to the submission of the*
26 *report. The biannual terms of service report shall include all of*
27 *the following:*

28 *(1) The current version of the terms of service of the social*
29 *media company.*

30 *(2) If a social media company has filed its first biannual report,*
31 *a description of any changes to the terms of service since the last*
32 *biannual report.*

33 *(3) A description of how the current version of the terms of*
34 *service defines all of the following categories of content:*

35 *(A) Hate speech or racism.*

36 *(B) Extremism or radicalization, including, but not limited to,*
37 *threats of violence against government entities.*

38 *(C) Disinformation or misinformation, including, but not limited*
39 *to, false or misleading information regarding medicine or*

1 *vaccinations, false or misleading information regarding elections,*
2 *and conspiracy theories.*

3 *(D) Harassment.*

4 *(E) Foreign political interference.*

5 *(4) A description of content moderation practices used by the*
6 *social media company, including, but not limited to, all of the*
7 *following:*

8 *(A) Any existing policies intended to address the categories of*
9 *content described in paragraph (3).*

10 *(B) Any rules or guidelines regarding how a social media*
11 *company's automated content moderation systems enforce terms*
12 *of service and when these systems involve human review.*

13 *(C) Any training materials provided to human content*
14 *moderators intended to educate them on the categories of content*
15 *described in paragraph (3).*

16 *(D) How the social media company responds to user reports of*
17 *violations of the terms of service.*

18 *(E) Any rules, guidelines, product changes, and content*
19 *moderator training materials that cover how the social media*
20 *company would remove individual pieces of content that violate*
21 *the terms of service, or take broader action against individual*
22 *users or even broader action against groups of users that violate*
23 *the terms of service.*

24 *(b) A social media company shall submit its first terms of service*
25 *report pursuant to subdivision (a) to the Attorney General no later*
26 *than July 1, 2022.*

27 *(c) The Attorney General shall post on its official website all*
28 *terms of service reports submitted pursuant to this section.*

29 *22678. (a) On a quarterly basis, a social media company shall*
30 *submit to the Attorney General a terms of service report, covering*
31 *activity within the three months previous to the submission of the*
32 *report. The quarterly terms of service report shall include the*
33 *following:*

34 *(1) Information on content that was flagged by the social media*
35 *company as content belonging to any of the categories described*
36 *in paragraph (3) of subdivision (a) of Section 22677, including*
37 *all of the following:*

38 *(A) The total number of flagged items of content.*

39 *(B) The total number of actioned items of content.*

1 (C) *The total number of actioned items of content that resulted*
2 *in action taken by the social media company against the user or*
3 *group of users responsible for the content.*

4 (D) *The total number of actioned items of content that were*
5 *removed, demonetized, or deprioritized by the social media*
6 *company.*

7 (E) *The number of times an actioned item of content was viewed*
8 *by users.*

9 (F) *The number of times an actioned item of content was shared,*
10 *and the number of users that viewed the content before removal.*

11 (G) *The number of times an actioned item of content received*
12 *requests from users to appeal the decision of the social media*
13 *company.*

14 (H) *The total number of actioned items of content that were*
15 *determined by the social media company to violate state or federal*
16 *law.*

17 (2) *All information required by paragraph (1) shall be*
18 *disaggregated into the following categories:*

19 (A) *The category of content, including the categories described*
20 *in paragraph (3) of subdivision (a) of Section 22677.*

21 (B) *The type of content, including, but not limited to, posts,*
22 *comments, messages, profiles of users, or groups of users.*

23 (C) *The type of media of the content, including, but not limited*
24 *to, text, images, and videos.*

25 (D) *How the content was flagged, including, but not limited to,*
26 *flagged by company employees or contractors, flagged by artificial*
27 *intelligence software, flagged by community moderators, flagged*
28 *by civil society partners, and flagged by users.*

29 (E) *How the content was actioned, including, but not limited*
30 *to, actioned by company employees or contractors, actioned by*
31 *artificial intelligence software, actioned by community moderators,*
32 *actioned by civil society partners, and actioned by users.*

33 (b) *A social media company shall submit its first terms of service*
34 *report pursuant to subdivision (a) to the Attorney General no later*
35 *than July 1, 2022. The first quarterly terms of service report shall*
36 *cover activity within the six months previous to the submission of*
37 *the report.*

38 (c) *The Attorney General shall post on its official website all*
39 *terms of service reports submitted pursuant to this section.*

1 22679. (a) *It is the intent of the Legislature that a social media*
2 *company that violates this chapter should be subject to injunction*
3 *and liability for civil penalties.*

4 (b) *A violation of this chapter is actionable under the Unfair*
5 *Competition Law (Chapter 5 (commencing with Section 17200)*
6 *of Part 2 of Division 7), or any other applicable state or federal*
7 *law.*

8 (c) *The Attorney General may require social media companies*
9 *to submit or disclose to the Attorney General any documents or*
10 *records relevant to information included in the reports submitted*
11 *pursuant to this chapter.*

12 ~~SECTION 1. Section 320 of the Business and Professions Code~~
13 ~~is amended to read:~~

14 ~~320. Whenever there is pending before any state commission,~~
15 ~~regulatory agency, department, or other state agency, or any state~~
16 ~~or federal court or agency, any matter or proceeding that the~~
17 ~~director finds may affect substantially the interests of consumers~~
18 ~~within California, the director, or the Attorney General, may~~
19 ~~intervene in the matter or proceeding in any appropriate manner~~
20 ~~to represent the interests of consumers. The director, or any officer~~
21 ~~or employee designated by the director for that purpose, or the~~
22 ~~Attorney General, may thereafter present to the agency, court, or~~
23 ~~department, in conformity with the rules of practice and procedure~~
24 ~~thereof, evidence and argument as they shall determine to be~~
25 ~~necessary, for the effective protection of the interests of consumers.~~