

# STATE OF NEW YORK

8850--A

## IN SENATE

January 9, 2026

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to establishing the NY digital choice act

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 48 to read as follows:

### ARTICLE 48

#### NY DIGITAL CHOICE ACT

#### Section 1800. Short title.

1801. Definitions.

1802. Portability.

1803. Interoperability.

1804. Data rights.

1805. Rulemaking authority.

1806. Enforcement by attorney general.

1807. Severability.

1808. Safe harbor.

§ 1800. Short title. This article shall be known and may be cited as the "NY digital choice act".

§ 1801. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Open protocol" means a publicly available set of technical rules that:

(a) enables interoperability and data exchange between social media platforms by providing a means whereby multiple social media platforms can access a covered user's social graph;

(b) is free from licensing fees and patent restrictions; and

(c) governs how social media platforms communicate and exchange data.

2. (a) "Social graph" means:

(i) a covered user's social connections with secondary users;

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

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1 (ii) content created by a covered user;  
2 (iii) the covered user's responses to secondary users' content,  
3 including comments, reactions, mentions, reports, shares, and other  
4 engagements;

5 (iv) secondary users' responses to the covered user's content;

6 (v) metadata for subparagraphs (i), (ii), (iii), and (iv) of this  
7 paragraph; and

8 (vi) relational references sufficient to maintain the associations  
9 among data elements described in subparagraphs (i), (ii), (iii), and  
10 (iv) of this paragraph.

11 (b) "Social graph" does not include a secondary user's content and  
12 responses that have been designated private by such secondary user,  
13 including private messages.

14 3. "Content" has the same meaning as in section eleven hundred of this  
15 chapter.

16 4. "Social media company" has the same meaning as in section eleven  
17 hundred of this chapter.

18 5. "Social media platform" has the same meaning as in section eleven  
19 hundred of this chapter.

20 6. "Covered user" has the same meaning as in section fifteen hundred  
21 of this chapter.

22 7. "Secondary user" means a user of a website, online service, online  
23 application, or mobile application that is developed, deployed, or oper-  
24 ating in whole or in part in the state and that is not acting as an  
25 operator, or agent or affiliate of an operator, of such website, online  
26 service, online application, or mobile application, or any portion ther-  
27 eof, irrespective of such user's physical location.

28 8. "Data portability" means the ability of covered users of social  
29 media platforms to retain existing social graphs without impairment of  
30 quality, reliability, or convenience when such information is trans-  
31 ferred from one social media platform or third party to another.

32 9. "Continuous, real-time data sharing" means data sharing between  
33 platforms conducted no less frequently than every thirty seconds.

34 § 1802. Portability. 1. If a covered user requests a copy of such  
35 covered user's social graph under this article, a social media company  
36 shall, within five business days, provide the social graph or user-se-  
37 lected parts of the social graph, in a format that:

38 (a) allows for data portability, to the extent technically feasible;

39 (b) is readily usable by the covered user; and

40 (c) allows the covered user to transmit the data to another social  
41 media platform or third party without impediment if the social media  
42 platform or third party processes the data by automated means.

43 2. A social media company shall adopt an accessible, prominent, and  
44 persistent method for covered users to request their social graph data.

45 § 1803. Interoperability. 1. A social media company shall implement a  
46 transparent, third-party-accessible interoperability interface or inter-  
47 faces to allow covered users to choose to:

48 (a) export a covered user's social graph or user-selected parts of the  
49 social graph to the social media platforms designated by the covered  
50 user; and

51 (b) enable third parties to access social graph data created by the  
52 covered user and to be notified when new or updated social graph data is  
53 available, with the covered user's permission.

54 2. To achieve interoperability under subdivision one of this section,  
55 a social media company shall:

56 (a) utilize an open protocol;

1 (b) facilitate and maintain interoperability and continuous, real-time  
2 data sharing with other social media platforms through an interoperabi-  
3 lity interface, based on reasonable terms that do not discriminate  
4 between social media platforms;

5 (c) establish reasonable and proportionate thresholds related to the  
6 frequency, nature, and volume of requests, beyond which the social media  
7 company may assess a fair, reasonable, and non-discriminatory fee for  
8 such access; and

9 (d) disclose to other social media companies complete, accurate, and  
10 regularly updated documentation describing access to the interoperabi-  
11 lity interface required under this section; and

12 (e) publicly disclose the open protocol that the social media company  
13 intends to use for purposes of paragraph (a) of this subdivision.

14 3. A social media company or third party that accesses an interoper-  
15 ability interface shall take reasonable steps to meet platform integrity  
16 standards, including data security, data privacy, and abuse-mitigation  
17 practices necessary to preserve user protections and secure any data  
18 such company or third party acquires, processes, or transmits.

19 4. A social media company or third party may not export or receive a  
20 covered user's social graph through the interoperability interface,  
21 except with the covered user's consent.

22 5. A social media company shall adopt an accessible, prominent, and  
23 persistent method for covered users to give consent for data sharing  
24 with other social media platforms or third parties through the interop-  
25 erability interface and shall implement such user's instructions within  
26 five business days of receipt of such request.

27 6. A social media company is not required to:

28 (a) provide access to:

29 (i) inferences, analyses, or derived data that the social media compa-  
30 ny has generated internally about a user; or

31 (ii) proprietary algorithms, ranking systems, or other internal oper-  
32 ating mechanisms; or

33 (b) transmit data that meets all of the following criteria:

34 (i) such data is stored or structured in a proprietary format;

35 (ii) no open, industry-standard format is reasonably available; and

36 (iii) transmitting the data would disclose information described in  
37 paragraph (a) of this subdivision; or

38 (c) import any data or treat imported data any differently from any  
39 other data on their service.

40 7. A social media company shall give secondary users an opportunity to  
41 opt out of transferal of such secondary user's public data from one  
42 social media platform or third party to another.

43 § 1804. Data rights. Upon specific request from a covered user, a  
44 social media company shall allow such covered user to delete the data in  
45 such covered user's social graph, as well as any data that has been  
46 designated private by such covered user.

47 § 1805. Rulemaking authority. The attorney general may promulgate such  
48 rules and regulations as are necessary to identify open protocols that  
49 satisfy the requirements of this article.

50 § 1806. Enforcement by attorney general. In addition to any other  
51 remedies provided by law, whenever there shall be a violation of this  
52 article, application may be made by the attorney general in the name of  
53 the people of the state of New York to a court or justice having juris-  
54 isdiction by a special proceeding to issue an injunction, and upon notice  
55 to the defendant of not less than five days, to enjoin and restrain the  
56 continuance of such violations. If it shall appear to the satisfaction

1 of the court or justice that the defendant has, in fact, violated this  
2 article, an injunction may be issued by such court or justice enjoining  
3 and restraining any further violation, without requiring proof that any  
4 person has, in fact, been injured or damaged thereby. In any such  
5 proceeding, the court may make allowances to the attorney general as  
6 provided in paragraph six of subdivision (a) of section eighty-three  
7 hundred three of the civil practice law and rules. Whenever the court  
8 shall determine that a violation of this article has occurred, the court  
9 may impose a civil penalty of not more than twenty-five hundred dollars  
10 for each violation.

11 § 1807. Severability. If any clause, sentence, paragraph, subdivision,  
12 section or part of this article shall be adjudged by any court of compe-  
13 tent jurisdiction to be invalid, such judgment shall not affect, impair,  
14 or invalidate the remainder thereof, but shall be confined in its opera-  
15 tion to the clause, sentence, paragraph, subdivision, section, or part  
16 thereof directly involved in the controversy in which such judgment  
17 shall have been made.

18 § 1808. Safe harbor. A social media company shall not be in violation  
19 of paragraph (b) of subdivision two of section eighteen hundred three of  
20 this article for a temporary loss of continuous, real-time data sharing  
21 if the social media company demonstrates that:

- 22 1. the social media company made good faith efforts to maintain  
23 continuous, real-time data sharing; and
- 24 2. the social media company took reasonable steps to restore data  
25 sharing as soon as practicable.

26 § 2. This act shall take effect July 1, 2027. Effective immediately,  
27 the addition, amendment and/or repeal of any rule or regulation neces-  
28 sary for the implementation of this act on its effective date are  
29 authorized to be made and completed on or before such effective date.