

**Amended Mock-up for 2021-2022 AB-587 (Gabriel (A))**

**Mock-up based on Version Number 97 - Amended Assembly 4/28/21  
Submitted by: Staff Name, Office Name**

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** It is the intent of the Legislature that a social media company that violates this act shall be subject to meaningful remedies sufficient to induce compliance with this act.

**SEC. 2.** Chapter 22.8 (commencing with Section 22675) is added to Division 8 of the Business and Professions Code, to read:

**CHAPTER 22.8.** Content Moderation Requirements for Internet Terms of Service

**22675.** For purposes of this chapter, the following definitions apply:

(a) “Actioned” means a social media company, due to a suspected or confirmed violation of the terms of service, has taken some form of action, including, but not limited to, removal, demonetization, deprioritization, or banning, against the relevant user or relevant item of content.

(b) “Content” means media, including, but not limited to, text, images, videos, and groups of users that are created, posted, shared, or otherwise interacted with by users on an internet-based service.

(c) ~~(H)~~ “Social media company” means a person or entity that owns or operates ~~a~~ **one or more social media platforms.**

**(d) (1) “Social media platform” means an** ~~public-facing~~ internet-based service that ~~generated at least one hundred million dollars (\$100,000,000) in gross revenue during the preceding calendar year, and that~~ allows users ~~in the state~~ to do all of the following:

(A) Construct a public or semipublic profile within a bounded system created by the service.

(B) Populate a list of other users with whom an individual shares a connection within the system.

(C) View and navigate a list of ~~the individual's connections and the~~ connections made by other individuals within the system.

~~(2) "Social media company" does not include a person or entity that exclusively owns and operates an electronic mail service.~~

(d) "Terms of service" means a policy or set of policies adopted by a social media company that specifies, at least, the user behavior and activities that are permitted on the internet-based service owned or operated by the social media company, and the user behavior and activities that may subject the user or an item of content to being actioned. This may include, but is not limited to, a terms of service document or agreement, rules or content moderation guidelines, community guidelines, acceptable uses, and other policies and established practices that outline these policies.

**22676.** (a) A social media company shall post ~~their~~ terms of service for each social media platform owned or operated by that company in a manner reasonably designed to inform all users of the social media platform~~internet-based service owned or operated by the social media company~~ of the existence and contents of the terms of service.

(b) The terms of service posted pursuant to subdivision (a) shall include all of the following:

(1) Contact information for the purpose of allowing users to ask the social media company questions about the terms of service.

(2) A description of the process that users must follow to flag content, groups, or other users that they believe violate the terms of service, and the social media company's commitments on response and resolution time.

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

(c) The terms of service posted pursuant to subdivision (a) shall be available in all Medi-Cal threshold languages, as defined in subdivision (d) of Section 128552 of the Health and Safety Code, in which the social media platform~~company~~ offers product features, including, but not limited to, menus and prompts.

~~(d) A social media company shall be in violation of this section if the social media company fails to comply with the provisions of this section within 30 days of being notified of noncompliance by the Attorney General.~~

**22677.** (a) On a quarterly basis, a social media company shall submit to the Attorney General a terms of service report, covering activity within the three months previous to the submission of the report. The terms of service report shall include, for each social media platform owned or operated by the company, all of the following:

- (1) The current version of the terms of service of the social media platform~~company~~.
- (2) If a social media company has filed its first quarterly report, a complete and detailed description of any changes to the terms of service since the last quarterly report.
- (3) A statement of whether the current version of the terms of service defines each of the following categories of content, and, if so, the definitions of those categories, including any subcategories:
  - (A) Hate speech or racism.
  - (B) Extremism or radicalization.
  - (C) Disinformation or misinformation.
  - (D) Harassment.
  - (E) Foreign political interference.
- (4) A ~~complete and~~ detailed description of content moderation practices used by the social media company for that platform, including, but not limited to, all of the following:
  - (A) Any existing policies intended to address the categories of content described in paragraph (3).
  - (B) ~~Any rules or guidelines regarding how~~ How a social media company's automated content moderation systems enforce terms of service of the social media platform and when these systems involve human review.
  - ~~(C) Any training materials provided to human content moderators intended to educate them on the categories of content described in paragraph (3).~~
  - (D) How the social media company responds to user reports of violations of the terms of service.
  - (E) ~~Any rules, guidelines, product changes, and content moderator training materials that cover how~~ How the social media company would remove individual pieces of content, users, or groups that violate the terms of service, or take broader action against individual users or against groups of users that violate the terms of service.
  - (F) The languages in which the social media ~~company~~ platform does not make terms of service available, but does offer~~offers~~ product features, including, but not limited to, menus and prompts~~and the languages for which the social media company has terms of service~~.
- (5) (A) Information on content that was flagged by the social media company as content belonging to any of the categories described in paragraph (3), including all of the following:
  - (i) The total number of flagged items of content.

- (ii) The total number of actioned items of content.
  - (iii) The total number of actioned items of content that resulted in action taken by the social media company against the user or group of users responsible for the content.
  - (iv) The total number of actioned items of content that were removed, demonetized, or deprioritized by the social media company.
  - (v) The number of times actioned items of content were viewed by users.
  - (vi) The number of times actioned items of content were shared, and the number of users that viewed the content before it was actioned.
  - (vii) The number of times users appealed social media company actions taken on that platform and the number of reversals of social media company actions on appeal disaggregated by each type of action.
- (B) All information required by subparagraph (A) shall be disaggregated into the following categories:
- (i) The category of content, including any relevant categories described in paragraph (3).
  - (ii) The type of content, including, but not limited to, posts, comments, messages, profiles of users, or groups of users.
  - (iii) The type of media of the content, including, but not limited to, text, images, and videos.
  - (iv) How the content was flagged, including, but not limited to, flagged by company employees or contractors, flagged by artificial intelligence software, flagged by community moderators, flagged by civil society partners, and flagged by users.
  - (v) How the content was actioned, including, but not limited to, actioned by company employees or contractors, actioned by artificial intelligence software, actioned by community moderators, actioned by civil society partners, and actioned by users.
- (b) A social media company shall submit its first terms of service report pursuant to subdivision (a) to the Attorney General no later than July 1, 2022.
- (c) The Attorney General shall post on its official website all terms of service reports submitted pursuant to this section.

**22678. (a) (1) A social media company that violates the provisions of this chapter shall be liable for a civil penalty not to exceed fifteen thousand dollars (\$15,000) per violation per day, and may be enjoined in any court of competent jurisdiction.**

(2) A social media company shall be considered in violation of the provisions of this chapter for each day the social media company does any of the following:

(A) Fails to post terms of service in accordance with Section 22676.

(B) Fails to timely submit to the Attorney General a report required pursuant to Section 22677.

(C) Materially omits or misrepresents required information in a report submitted pursuant to Section 22677.

(3) In assessing the amount of a civil penalty pursuant to paragraph (1), the court shall consider whether the social media company has made a reasonable, good faith attempt to comply with the provisions of this chapter.

(b) Actions for relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or a district attorney or by a county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or by a city attorney of a city having a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association.

(c) If an action pursuant to this section is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

22679. (a) The duties and obligations imposed by this chapter are cumulative to any other duties or obligations imposed under local, state, or federal law and shall not be construed to relieve any party from any duties or obligations imposed under law.

(b) The remedies or penalties provided by this chapter are cumulative to each other and to any other remedies or penalties available under local, state, or federal law.

*22678. A violation of this chapter is actionable under the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7), in addition to any other applicable state or federal law.*

22680. This chapter shall not apply to any of the following:

(a) A social media company that generated less than one hundred million dollars (\$100,000,000) in gross revenue during the preceding calendar year.

(b) A service that exclusively conveys electronic mail.

(c) A service that exclusively facilitates direct messaging between users.

(d) A section for user-generated comments on a digital news internet website that otherwise exclusively hosts content published by a person or entity described in subdivision (b) of Section 2 of Article I of the California Constitution.

(e) Consumer reviews of products or services on an internet website that serves the exclusive purpose of facilitating online commerce.

(f) An internet-based subscription streaming service that is offered to consumers for the exclusive purpose of transmitting licensed media, including audio or video files, in a continuous flow from the internet-based service to the end user, and does not host user-generated content.

(g) A service that operates for the exclusive purpose of cloud storage or shared document or file collaboration.