

STATE OF NEW YORK

6789--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 8, 2023

Introduced by M. of A. LEE, DICKENS, K. BROWN -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to requiring disclosure of certain social media terms of service

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 article
2 42 to read as follows:

ARTICLE 42

SOCIAL MEDIA TERMS OF SERVICE

Section 1100. Definitions.

1101. Required disclosure of terms of service.

1102. Terms of service report.

1103. Violations and remedies.

1104. Application.

10 § 1100. Definitions. For purposes of this article, the following defi-
11 initions apply:

12 1. "Actioned" means a social media company, that due to a suspected or
13 confirmed violation of the terms of service, has taken some form of
14 action, including, but not limited to, removal, demonetization, deprior-
15 itization, or banning, against the relevant user or relevant item of
16 content.

17 2. "Content" means statements or comments made by users and media that
18 are created, posted, livestreamed, shared, or otherwise interacted with
19 by users on an internet-based service or application. "Content" does not
20 include media put on a service or application exclusively for the
21 purpose of cloud storage, transmitting files, or file collaboration.

22 3. "Public or semipublic internet-based service or application"
23 excludes a service or application used to facilitate communication with-

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

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1 in a business or enterprise among employees or affiliates of the busi-
2 ness or enterprise, provided that access to the service or application
3 is restricted to employees or affiliates of the business or enterprise
4 using the service or application.

5 4. "Social media company" means a person or entity that owns or oper-
6 ates one or more social media platforms.

7 5. "Social media platform" means a public or semipublic internet-based
8 service or application that has users in New York and that meets both of
9 the following criteria:

10 (a) A substantial function of the service or application is to connect
11 users in order to allow users to interact socially with each other with-
12 in the service or application. A service or application that provides
13 email or direct messaging services shall not be considered to meet this
14 criterion on the basis of that function alone.

15 (b) The service or application allows users to do all of the follow-
16 ing:

17 (i) construct a public or semipublic profile for purposes of signing
18 into and using the service or application;

19 (ii) populate a list of other users with whom an individual shares a
20 social connection within the system; and

21 (iii) create or post content viewable or audible by other users,
22 including, but not limited to, livestreams, on message boards, in chat
23 rooms, or through a landing page or main feed that presents the user
24 with content generated by other users.

25 6. "Terms of service" means a policy or set of policies adopted by a
26 social media company that specifies, at least, the user behavior and
27 activities that are permitted on the internet-based service owned or
28 operated by the social media company, and the user behavior and activ-
29 ities that may subject the user or an item of content to being actioned.

30 § 1101. Required disclosure of terms of service. 1. A social media
31 company shall post terms of service for each social media platform owned
32 or operated by the company in a manner reasonably designed to inform all
33 users of the social media platform of the existence and contents of the
34 terms of service.

35 2. The terms of service posted pursuant to subdivision one of this
36 section shall include all of the following:

37 (a) contact information for the purpose of allowing users to ask the
38 social media company questions about the terms of service;

39 (b) a description of the process that users must follow to flag
40 content, groups, or other users that they believe violate the terms of
41 service, and the social media company's commitments on response and
42 resolution time; and

43 (c) a list of potential actions the social media company may take
44 against an item of content or a user, including, but not limited to,
45 removal, demonetization, deprioritization, or banning.

46 3. The terms of service posted pursuant to subdivision one of this
47 section shall be available in the twelve most common non-English
48 languages spoken by limited-English proficient individuals in the state,
49 as outlined in section two hundred two-a of the executive law, in which
50 the social media platform offers product features, including, but not
51 limited to, menus and prompts.

52 § 1102. Terms of service report. 1. On a semiannual basis in accord-
53 ance with subdivision two of this section, a social media company shall
54 submit to the attorney general a terms of service report. The terms of
55 service report shall include, for each social media platform owned or
56 operated by the company, all of the following:

1 (a) The current version of the terms of service of the social media
2 platform.

3 (b) If a social media company has filed its first report, a complete
4 and detailed description of any changes to the terms of service since
5 the previous report.

6 (c) A statement of whether the current version of the terms of service
7 defines each of the following categories of content, and, if so, the
8 definitions of those categories, including any subcategories:

9 (i) hate speech or racism;

10 (ii) extremism or radicalization;

11 (iii) disinformation or misinformation;

12 (iv) harassment; and/or

13 (v) foreign political interference.

14 (d) A detailed description of content moderation practices used by the
15 social media company for that platform, including, but not limited to,
16 all of the following:

17 (i) any existing policies intended to address the categories of
18 content described in paragraph (c) of this subdivision;

19 (ii) how automated content moderation systems enforce terms of service
20 of the social media platform and when these systems involve human
21 review;

22 (iii) how the social media company responds to user reports of
23 violations of the terms of service;

24 (iv) how the social media company would remove individual pieces of
25 content, users, or groups that violate the terms of service, or take
26 broader action against individual users or against groups of users that
27 violate the terms of service; and

28 (v) the languages in which the social media platform does not make
29 terms of service available, but does offer product features, including,
30 but not limited to, menus and prompts.

31 (e) (i) Information on content that was flagged by the social media
32 company as content belonging to any of the categories described in para-
33 graph (c) of this subdivision, including all of the following:

34 (A) the total number of flagged items of content;

35 (B) the total number of actioned items of content;

36 (C) the total number of actioned items of content that resulted in
37 action taken by the social media company against the user or group of
38 users responsible for the content;

39 (D) the total number of actioned items of content that were removed,
40 demonetized, or deprioritized by the social media company;

41 (E) the number of times actioned items of content were viewed or heard
42 by users;

43 (F) the number of times actioned items of content were shared, and the
44 number of users that viewed or heard the content before it was actioned;
45 and

46 (G) the number of times users appealed social media company actions
47 taken on that platform and the number of reversals of social media
48 company actions on appeal disaggregated by each type of action.

49 (ii) All information required by subparagraph (i) of this paragraph
50 shall be disaggregated into the following categories:

51 (A) the category of content, including any relevant categories
52 described in paragraph (c) of this subdivision;

53 (B) the type of content, including, but not limited to, posts, lives-
54 streams, comments, messages, profiles of users, or groups of users;

55 (C) the type of media of the content, including, but not limited to,
56 text, images, livestreams, and videos;

1 (D) how the content was flagged, including, but not limited to,
2 flagged by company employees or contractors, flagged by artificial
3 intelligence software, flagged by community moderators, flagged by civil
4 society partners, and flagged by users; and

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

9 2. (a) A social media company shall electronically submit a semiannual
10 terms of service report pursuant to subdivision one of this section,
11 covering activity within the third and fourth quarters of the preceding
12 calendar year, to the attorney general no later than April first of each
13 year, and shall electronically submit a semiannual terms of service
14 report pursuant to subdivision one of this section, covering activity
15 within the first and second quarters of the current calendar year, to
16 the attorney general no later than October first of each year.

17 (b) Notwithstanding paragraph (a) of this subdivision, a social media
18 company shall electronically submit its first terms of service report
19 pursuant to subdivision one of this section, covering activity within
20 the third quarter of two thousand twenty-four, to the attorney general
21 no later than January first, two thousand twenty-five, and shall elec-
22 tronically submit its second terms of service report pursuant to subdi-
23 vision one of this section, covering activity within the fourth quarter
24 of two thousand twenty-four, to the attorney general no later than April
25 first, two thousand twenty-five. A social media platform shall submit
26 its third report no later than October first, two thousand twenty-five,
27 in accordance with paragraph (a) of this subdivision.

28 3. The attorney general shall make all terms of service reports
29 submitted pursuant to this section available to the public in a searcha-
30 ble repository on its official internet website.

31 § 1103. Violations and remedies. 1. (a) A social media company that
32 violates the provisions of this article shall be liable for a civil
33 penalty not to exceed fifteen thousand dollars per violation per day,
34 and may be enjoined in any court of competent jurisdiction.

35 (b) A social media company shall be considered in violation of the
36 provisions of this article for each day the social media company does
37 any of the following:

38 (i) fails to post terms of service in accordance with section eleven
39 hundred two of this article;

40 (ii) fails to timely submit to the attorney general a report required
41 pursuant to section eleven hundred two of this article; or

42 (iii) materially omits or misrepresents required information in a
43 report submitted pursuant to section eleven hundred two of this article.

44 (c) In assessing the amount of a civil penalty pursuant to paragraph
45 (a) of this subdivision, the court shall consider whether the social
46 media company has made a reasonable, good faith attempt to comply with
47 the provisions of this article.

48 2. Actions for relief pursuant to this article shall be prosecuted
49 exclusively in a court of competent jurisdiction by the attorney general
50 in the name of the people of the state of New York.

51 § 1104. Application. This article shall not apply to a social media
52 company that generated less than one hundred million dollars in gross
53 revenue during the preceding calendar year or to an internet-based
54 service or application for which interactions between users are limited
55 to direct messages, commercial transactions, consumer reviews of

1 products, sellers, services, events, or places, or any combination ther-
2 eof.

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