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AB-1628 Social media platforms: electronic content management: controlled substances. (2021-2022)

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Assembly Bill No. 1628

CHAPTER 432

An act to add and repeal Chapter 31.5 (commencing with Section 22945) of Division 8 of the Business and Professions Code, relating to social media platforms.

[Approved by Governor September 19, 2022. Filed with Secretary of State September 19, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1628, Ramos. Social media platforms: electronic content management: controlled substances.

Existing law requires an operator of a commercial internet website or online service that collects personally identifiable information through the internet about individual consumers residing in California who use or visit its commercial internet website or online service to conspicuously post its privacy policy on its internet website. Existing law also limits advertising by an operator of an internet website, online service, online application, or mobile application directed to minors.

This bill would, until January 1, 2028, and subject to specified exceptions, require a social media platform, as defined, that operates in the state to create and publicly post a policy statement that includes, among other things, the social media platform's policy on the use of the social media platform to illegally distribute a controlled substance, as defined, and a link to the social media platform's reporting mechanism for illegal or harmful content or behavior if one exists. The bill would require a person or entity operating the social media platform to update the policy statement as necessary and consider consulting with specified entities to assist in developing and supporting the policy statement.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Chapter 31.5 (commencing with Section 22945) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 31.5. Drug Safety Policies on Social Media Platforms

22945. (a) For purposes of this chapter, the following definitions apply:

(1) (A) "Content" means statements or comments made by users and media that are created, posted, shared, or otherwise interacted with by users on an internet-based service or application.

(B) "Content" does not include media put on a service or application exclusively for the purpose of cloud storage, transmitting files, or file collaboration.

(2) "Controlled substance" has the same meaning as that term is defined in Section 11007 of the Health and Safety Code.

(3) "Social media platform" means a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:

(A) (i) 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.

(ii) 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.

(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.

(4) "Public or semipublic internet-based service or application" excludes a service or application used to facilitate communication within a business or enterprise among employees or affiliates of the business or enterprise, provided that access to the service or application is restricted to employees or affiliates of the business or enterprise using the service or application.

(b) A social media platform that operates in the state shall create, and publicly post on the social media platform's internet website, a policy statement that includes all of the following:

(1) The social media platform's policy on the use of the social media platform to illegally distribute a controlled substance.

(2) A general description of the social media platform's moderation practices that are employed to prevent users from posting or sharing electronic content pertaining to the illegal distribution of a controlled substance. The description shall not include any information that the social media platform believes might compromise operational efforts to identify prohibited content or user activity, or otherwise endanger user safety.

(3) A link to mental health and drug education resources provided by governmental public health authorities.

(4) A link to the social media platform's reporting mechanism for illegal or harmful content or behavior on the social media platform, if one exists.

(5) A general description of the social media platform's policies and procedures for responding to law enforcement inquiries, including warrants, subpoenas, and other court orders compelling the production of or access to electronic communication information, as defined in Section 1546 of the Penal Code.

(c) The disclosures required by this section may be posted separately or incorporated within another document or post, including, but not limited to, the terms of service or the community guidelines.

(d) A person or entity operating a social media platform in the state shall do both of the following:

(1) Update the policy statement created pursuant to subdivision (b) as necessary.

(2) Consider consulting with nonprofits, safety advocates, and survivors to assist in developing and supporting the policy statement created pursuant to subdivision (b).

(e) This chapter shall not apply to a business that generated less than one hundred million dollars (\$100,000,000) in gross revenue during the preceding calendar year.

(f) This chapter shall remain in effect only until January 1, 2028, and as of that date is repealed.