

# 2025 Lobby Days

## Talking Points for Senate Bill 771

**Social Media Platforms Endangering Californians**  
**Author: Senator Henry Stern**

**(AAUW California Sponsored)**

- AAUW of California is a cosponsor of SB 771 by Senator Stern.
- It clarifies that a social media platform may be liable for civil penalty under existing law if and when its algorithms or AI aid or abet individual users who are engaging in **already unlawful** intimidation of others in online spaces.
- According to a 2024 report by the Government Accountability Office (GAO), a substantial number of internet users have experienced online hate in the recent past.<sup>1</sup>
- While hateful speech is problematic, it is not illegal. However, it can cross the line into illegal action.
- For instance, research has shown that the proliferation of online hate has real-world consequences: as individuals are radicalized online and as hate speech proliferates, hate crimes in the real world increase as well. UCLA's Organization for Social Media Safety (SMASH) indicates that a great deal of the hate speech encountered, especially by young people, is hate speech that targets race/ethnicity and gender/sexual orientation.<sup>2</sup> Unsurprisingly, FBI reporting on hate crimes mirrors SMASH's findings.<sup>3</sup>
- Hateful speech is illegal when it threatens others. For example, when hate speech is "brought to the doorstep" of marginalized communities, it is no longer protected speech, but unlawful intimidation, terrorism, and threat.<sup>4</sup> This means that you can post flyers with anti-immigrant messages on your own physical door or electronic Facebook wall; however, when you maliciously post those same flyers on the physical doors of immigrant families, or on their virtual Facebook walls, you are now engaging in intimidating and threatening behavior—which is unlawful.

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<sup>1</sup> <https://www.gao.gov/blog/online-extremism-growing-problem-whats-being-done-about-it>

<sup>2</sup> <https://studyofhate.ucla.edu/2024/12/20/smash-social-media-hate/>

<sup>3</sup> <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime>

<sup>4</sup> [https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2017/12/Ralph-Fact-Sheet\\_ENG.pdf](https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2017/12/Ralph-Fact-Sheet_ENG.pdf)

- While social media platforms are not responsible for the speech of individual users, aspects of social media platforms, such as algorithms or AI, they *can be* complicit in not only the intensification of hateful beliefs<sup>5</sup> but also their proliferation across a given platform. This includes being complicit in the targeting of marginalized groups with hate, which is unlawful.<sup>6</sup>
- In January of this year, Meta dramatically altered its practices on Facebook and Instagram that had previously sought to mitigate the impacts of hateful content and protect historically targeted groups.
- Meta has not announced any effort to prevent its AI from acting in tandem with individuals' efforts to credibly threaten or intimidate targeted groups through the platform, efficiently making sure those targeted are receiving messages on their electronic doorstep by being barraged by such threats and intimidation.
- Meta must not be excused from culpability based upon their status as a platform reliant on AI for the delivery of unlawful communications to targeted groups.
- These companies have not “failed” to provide safeguards, they ***have intentionally turned away from providing safeguards they previously provided*** for targeted vulnerable communities and should be held accountable for that decision, particularly in light of the real-world impacts of the proliferation of online hate and their complicity in unlawful intimidation.

**We ask for your “Yes” vote on SB 771.**

**In response to questions about First Amendment rights:**

SB 771 clarifies that a platform might incur liability pursuant to existing law via AI-driven content delivery; an act that may not, depending on the AI-related facts, enjoy First Amendment protection. It is based on existing statutory language and standing court decisions.

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<sup>5</sup> <https://journals.sagepub.com/doi/10.1177/08944393231225547>

<sup>6</sup> [https://www.supremecourt.gov/opinions/23pdf/22-277\\_d18f.pdf](https://www.supremecourt.gov/opinions/23pdf/22-277_d18f.pdf)