

Date of Hearing: May 12, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Lorena Gonzalez, Chair  
AB 587 (Gabriel) – As Amended April 28, 2021

Policy Committee:	Privacy and Consumer Protection	Vote:	9 - 0
	Judiciary		10 - 0

Urgency: No      State Mandated Local Program: No      Reimbursable: No

**SUMMARY:**

This bill requires a social media company to post its terms of service (TOS) related to permitted and prohibited user behavior and activity on its site. Specifically, this bill:

- 1) Requires a social media company to post its TOS in a manner reasonably designed to inform all users of the social media company's service of the existence and contents of the TOS and requires the TOS to include all of the following:
  - a) Contact information for the purpose of allowing users to ask the social media company questions about its TOS.
  - b) A description of the process users must follow to flag content, groups or other users they believe violate TOS, and the social media company's commitments on response and resolution time.
  - c) A list of potential actions the social media company may take against any item of content, or a user, or group of users, including, but not limited to, removal, demonetization and de-prioritization or banning.
- 2) Requires a social media company to submit to the Department of Justice (DOJ), on a quarterly basis, a TOS report, covering activity within the previous three months and requires the DOJ to post on its website all submitted reports with the first report submitted no later than July 1, 2022.
- 3) Provides that a social media company is in violation of this bill if it fails to comply with its requirements within 30 days of being notified of noncompliance by the AG.
- 4) States a violation of this bill is actionable under the Unfair Competition Law (UCL).

**FISCAL EFFECT:**

Costs (General Fund (GF)) possibly in the low to mid hundreds of thousands of dollars for the DOJ to review and post TOS reports on its website on a quarterly basis. Additional possibly significant cost pressures to the GF in the low millions of dollars in staff and resources, to the extent this bill results in the DOJ taking legal action against any social media company that does not comply. This bill states its intent to apply meaningful remedies sufficient to induce compliance, that a violation of the requirements of this bill are actionable under the UCL and that DOJ notify a social media company when it is not in compliance with the requirements of

this bill. DOJ currently enforces the UCL and other privacy laws and may be required to file for injunctive relief if a social media platform refuses to post its TOS as required by this bill.

**COMMENTS:**

1) **Purpose and Background.** According to the author:

The public and policymakers deserve to know when and how social media companies are amplifying certain voices and silencing others. This is an important first step in a broader effort to protect our democracy and better regulate social media platforms.

Section 230 of the Communications Decency Act of 1996 states online service providers or intermediaries that host or republish speech are protected against being legally responsible for what others say and do on online. Section 230 does not protect only internet service providers (ISPs), but also a range of “interactive computer service providers,” including basically any online service that publishes third-party content. Though there are important exceptions for certain criminal and intellectual property-based claims, Section 230 creates broad protections for social media platforms and may preempt any state law that would impose liability for content.

1) **Related Legislation.** AB 35 (Chau) requires a person that operates a social media platform to disclose what, if anything, it does to address the spread of misinformation. AB 35 is pending in this committee.

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