

Introduced by Senator Stern

February 21, 2025

~~An act to amend Section 48901.8 of the Education Code, relating to pupils.~~ *An act to add Title 23 (commencing with Section 3273.72) to Part 4 of Division 3 of the Civil Code, relating to social media platforms.*

LEGISLATIVE COUNSEL'S DIGEST

SB 771, as amended, Stern. ~~Pupils: use of social media. Personal rights: liability: social media platforms.~~

Existing law generally regulates social media platforms, including by requiring a social media company to 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, as prescribed.

Existing law generally prohibits a person from using violence or intimidation to interfere with another person's enjoyment of certain rights or because of certain attributes of that person, including the person's political affiliation, race, or sexual orientation, and punishes violations of that law with certain civil penalties or as misdemeanors, as prescribed.

This bill would make a social media platform, as defined, that violates the above-referenced provisions of law relating to personal rights, including through its algorithms that relay content to users, or aids, abets, acts in concert, or conspires in violation of those laws, or is a joint tortfeasor in an action alleging a violation of those laws, liable for specified civil penalties. The bill would also make findings and declarations related to its provisions.

~~Existing law authorizes the governing board of a school district, a county board of education, or the governing body of a charter school to adopt a policy to limit or prohibit the use by its pupils of social media, as defined, while the pupils are at a schoolsite or while the pupils are under the supervision and control of an employee or employees of that school district, county office of education, or charter school, as provided.~~

~~This bill would require, instead of authorize, the adoption of a policy to limit or prohibit the use by its pupils of social media, as provided. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

1 SECTION 1. Title 23 (commencing with Section 3273.72) is
2 added to Part 4 of Division 3 of the Civil Code, to read:

3
4 TITLE 23. SOCIAL MEDIA PLATFORMS ENDANGERING
5 CALIFORNIANS

6
7 3273.72. The Legislature finds and declares all of the
8 following:

9 (a) In California, corporations, like natural people, do not have
10 a right to participate, through aiding, abetting, or conspiring, in
11 hate crimes directed at vulnerable California populations, which
12 is made unlawful by Section 422.6 of the Penal Code, to intimidate
13 or terrorize Californians because of their sex, race, color, religion,
14 ancestry, national origin, disability, medical condition, genetic
15 information, marital status, sexual orientation, citizenship, primary
16 language, or immigration status, which is made unlawful by
17 Sections 51.7 and 51.9 of the Civil Code, or to interfere with the

1 ability of those Californians to exercise their constitutional rights,
2 which is made unlawful by Sections 52 and 52.1 of the Civil Code.

3 (b) (1) Social media platforms’ failure to moderate content is
4 a matter of life and death for minorities historically subject to
5 discrimination.

6 (2) According to a December 2024 report by the County of Los
7 Angeles Commission on Human Relations, “[h]ate crimes in which
8 anti-immigrant slurs were used climbed 31% [...] the largest
9 number ever recorded since we began tracking this phenomenon
10 in 2007.”

11 (3) According to American University, when it comes to being
12 bullied on social media, “[a]mong the most victimized are people
13 in the LGBTQ (lesbian, gay, bisexual, transgender,
14 queer/questioning) community, especially teens and young adults.”
15 Anti-LGBTQ+ misinformation and inflammatory accusations of
16 “grooming” have recently surged by over 400 percent across
17 social media platforms, according to a recent report released by
18 the Human Rights Campaign and the Center for Countering Digital
19 Hate.

20 (4) Antisemitic incidents are spiking dramatically and are at
21 all-time highs, according to the Anti-Defamation League (ADL).
22 More than 10,000 antisemitic incidents occurred between October
23 7, 2023, and September 2024, which is up from 3,325 incidents
24 during the prior year. That marks the most incidents recorded in
25 a 12-month period by the organization since it began tracking
26 threats in 1979.

27 (c) (1) Likewise, social media platforms have a documented
28 record of accepting money from advertisements that plainly and
29 violently threaten women and that clearly violate their own terms
30 of service. In one 2023 study, a nonprofit placed advertisements
31 that “referred to women as prostitutes, psychopaths, or vermin,
32 and called for them to be beaten and killed.” Researchers recently
33 said they detected a four-fold increase in the level of misogynistic
34 content suggested by TikTok over a five-day period of monitoring
35 as the algorithm served more extreme videos often focused on
36 anger and blame directed at women.

37 (2) Relatedly, as illustrated in such cases as *Sindell v. Abbott*
38 *Laboratories* (1980) 26 Cal.3d 588, 604, California has adopted
39 *Prosser and Keaton on The Law of Torts* (4th ed. 1971) Section
40 46, p. 292, which states that “those who, in pursuance of a common

1 *plan or design to commit a tortious act, actively take part in it, or*
2 *further it by cooperation or request, or who lend aid or*
3 *encouragement to the wrongdoer, or ratify and adopt his acts done*
4 *for their benefit, are equally liable with him.” This principle of*
5 *liability is reflected in Section 876 of the Restatement Second of*
6 *Torts.*

7 *(d) Moreover, as illustrated by such cases as Summers v. Tice*
8 *(1948) 33 Cal.2d 80, it has long been the law in California that*
9 *“if a party cannot identify which of two or more defendants caused*
10 *an injury, the burden of proof may shift to the defendants to show*
11 *that they were not responsible for the harm.” (Sindell v. Abbott*
12 *Laboratories (1980) 26 Cal.3d 588, 598).*

13 *(e) For all of these reasons, the Legislature declares it necessary*
14 *in order to preserve the peace, welfare, and lives of its residents*
15 *to clarify the applicability of current laws against hate crime,*
16 *terrorism, and intimidation to social media platforms.*

17 3273.73. *As used in this title, “social media platform” means*
18 *a social media platform, as defined in Section 22675 of the*
19 *Business and Professions Code, that generates more than one*
20 *hundred million dollars (\$100,000,000) per year in gross revenues.*

21 3273.74. *(a) A social media platform that violates Section 31*
22 *or 422.6 of the Penal Code or Section 51.7, 51.9, 52, or 52.1 of*
23 *the Civil Code, including through its algorithms that relay content*
24 *to users, or aids, abets, acts in concert, or conspires in a violation*
25 *of any of those sections, or is a joint tortfeasor in an action alleging*
26 *a violation of any of those sections, shall, in addition to any other*
27 *remedy, in an action brought pursuant to this section be liable for*
28 *a civil penalty for each violation sufficient to deter future*
29 *violations, but not to exceed the following:*

30 *(1) For an intentional violation, an amount equal to three*
31 *months of the gross revenue of the social media platform preceding*
32 *the judgment.*

33 *(2) For a knowing or willful violation, an amount equal to two*
34 *months of the gross revenue of the platform preceding the*
35 *judgment.*

36 *(3) For a reckless violation, an amount equal to one month of*
37 *the gross revenue of the platform preceding the judgment.*

38 *(4) If the evidence demonstrates that the platform knew, or*
39 *should have known, that the plaintiff was a minor, the court may*
40 *award up to twice the penalties described in this subdivision.*

1 (b) (1) For purposes of this section, deploying an artificial
2 intelligence or algorithm that relays content to users may be
3 considered to be an act of the platform independent from the
4 message of the content relayed.

5 (2) A platform shall be deemed to have actual knowledge of the
6 operations of its own artificial intelligence and algorithms,
7 including how and under what circumstances its artificial
8 intelligence and algorithms deliver content to some users but not
9 to others.

10 SEC. 2. (a) The provisions of this act are severable. If any
11 provision of this act or its application is held invalid, that invalidity
12 shall not affect other provisions or applications that can be given
13 effect without the invalid provision or application.

14 (b) Any waiver of this act shall be void and unenforceable as
15 contrary to public policy.

16 SECTION 1. ~~Section 48901.8 of the Education Code is~~
17 ~~amended to read:~~

18 ~~48901.8. (a) (1) The governing board of a school district, a~~
19 ~~county board of education, or the governing body of a charter~~
20 ~~school shall adopt a policy to limit or prohibit the use by its pupils~~
21 ~~of social media while the pupils are at a schoolsite or while the~~
22 ~~pupils are under the supervision and control of an employee or~~
23 ~~employees of that school district, county office of education, or~~
24 ~~charter school.~~

25 ~~(2) This section does not authorize monitoring, collecting, or~~
26 ~~otherwise accessing any information related to a pupil’s online~~
27 ~~activities.~~

28 ~~(b) For purposes of this section, “social media” means a “social~~
29 ~~media platform” as that term is defined in Section 22675 of the~~
30 ~~Business and Professions Code.~~

31 ~~SEC. 2. If the Commission on State Mandates determines that~~
32 ~~this act contains costs mandated by the state, reimbursement to~~
33 ~~local agencies and school districts for those costs shall be made~~
34 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
35 ~~4 of Title 2 of the Government Code.~~