

STATE OF NEW YORK

8300

IN SENATE

February 10, 2022

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology

AN ACT to amend the general business law, in relation to prohibiting interactive computer service providers from knowingly developing or promoting content that is dangerous or injurious

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

1 Section 1. The general business law is amended by adding a new section
2 394-ccc to read as follows:

3 § 394-ccc. Interactive computer service; developing injurious
4 content. 1. As used in this section, the following terms shall have the
5 following meanings:

6 (a) "Interactive computer service" means a service provider, which,
7 for profit-making purposes operates an internet platform that is
8 designed to disseminate public content generated by a third-party;

9 (b) "Content" means the textual, visual or aural information that is
10 generated by a third-party or the interactive computer service provider;

11 (c) "Promote" means to present or otherwise convey third-party-gener-
12 ated or interactive computer service provider-generated content to a
13 target user;

14 (d) "User" means any person who is located in the state who utilizes
15 an interactive computer service provider's platform;

16 (e) "Platform" means an application or website developed by an inter-
17 active computer service provider that acts as an intermediary between
18 users and a third-party to disseminate content;

19 (f) "Target user" means a person who uses an interactive computer
20 service and whom the interactive computer service provider targets for
21 the purpose of sending a developed message; and

22 (g) "Target, targets, targeted, or targeting" means conveying content
23 to a target user solely on the basis of their personal data which
24 includes, but is not limited, to a target user's:

25 (i) location data, whether general or precise, including: (A) the
26 time of day in the user's current or predicted future location; (B) the
27 weather in the user's current or predicted future location; (C) the

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

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1 local businesses in the user's current or future predicted location; (D)
2 the natural, artificial, or planned events in the user's current or
3 future predicted location; (E) political preferences in the user's
4 current or future predicted location; and/or (F) landmarks in the user's
5 current or future predicted location;

6 (ii) income related activities, including the user's: (A) income
7 level; (B) profession; (C) employment status; (D) source of income;
8 and/or (E) investments;

9 (iii) relationship status, including whether the user is: (A) single;
10 (B) married; (C) divorced; (D) engaging in an affair; (E) in a domestic
11 partnership; (F) engaged; (G) in a romantic or intimate social relation-
12 ship; and/or (H) contemplating or is in the process of terminating a
13 relationship;

14 (iv) social status, including whether the user: (A) is a public offi-
15 cial; (B) is a public figure; (C) is a limited purpose public figure;
16 (D) is involuntarily thrust into the public domain; (E) receives a
17 significant amount of engagements on the interactive computer service
18 provider's platform; and/or (F) receives an insignificant amount of
19 engagements or is within a specific threshold of engagements on the
20 interactive computer service provider's platform;

21 (v) psychological profile, whether generated based on psychological
22 conditions set by the interactive computer service provider, or unique
23 or generally accepted psychological conditions;

24 (vi) veteran status, including whether the user: (A) has served in the
25 armed forces of the United States or another country; (B) is currently
26 serving in the armed forces of the United States or another country; (C)
27 has been discharged, whether honorably, for medical reasons or other-
28 wise; and/or (D) is not a veteran nor a member of the armed forces of
29 the United States or another country;

30 (vii) medical condition or status, including the user's: (A) mental
31 state; (B) physical state; (C) emotional state; and/or (D) frequency of
32 their receipt of medical care;

33 (viii) sex;

34 (ix) gender;

35 (x) national origin;

36 (xi) age;

37 (xii) race;

38 (xiii) religion; and/or

39 (ix) familial demographics, including: (A) whether the user is preg-
40 nant or expecting a child; (B) the demographic makeup of the user's
41 family; (C) the number of people in the user's family; (D) the emotional
42 relationship between family members; and/or (E) an immediate or distant
43 relative's social status, veteran status, medical status or psycholog-
44 ical profile, relationship status, income related activities, income
45 level, location data, age, sex, gender, race, national origin, religion,
46 or familial status as described in this paragraph;

47 (h) "Developed" or "Developing" shall mean:

48 (i) the interactive computer service provider generating or altering
49 visible portions of content or a group of content; or

50 (ii) the interactive computer service provider sufficiently altering
51 the meaning of content or a group of content generated by third parties
52 through the calculated targeting of the specific person such that a new
53 message is deemed to be created by the interactive computer service
54 provider.

55 2. An interactive computer service provider that conducts business in
56 this state shall not knowingly:

1 (a) promote any content to a targeted user; and
2 (b) with the intention of developing the content, cause: (i) extreme
3 emotional harm; (ii) physical injury, including self-inflicted injury or
4 injury resulting from addiction whereby the content being promoted
5 created the addiction or encouraged such user to indulge in their
6 addiction; (iii) financial injury, including self-inflicted financial
7 injury and financial injury resulting from addiction whereby the content
8 being promoted created the addiction or encouraged such user to indulge
9 in their addiction; or (iv) any other severe, cognizable injury that the
10 interactive computer service provider could reasonably foresee would
11 occur as a result of them promoting the developed message.

12 3. Any interactive computer service provider who willfully violates
13 any provision of this section shall be liable in a civil action to a
14 target user for any actual, physical or emotional harm incurred from
15 such violation and incur a civil penalty of up to ten thousand dollars
16 for each offense. In making a determination of any violation pursuant to
17 this section, the attorney general may take and make a determination on
18 the relevant facts, and issue subpoenas in accordance with the civil
19 practice law and rules.

20 4. Nothing in this section shall be construed as: (a) an obligation
21 imposed on an interactive computer service provider that adversely
22 affects the rights or freedoms of any persons including exercising the
23 right of free speech granted by the New York state constitution or the
24 United States Constitution; (b) creating any liability for an interac-
25 tive computer service provider for promoting content to non-target users
26 based solely on their location and/or time data; (c) creating any
27 liability for an interactive computer service provider for promoting
28 content that is not sufficiently developed to be deemed a violation of
29 the provisions of subdivision two of this section; or (d) creating any
30 liability for an interactive computer service provider for promoting
31 injurious developed content in another state.

32 § 2. This act shall take effect on the one hundred eightieth day after
33 it shall have become a law.