

AMENDED IN ASSEMBLY APRIL 28, 2021

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, *Ward*, and Wicks)
(Coauthor: Senator Wiener)

February 11, 2021

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

LEGISLATIVE COUNSEL'S DIGEST

AB 587, as amended, Gabriel. 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, or an item of content to being actioned, as defined. 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,~~ *service, specified categories of content and what policies the social media company has to address that content*, 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~~ *shall* be subject to ~~injunction and liability for civil penalties,~~ *meaningful remedies sufficient to induce compliance with these provisions*, 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.~~

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

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

1 SECTION 1. It is the intent of the Legislature that a social
2 media company that violates this act shall be subject to meaningful
3 remedies sufficient to induce compliance with this act.

4 ~~SECTION 1.~~

5 SEC. 2. Chapter 22.8 (commencing with Section 22675) is
6 added to Division 8 of the Business and Professions Code, to read:

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

3
4 22675. For purposes of this chapter, the following definitions
5 apply:

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

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

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

19 (A) Construct a public or semipublic profile within a bounded
20 system created by the service.

21 (B) Populate a list of other users with whom an individual shares
22 a connection within the system.

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

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

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

37 22676. (a) A social media company shall post their terms of
38 service in a manner reasonably designed to inform all users of the
39 internet-based service owned or operated by the social media
40 company of the existence *and contents* of the terms of service.

1 (b) The terms of service posted pursuant to subdivision (a) shall
2 include all of the following:

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

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

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

13 (c) The terms of service posted pursuant to subdivision (a) shall
14 be available in all languages ~~that are supported by and accessible~~
15 ~~on the internet-based service that is owned or operated by~~ *in which*
16 ~~the social media company.~~ *company offers product features,*
17 *including, but not limited to, menus and prompts.*

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

22 ~~22677. (a) On a biannual basis, a social media company shall~~
23 ~~submit to the Attorney General a terms of service report, covering~~
24 ~~activity within the six months previous to the submission of the~~
25 ~~report. The biannual terms of service report shall include all of the~~
26 ~~following:~~

27 ~~(1) The current version of the terms of service of the social~~
28 ~~media company.~~

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

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

34 ~~(A) Hate speech or racism.~~

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

37 ~~(C) Disinformation or misinformation, including, but not limited~~
38 ~~to, false or misleading information regarding medicine or~~
39 ~~vaccinations, false or misleading information regarding elections,~~
40 ~~and conspiracy theories.~~

1 ~~(D) Harassment.~~

2 ~~(E) Foreign political interference.~~

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

6 ~~(A) Any existing policies intended to address the categories of~~
7 ~~content described in paragraph (3).~~

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

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

14 ~~(D) How the social media company responds to user reports of~~
15 ~~violations of the terms of service.~~

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

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

25 ~~(c) The Attorney General shall post on its official website all~~
26 ~~terms of service reports submitted pursuant to this section.~~

27 ~~22678.~~

28 22677. (a) On a quarterly basis, a social media company shall
29 submit to the Attorney General a terms of service report, covering
30 activity within the three months previous to the submission of the
31 report. The ~~quarterly~~ terms of service report shall include the
32 following:

33 *(1) The current version of the terms of service of the social*
34 *media company.*

35 *(2) If a social media company has filed its first quarterly report,*
36 *a complete and detailed description of any changes to the terms*
37 *of service since the last quarterly report.*

38 *(3) A statement of whether the current version of the terms of*
39 *service defines each of the following categories of content, and, if*
40 *so, the definitions of those categories, including any subcategories:*

- 1 (A) *Hate speech or racism.*
- 2 (B) *Extremism or radicalization.*
- 3 (C) *Disinformation or misinformation.*
- 4 (D) *Harassment.*
- 5 (E) *Foreign political interference.*
- 6 (4) *A complete and detailed description of content moderation*
- 7 *practices used by the social media company, including, but not*
- 8 *limited to, all of the following:*
- 9 (A) *Any existing policies intended to address the categories of*
- 10 *content described in paragraph (3).*
- 11 (B) *Any rules or guidelines regarding how a social media*
- 12 *company’s automated content moderation systems enforce terms*
- 13 *of service and when these systems involve human review.*
- 14 (C) *Any training materials provided to human content*
- 15 *moderators intended to educate them on the categories of content*
- 16 *described in paragraph (3).*
- 17 (D) *How the social media company responds to user reports of*
- 18 *violations of the terms of service.*
- 19 (E) *Any rules, guidelines, product changes, and content*
- 20 *moderator training materials that cover how the social media*
- 21 *company would remove individual pieces of content, users, or*
- 22 *groups that violate the terms of service, or take broader action*
- 23 *against individual users or against groups of users that violate*
- 24 *the terms of service.*
- 25 (F) *The languages in which the social media company offers*
- 26 *product features, including, but not limited to, menus and prompts*
- 27 *and the languages for which the social media company has terms*
- 28 *of service.*
- 29 ~~(1) Information~~
- 30 (5) (A) *Information on content that was flagged by the social*
- 31 *media company as content belonging to any of the categories*
- 32 *described in paragraph (3) of subdivision (a) of Section 22677,*
- 33 *(3), including all of the following:*
- 34 ~~(A)~~
- 35 (i) *The total number of flagged items of content.*
- 36 ~~(B)~~
- 37 (ii) *The total number of actioned items of content.*
- 38 ~~(C)~~

- 1 (iii) 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)~~
- 5 (iv) The total number of actioned items of content that were
6 removed, demonetized, or deprioritized by the social media
7 company.
8 ~~(E)~~
- 9 (v) The number of times ~~an actioned item~~ *items* of content ~~was~~
10 *were* viewed by users.
11 ~~(F)~~
- 12 (vi) The number of times ~~an actioned item~~ *items* of content ~~was~~
13 *were* shared, and the number of users that viewed the content before
14 ~~removal~~: *it was actioned*.
15 ~~(G)~~
- 16 (vii) The number of times ~~an actioned item of content~~ received
17 ~~requests from users to appeal the decision of the~~ *appealed* social
18 ~~media company~~: *company actions and the number of reversals of*
19 *social media company actions on appeal disaggregated by each*
20 *type of action*.
21 ~~(H) The total number of actioned items of content that were~~
22 ~~determined by the social media company to violate state or federal~~
23 ~~law~~.
- 24 ~~(2)~~
- 25 (B) All information required by ~~paragraph (1)~~ *subparagraph*
26 (A) shall be disaggregated into the following categories:
27 ~~(A)~~
- 28 (i) The category of content, including ~~the~~ *any relevant* categories
29 described in ~~paragraph (3) of subdivision (a) of Section 22677.~~
30 (3).
31 ~~(B)~~
- 32 (ii) The type of content, including, but not limited to, posts,
33 comments, messages, profiles of users, or groups of users.
34 ~~(C)~~
- 35 (iii) The type of media of the content, including, but not limited
36 to, text, images, and videos.
37 ~~(D)~~
- 38 (iv) How the content was flagged, including, but not limited to,
39 flagged by company employees or contractors, flagged by artificial

1 intelligence software, flagged by community moderators, flagged
2 by civil society partners, and flagged by users.

3 ~~(E)~~

4 (v) How the content was actioned, including, but not limited to,
5 actioned by company employees or contractors, actioned by
6 artificial intelligence software, actioned by community moderators,
7 actioned by civil society partners, and actioned by users.

8 (b) A social media company shall submit its first terms of service
9 report pursuant to subdivision (a) to the Attorney General no later
10 than July 1, 2022. ~~The first quarterly terms of service report shall~~
11 ~~cover activity within the six months previous to the submission of~~
12 ~~the report.~~

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

15 ~~22679. (a) It is the intent of the Legislature that a social media~~
16 ~~company that violates this chapter should be subject to injunction~~
17 ~~and liability for civil penalties.~~

18 ~~(b)~~

19 22678. A violation of this chapter is actionable under the Unfair
20 Competition Law (Chapter 5 (commencing with Section 17200)
21 of Part 2 of Division 7), ~~or in addition to~~ any other applicable state
22 or federal law.

23 ~~(e) The Attorney General may require social media companies~~
24 ~~to submit or disclose to the Attorney General any documents or~~
25 ~~records relevant to information included in the reports submitted~~
26 ~~pursuant to this chapter.~~