

HB3943



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3943

Introduced 2/17/2023, by Rep. Jenn Ladisch Douglass

SYNOPSIS AS INTRODUCED:

New Act

Creates the Social Media Content Moderation Act. Provides that a social media company shall post terms of service for each social media platform owned or operated by the company in a manner reasonably designed to inform all users of the social media platform of the existence and contents of the terms of service. Provides that on a semiannual basis, a social media company shall submit to the Attorney General a terms of service report including specified information. Provides that a social media company that violates the provisions of the Act shall be liable for a civil penalty not to exceed \$15,000 per violation per day. Effective immediately.

LRB103 30233 SPS 56661 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Social
5 Media Content Moderation Act.

6 Section 5. Definitions.

7 "Actioned" means a social media company, due to a
8 suspected or confirmed violation of the terms of service, has
9 taken some form of action, including, but not limited to,
10 removal, demonetization, deprioritization, or banning, against
11 the relevant user or relevant item of content.

12 "Content" means statements or comments made by users and
13 media that are created, posted, shared, or otherwise
14 interacted with by users on an Internet-based service or
15 application. "Content" does not include media put on a service
16 or application exclusively for the purpose of cloud storage,
17 transmitting files, or file collaboration.

18 "Public or semi-public Internet-based service or
19 application" does not include a service or application used to
20 facilitate communication within a business or enterprise among
21 employees or affiliates of the business or enterprise, as long
22 as access to the service or application is restricted to
23 employees or affiliates of the business or enterprise using

1 the service or application.

2 "Social media company" means a person or entity that owns
3 or operates one or more social media platforms.

4 "Social media platform" means a public or semi-public
5 Internet-based service or application that has users in this
6 State and that meets the following criteria:

7 (1) a substantial function of the service or
8 application is to connect users in order to allow users to
9 interact socially with each other within the service or
10 application; and

11 (2) the service or application allows users to do all
12 of the following:

13 (A) construct a public or semi-public profile for
14 purposes of signing into and using the service or
15 application;

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

19 (C) create or post content viewable by other
20 users, including, but not limited to, on message
21 boards, in chat rooms, or through a landing page or
22 main feed that presents the user with content
23 generated by other users.

24 "Terms of service" means a policy or set of policies
25 adopted by a social media company that specifies the user
26 behavior and activities that are permitted on the

1 Internet-based service owned or operated by the social media
2 company and the user behavior and activities that may subject
3 the user or an item of content to being actioned.

4 Section 10. Terms of service requirements.

5 (a) A social media company shall post terms of service for
6 each social media platform owned or operated by the company in
7 a manner reasonably designed to inform all users of the social
8 media platform of the existence and contents of the terms of
9 service.

10 (b) The terms of service posted required by subsection (a)
11 shall include all of the following:

12 (1) contact information for the purpose of allowing
13 users to ask the social media company questions about the
14 terms of service;

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

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

23 Section 15. Report to the Attorney General.

24 (a) On a semiannual basis in accordance with subsection

1 (b), a social media company shall submit to the Attorney
2 General a terms of service report. The terms of service report
3 shall include, for each social media platform owned or
4 operated by the company, all of the following:

5 (1) the current version of the terms of service of the
6 social media platform;

7 (2) if a social media company has filed its first
8 report, a complete and detailed description of any changes
9 to the terms of service since the previous report;

10 (3) a statement of whether the current version of the
11 terms of service defines each of the following categories
12 of content, and, if so, the definitions of those
13 categories, including any subcategories;

14 (A) hate speech or racism;

15 (B) extremism or radicalization;

16 (C) disinformation or misinformation;

17 (D) harassment; and

18 (E) foreign political interference;

19 (4) a detailed description of content moderation
20 practices used by the social media company for that
21 platform, including, but not limited to, all of the
22 following:

23 (A) any existing policies intended to address the
24 categories of content described in paragraph (3);

25 (B) how automated content moderation systems
26 enforce terms of service of the social media platform

1 and when these systems involve human review;

2 (C) how the social media company responds to user
3 reports of violations of the terms of service;

4 (D) how the social media company would remove
5 individual pieces of content, users, or groups that
6 violate the terms of service, or take broader action
7 against individual users or against groups of users
8 that violate the terms of service; and

9 (E) the languages in which the social media
10 platform does not make terms of service available, but
11 does offer product features, including, but not
12 limited to, menus and prompts;

13 (5) information on content that was flagged by the
14 social media company as content belonging to any of the
15 categories described in paragraph (3), including all of
16 the following:

17 (A) the total number of flagged items of content;

18 (B) the total number of actioned items of content;

19 (C) the total number of actioned items of content
20 that resulted in action taken by the social media
21 company against the user or group of users responsible
22 for the content;

23 (D) the total number of actioned items of content
24 that were removed, demonetized, or deprioritized by
25 the social media company;

26 (E) the number of times actioned items of content

1 were viewed by users;

2 (F) the number of times actioned items of content
3 were shared, and the number of users that viewed the
4 content before it was actioned; and

5 (G) the number of times users appealed social
6 media company actions taken on that platform and the
7 number of reversals of social media company actions on
8 appeal disaggregated by each type of action; and

9 (6) the information required by paragraph (5)
10 disaggregated into the following categories:

11 (A) the category of content, including any
12 relevant categories described in paragraph (3);

13 (B) the type of content, including, but not
14 limited to, posts, comments, messages, profiles of
15 users, or groups of users;

16 (C) the type of media of the content, including,
17 but not limited to, text, images, and videos;

18 (D) how the content was flagged, including, but
19 not limited to, by company employees or contractors,
20 by artificial intelligence software, by community
21 moderators, by civil society partners, and by users;
22 and

23 (E) how the content was actioned, including, but
24 not limited to, by company employees or contractors,
25 by artificial intelligence software, by community
26 moderators, by civil society partners, and by users.

1 (b) A social media company shall electronically submit a
2 semiannual terms of service report required by subsection (a),
3 covering activity within the third and fourth quarters of the
4 preceding calendar year, to the Attorney General no later than
5 April 1 of each year, and shall electronically submit a
6 semiannual terms of service report required by subsection (a),
7 covering activity within the first and second quarters of the
8 current calendar year, to the Attorney General no later than
9 October 1 of each year.

10 (c) Notwithstanding subsection (b), a social media company
11 shall electronically submit its first terms of service report
12 as required by subsection (a), covering activity within the
13 third quarter of 2023, to the Attorney General no later than
14 January 1, 2024, and shall electronically submit its second
15 terms of service report as required by subsection (a),
16 covering activity within the fourth quarter of 2023, to the
17 Attorney General no later than April 1, 2024. A social media
18 platform shall submit its third report no later than October
19 1, 2024, in accordance with subsection (b).

20 (d) The Attorney General shall make all terms of service
21 reports submitted under this Section available to the public
22 in a searchable repository on its official Internet website.

23 Section 20. Violations; civil penalties.

24 (a) A social media company that violates the provisions of
25 this Act shall be liable for a civil penalty not to exceed

1 \$15,000 per violation per day, and may be enjoined in any court
2 of competent jurisdiction.

3 (b) A social media company shall be considered in
4 violation of the provisions of this Act for each day the social
5 media company does any of the following:

6 (1) fails to post terms of service in accordance with
7 Section 10;

8 (2) fails to timely submit to the Attorney General a
9 report described in Section 15; or

10 (3) materially omits or misrepresents required
11 information in a report submitted as described in Section
12 15.

13 (c) In assessing the amount of a civil penalty as
14 described in subsection (a), the court shall consider whether
15 the social media company has made a reasonable, good faith
16 attempt to comply with the provisions of this Act.

17 (d) Actions for relief under this Act shall be prosecuted
18 exclusively in a court of competent jurisdiction by the
19 Attorney General or by a city attorney of a city having a
20 population greater than 750,000.

21 (e) If an action under this Section is brought by the
22 Attorney General, 50% of the penalty collected shall be paid
23 to the treasurer of the county in which the judgment was
24 entered, and 50% of the penalty collected shall be deposited
25 in the General Revenue Fund. If the action is brought by a city
26 attorney, 50% of the penalty collected shall be paid to the

1 treasurer of the city in which the judgment was entered, and
2 50% to the treasurer of the county in which the judgment was
3 entered.

4 Section 25. Relation to other laws.

5 (a) The duties and obligations imposed by this Act are
6 cumulative to any other duties or obligations imposed under
7 local, State, or federal law and shall not be construed to
8 relieve any party from any duties or obligations imposed under
9 law.

10 (b) The remedies or penalties provided by this Act are
11 cumulative to each other and to any other remedies or
12 penalties available under local, State, or federal law.

13 Section 30. Exceptions.

14 (a) This Act shall not apply to a social media company that
15 generated less than \$100,000,000 in gross revenue during the
16 preceding calendar year.

17 (b) This Act shall not be construed to apply to an
18 Internet-based service or application for which interactions
19 between users are limited to direct messages, commercial
20 transactions, consumer reviews of products, sellers, services,
21 events, or places.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.