STATE OF NEW YORK

8590

IN SENATE

May 10, 2018

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to requiring website operators to allow minors who have posted certain content to remove such content

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 390-bb to read as follows:

§ 390-bb. Social media removal by website operators. 1. For the purposes of this section the folloiwng terms shall have the following meanings:

(a) "Minor" means a person under the age of twenty-one who resides in this state.

(b) "Operator" means any person or entity that owns an Internet web site, online service, online application, or mobile application. It does not include any third party that operates, hosts, or manages, but does not own, an Internet web site, online service, online application, or mobile application on the owner's behalf or processes information on the owner's behalf.

(c) "Posted" means content or information that can be accessed by a user in addition to the minor who posted the content or information, whether the user is a registered user or not, of the Internet web site, online service, online application, or mobile application where the content or information is posted.

2. An operator of an Internet web site, online service, online application, or mobile application directed primarily to minors or an operator of an Internet web site, online service, online application, or mobile application that has actual knowledge that a minor is using its Internet web site, online service, online application, or mobile application shall do all of the following:

(a) Permit minors who are users of such web sites or applications to remove or request to the operator of the web site to remove any content that they have created or posted to the web site. Users older than twen-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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ty-one shall be permitted to remove or request to the operator of the web site to remove any content created or posted when the user was under twenty-one except when that content was created or posted more than twenty years before the request was made;

(b) Provide notice to all minors who are registered users of the operator's Internet web site, online service, online application, or mobile application that the minor may remove or, if the operator prefers, request and obtain removal of, content or information posted on the operator's Internet web site, online service, online application, or mobile application by the registered users;

(c) Provide clear instructions to minors who are registered users of the operator's Internet web site, online service, online application, or mobile application on how the user may remove or, if the operator prefers, request and obtain the removal of content or information posted on the operator's Internet web site, online service, online application, or mobile application; and

(d) Provide notice to minors who are registered users of the operator's Internet web site, online service, online application, or mobile application that the removal described under paragraph (a) of this subdivision does not ensure complete or comprehensive removal of the content or information posted on the operator's Internet web site, online service, online application, or mobile application by the registered users.

3. An operator or a third party is not required to erase or otherwise eliminate, or to enable erasure or elimination of, content or information in any of the following circumstances:

(a) Any other provision of federal or state law requires the operator or third party to maintain the content or information;

(b) The content or information was stored on or posted to the operator's Internet web site, online service, online application, or mobile application by a third party other than the minor, who is a registered user, including any content or information posted by the registered user that was stored, republished, or reposted by the third party;

(c) The operator anonymizes the content or information posted by the minor who is a registered user, so that the minor who is a registered user cannot be individually identified;

(d) The minor does not follow the instructions provided to the minor pursuant to paragraph (c) of subdivision two of this section on how the registered user may request and obtain the removal of content or information posted on the operator's Internet web site, online service, online application, or mobile application by the registered user; and

(e) The minor has received compensation or other consideration for providing the content.

4. This section shall not be construed to limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or pursuant to an order of a court of competent jurisdiction.

5. An operator shall be deemed complaint with this section if:

(a) It renders the content or information posted by the minor user no longer visible to other users of the service and the public even if the content or information remains on the operator's servers in some form.

(b) Despite making the original posting by the minor user invisible, it remains visible because a third party has copied the posting or reposted the content or information posted by the minor.

6. This section shall not be construed to require an operator of an Internet web site, online service, online application, or mobile application to collect age information about users.

§ 2. This act shall take effect immediately.