STATE OF NEW YORK

9181

IN ASSEMBLY

February 12, 2024

Introduced by M. of A. BLUMENCRANZ -- read once and referred to the Committee on Science and Technology

AN ACT to amend the general business law, in relation to requiring social media platforms to promptly remove unlawful publications of intimate images, including those created by digitization or generative artificial intelligence; and to amend the penal law, in relation to increasing criminal penalties for unlawful dissemination or publication of intimate images created by digitization and of sexually explicit depictions of an individual

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

Section 1. Short title. This act shall be known and may be cited as the "Swift Act".

§ 2. The general business law is amended by adding a new article 45 to read as follows:

ARTICLE 45
REMOVAL OF UNLAWFUL PUBLICATIONS OF INTIMATE IMAGES ON SOCIAL MEDIA PLATFORMS

Section 1500. Definitions.
1501. Requirement of social media platforms to promptly remove unlawful publications of intimate images.
1502. Enforcement.

§ 1500. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Intimate image" shall have the same meaning as defined in subdivision one of section 245.15 of the penal law.

2. "Digitization" shall have the same meaning as defined in subdivision two of section 245.15 of the penal law.

3. "Generative artificial intelligence" means technology that can generate or substantially modify content, including text, images, audio, video, or multimedia when prompted by a user.

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

LBD14328-01-4

4. "Publish" shall have the same meaning as defined in section 250.40 of the penal law.

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

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

(b) The service or application allows users to do all of the following:

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

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

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

§ 1501. Requirement of social media platforms to promptly remove unlawful publications of intimate images.

1. Following a report to a social media platform that an intimate image, including those created by digitization or generative artificial intelligence, has been unlawfully published on said social media platform, the subject report must be promptly investigated for credibility, and if deemed credible, the subject image must be promptly removed by the operator of the social media platform within twenty-four hours of the submission of the report.

2. Upon a finding of credibility by the social media platform that a report that an intimate image has been unlawfully published on said social media platform, the report, accompanied with any and all identifying information of the publisher of the unlawfully published intimate image, must be reported to the office of the attorney general.

§ 1502. Enforcement. Whenever it appears to the attorney general, upon report, complaint or otherwise by a social media platform or other person or entity, that any person, within or outside the state, has unlawfully published an intimate image on a social media platform, including an image created by digitization or generative artificial intelligence, the attorney general may bring an action or special proceeding in the name and on behalf of the people of the state of New York to enjoin any violation of this article, to obtain restitution of any monies or property obtained directly or indirectly by any such violation, to obtain disgorgement of any profits or gains obtained directly or indirectly by any such violation, to obtain damages caused directly or indirectly by any such violation, to obtain civil penalties of up to twenty-five thousand dollars per violation, and to obtain any such other and further relief as the court may deem proper including preliminary relief.

§ 3. The closing paragraph of section 245.15 of the penal law, as added by chapter 109 of the laws of 2019, is amended to read as follows:

Unlawful dissemination or publication of an intimate image is a class [~~A misdemeanor~~] E felony.

§ 4. This act shall take effect immediately.