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UNFINISHED BUSINESS

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Bill No: SB 378  
Author: Wiener (D)  
Amended: 9/5/25 in Assembly  
Vote: 21

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SENATE JUDICIARY COMMITTEE: 13-0, 4/29/25  
AYES: Umberg, Niello, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern,  
Valladares, Wahab, Weber Pierson, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/23/25  
AYES: Caballero, Seyarto, Cabaldon, Grayson, Richardson, Wahab  
NO VOTE RECORDED: Dahle

SENATE FLOOR: 37-0, 6/3/25  
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear,  
Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez,  
Grayson, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello,  
Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern,  
Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener  
NO VOTE RECORDED: Grove, Ochoa Bogh, Reyes

ASSEMBLER FLOOR: 70-0, 9/12/25 – Roll call is not available

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**SUBJECT:** Online marketplaces: illicit cannabis: reporting and liability

**SOURCE:** Author

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**DIGEST:** This bill places obligations on online marketplaces where advertising or sales of illicit cannabis or hemp products occur, including required disclosures, reporting mechanisms, and warnings. This bill prohibits “unlawful paid online advertising,” as defined, related to unlicensed sellers of cannabis or cannabis products, intoxicating hemp products, or unregistered hemp products.

*Assembly Amendments* amend definitions and the standard of care, delay the operative date, provide a right to cure, and an affirmative defense, as provided.

**ANALYSIS:**

## Existing federal law:

- 1) Provides, in federal law, that a provider or user of an interactive computer service shall not be treated as the publisher or speaker of any information provided by another information content provider. (Title 47 United States Code (U.S.C.) § 230(c)(1).)
- 2) Provides that a provider or user of an interactive computer service shall not be held liable on account of:
  - a) any action voluntarily taken in good faith to restrict access to, or availability of, material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or
  - b) any action taken to enable or make available to information content providers or others the technical means to restrict access to such material. (47 U.S.C. § 230(c)(2).)

## Existing state law:

- 1) Provides that every person is responsible, not only for the result of their willful acts, but also for an injury occasioned to another by the person's want of ordinary care or skill in the management of their property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon themselves. (Civil (Civ.) Code § 1714(a) ("Section 1714(a)").)
- 2) Defines "social media platform" as a public or semipublic internet-based service or application that has users in California 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.
  - iii. Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users. (Business and Professions (Business & Professions (BUS) Code § 22675(e).)
- 3) Requires a social media platform to establish a prominent mechanism within its internet-based service that allows any individual, whether or not that individual has a profile on the internet-based service, to report cyberbullying or any content that violates the existing terms of service related to cyberbullying. (BUS § 22589.1(b).)
  - 4) Requires a large social media platform to create a process by which a verified reporter can make a report of a social media-related threat or a violation of the large social media platform's terms of service that in the verified reporter's opinion poses a risk or a severe risk to the health and safety of a minor. (BUS § 22588.3(c).)

This bill:

- 1) Requires an online cannabis marketplace to address in its terms of service both of the following:
  - a) Whether the online cannabis marketplace permits advertisements from, or business information about, unlicensed sellers of cannabis or cannabis products (collectively "cannabis") to be viewed by Californians on its marketplace.
  - b) Whether the online cannabis marketplace verifies that a seller of cannabis is licensed by the Department of Cannabis Control, as provided.
- 2) Defines the relevant terms.
- 3) Requires specified reporting mechanisms.
- 4) Authorizes a party to bring a civil action for violations.

- 5) Establishes an identical requirement regarding establishing a reporting mechanism for online hemp marketplaces with an identical enforcement scheme.
- 6) Provides that, if an online cannabis marketplace does not verify a seller is licensed, it must interpose a specified graphic with a warning immediately after a consumer has accessed the marketplace that a consumer must acknowledge and click through. Every person has standing to bring an action for violations of this provision with prevailing plaintiffs entitled to a civil penalty of \$250,000 and attorneys' fees and costs. If a marketplace violates an injunction requiring compliance herewith, the marketplace is suspended from doing business until a court-appointed receiver affirms the marketplace is in compliance. Actions to enforce such injunctions entitle the prevailing plaintiff to doubled attorneys' fees and costs and a civil penalty of \$500,000.
- 7) Prohibits an online cannabis or hemp marketplace from engaging in unlawful paid online advertising related to unlicensed sellers of cannabis or cannabis products, intoxicating hemp products, or unregistered hemp products.
- 8) Provides that an online marketplace that violates the prohibition on unlawful paid online advertising and is a substantial factor in an unlawful transaction between a consumer and an unlicensed seller of cannabis or intoxicating hemp or unregistered hemp product shall be jointly and severally liable for damages caused to the consumer by the product to the same extent as a retailer would be liable for selling a defective product in the retailer's physical store, regardless of whether the online marketplace ever took physical possession of, or title to, the product.
- 9) Authorizes two times the damages in the above action if the marketplace had actual knowledge that the product was unlicensed cannabis or intoxicating or unregistered hemp. Damages are trebled if the victim is a minor.
- 10) Clarifies that the duties, remedies, and obligations imposed above are cumulative to those imposed under other laws.
- 11) Includes a severability clause.

## **Background**

The proliferation of illicit marijuana and intoxicating hemp markets poses significant challenges to legitimate cannabis businesses and society at large. A

study published in 2023 found that approximately 13% of social media posts advertise illicit drugs, highlighting the extensive use of online platforms for illegal drug promotion.<sup>1</sup> This online presence not only undermines legal cannabis enterprises by diverting potential customers but also exposes consumers to unregulated products with potential health risks. Furthermore, the ease of accessing illegal substances through social media platforms has been linked to increased drug use among adolescents, as these platforms provide a convenient avenue for drug dealers to reach a younger audience. The growing role of online platforms in facilitating illegal sales necessitates enhanced regulation and monitoring to protect public health and support the legal cannabis industry.

This bill takes a bold approach by requiring online marketplaces, online platforms where illegal cannabis and intoxicating hemp sales take place, to establish and maintain reporting mechanisms for individuals to report advertisements for illicit cannabis and hemp products. This bill also requires certain disclosures about whether the platforms verify the license of cannabis sellers and, if not, require a clear and conspicuous graphic to be interposed for a consumer to acknowledge and click through. These are enforced through civil actions. This bill explicitly prohibits engaging in “unlawful paid online advertising,” broadly defined and holds online platforms liable for damages, as provided.

This bill is sponsored by the United Food and Commercial Workers Western States Council. It is supported by various organizations, including the California School Employees Association, the San Diego Regional Chamber of Commerce, and Children Now. This bill is opposed by various industry associations, including Technet and the Computer and Communications Industry Association.

For a more thorough discussion of this bill, please see the Senate Judiciary Committee analysis.

## **Comments**

According to the author:

California’s legal cannabis industry has struggled in the face of a growing illicit market for so-called “hemp” products that doesn’t provide any health or safety protections for consumers, or even prevent minors from purchasing dangerous intoxicating products. Consumers are finding products advertised as hemp on Amazon and

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<sup>1</sup> Mattha Busby, *Drug Dealers Have Moved on to Social Media* (December 17, 2024) Wired, <https://www.wired.com/story/drug-dealers-have-moved-onto-social-media/> [as of May 23, 2025].

other digital platforms, but studies show that these products contain alarming amounts of synthetic intoxicants, undermining both California's legal cannabis market and public health and safety. SB 378 provides enhanced consumer protections by holding online marketplaces strictly liable for damages, and includes reporting requirements for users to flag and report illicit product. I have long supported cannabis legalization and safe access to it, including authoring laws to expand access to medical cannabis and reduce taxes on legal cannabis. By tackling illicit hemp products, we can support legal cannabis businesses and improve California's legal market while protecting minors and consumers from potentially dangerous unregulated substances.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

Unknown, potentially significant cost to the state funded trial court system (Trial Court Trust Fund, General Fund) associated with the substantial court remedies created by this bill.

According to the Assembly Appropriations Committee:

Cost pressures of an unknown but potentially significant amount, possibly in the tens of thousands to hundreds of thousands of dollars annually, to the courts to adjudicate civil actions authorized by this bill. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The fiscal year 2025-26 state budget provides \$82 million ongoing General Fund to the Trial Court Trust Fund for court operations. (Trial Court Trust Fund, General Fund)

The Department of Cannabis Control and the Department of Justice do not anticipate significant costs.

**SUPPORT:** (Verified 9/12/25)

United Food and Commercial Workers Western States Council (source)  
California Cannabis Operators Association  
California Children's Hospital Association

California Federation of Labor Unions, AFL-CIO  
California Medical Association  
California NORML  
California School Employees Association  
California State Association of Counties  
California State Council of Service Employees International Union (SEIU  
California)  
California Teamsters Public Affairs Council  
Children Now  
County Health Executives Association of California  
Getting It Right From the Start  
League of California Cities  
Rural County Representatives of California  
San Diego Regional Chamber of Commerce  
San Mateo County Board of Supervisors  
Youth Forward

**OPPOSITION:** (Verified 9/12/25)

California African American Chamber of Commerce  
Computer & Communications Industry Association  
Technet  
U.S. Hemp Roundtable

**ARGUMENTS IN SUPPORT:** UFCW writes:

Bold action is required. California simply cannot countenance Internet companies engaging in and profiting from brazen and open lawbreaking, especially when, as here, the lawbreaking contributes to violent crime, child endangerment, environmental catastrophes, and the destruction of a lawful business sector, employing thousands of Californians.

**ARGUMENTS IN OPPOSITION:** A coalition of industry associations, including the California African American Chamber of Commerce, argues:

SB 378 has an extremely broad definition of “online cannabis marketplace” and “online hemp marketplace.” These definitions include an internet website, online service, online application, or mobile application, or social medial platforms that create any connection between the seller of cannabis, cannabis products, or hemp products consumers.

This is a highly broad definition that reflects an unprecedented expansion of strict liability. For example, an internet service that simply displays a link, a mapping service that allows users to place pins, social media platforms that host content from users, or search engines providing information based on a user inputted query would be impacted and risk liability under this bill even when they had no direct role in the sale, processing of payments, or had a commercial agreement with the seller. Their liability would stem from this definition where they are deemed to have created a connection between the consumer and seller. [Click here to enter text.](#)

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113  
9/12/25 20:56:44

\*\*\*\* END \*\*\*\*