

AMENDED IN ASSEMBLY JUNE 10, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 568

Introduced by Senator Steinberg

February 22, 2013

An act to add Chapter 22.1 (commencing with Section 22580) to Division 8 of the Business and Professions Code, relating to the Internet.

LEGISLATIVE COUNSEL'S DIGEST

SB 568, as amended, Steinberg. Privacy: Internet: minors.

Existing law requires an operator of a commercial Web site or online service that collects personally identifiable information through the Internet about individual consumers residing in California who use or visit its commercial Web site or online service to make its privacy policy available to consumers, as specified.

Existing federal law requires an operator of an Internet Web site or online service directed to a child, as defined, or an operator of an Internet Web site or online service that has actual knowledge that it is collecting personal information from a child to provide notice of what information is being collected and how that information is being used, and to give the parents of the child the opportunity to refuse to permit the operator's further collection of information from the child.

This bill would, *on and after January 1, 2015*, prohibit an operator of an Internet Web site, online service, online application, or mobile application, as specified, from marketing or advertising a product or service to a minor, as defined, ~~if the minor cannot legally purchase the product or participate in the service in the State of California~~ *state or federal law expressly prohibits a minor from purchasing the product or service*. The bill would prohibit an operator from using, disclosing,

or compiling, or allowing a 3rd party to knowingly use, disclose, or compile, the personal information of a minor for the purpose of ~~marketing goods or services that minors cannot legally purchase or engage in the State of California.~~ *marketing or advertising products or services if state or federal law expressly prohibits a minor from purchasing the product or service. The bill would also make this prohibition applicable to an advertising service that is notified by an operator of an Internet Web site, online service, online application, or mobile application that the site, service, or application is directed to a minor.*

The bill would, on and after January 1, 2015, require the operator of an Internet Web site, online service, online application, or mobile application to permit a minor, *who is a registered user of the operator’s Internet Web site, online service, online application, or mobile application,* to remove, *or to request and obtain removal of,* content or information ~~submitted to or~~ *publicly* posted on the operator’s Internet Web site, service, or application by the minor, unless the content or information was ~~submitted or~~ *publicly* posted by a 3rd party ~~or,~~ any other provision of state or federal law requires the operator or 3rd party to maintain the content or information, ~~and~~ *or the operator anonymizes the content or information.* The bill would require the operator to provide notice to a minor that the minor may remove the content or information, as specified.

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

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

- 1 SECTION 1. Chapter 22.1 (commencing with Section 22580)
- 2 is added to Division 8 of the Business and Professions Code, to
- 3 read:
- 4
- 5 CHAPTER 22.1. PRIVACY RIGHTS FOR CALIFORNIA MINORS IN
- 6 THE DIGITAL WORLD
- 7
- 8 22580. (a) An operator of an Internet Web site, online service,
- 9 online application, or mobile application directed to minors or the
- 10 operator of an Internet Web site, online service, online application,
- 11 or mobile application that has actual knowledge that a minor is

1 using its Internet Web site, online service, online application, or
2 mobile application shall not do any of the following:

3 (1) Market or advertise a product or service *on the Internet Web*
4 *site, online service, online application, or mobile application*
5 *directed to minors, or to a minor, if the minor cannot legally*
6 ~~*purchase the product or participate in the service in the State of*~~
7 ~~*California.*~~ *minor who the operator has actual knowledge is using*
8 *its Internet Web site, online service, online application, or mobile*
9 *application if state or federal law expressly prohibits a minor from*
10 *purchasing the product or service.*

11 (2) Use, disclose, ~~or compile, or knowingly~~ allow a third party
12 to use, disclose, or compile, the personal information of a minor
13 for the purpose of marketing ~~goods or services that minors cannot~~
14 ~~legally purchase or engage in in the State of California.~~ *or*
15 *advertising products or services if state or federal law expressly*
16 *prohibits a minor from purchasing the product or service.*

17 (b) “Minor” means a natural person under 18 years of age *who*
18 *resides in the state.*

19 (c) *This section shall not be construed to require an operator*
20 *of an Internet Web site, online service, online application, or*
21 *mobile application to collect or retain age information about users.*

22 (d) (1) *With respect to marketing or advertising provided by*
23 *an advertising service, the operator of an Internet Web site, online*
24 *service, online application, or mobile application directed to*
25 *minors shall be deemed to be in compliance with subdivision (a)*
26 *if the operator informs the advertising service that the site, service,*
27 *or application is directed to minors.*

28 (2) *If an advertising service is notified that an Internet Web site,*
29 *online service, online application, or mobile application is directed*
30 *to minors pursuant to paragraph (1), the advertising service shall*
31 *not market or advertise a product or service on the operator’s*
32 *Internet Web site, online service, online application, or mobile*
33 *application that state or federal law expressly prohibits a minor*
34 *from purchasing.*

35 22581. (a) An operator of an Internet Web site, online service,
36 online application, or mobile application *directed to minors or an*
37 *operator of an Internet Web site, online service, online application,*
38 *or mobile application that has actual knowledge that a minor is*
39 *using its Internet Web site, online service, online application, or*
40 *mobile application shall do all of the following:*

1 (1) Permit a minor who is a *registered* user of the operator's
2 Internet Web site, *online* service, *online application*, or *mobile*
3 application to remove, *or to request and obtain removal of*, content
4 or information ~~submitted to or~~ *publicly* posted on the operator's
5 ~~website~~ *Internet Web site, online service, online application, or*
6 *mobile application* by the user.

7 (2) Provide notice to a minor who is ~~the~~ *a registered* user of the
8 operator's Internet Web site, *online* service, *online application*, or
9 *mobile* application that the minor may remove, *or request and*
10 *obtain removal of*, content or information ~~submitted to or~~ *publicly*
11 posted on the operator's ~~website~~, *Internet Web site, online service,*
12 *online application, or mobile application* by the *registered* user.

13 (3) *Provide clear instructions to a minor who is a registered*
14 *user of the operator's Internet Web site, online service, online*
15 *application, or mobile application on how the user may request*
16 *and obtain the removal of content or information publicly posted*
17 *on the operator's Internet Web site, online service, online*
18 *application, or mobile application.*

19 ~~(3)~~

20 (4) Provide notice to a minor who is ~~the~~ *a registered* user of the
21 operator's Internet Web site, *online* service, *online application*, or
22 *mobile* application that the removal described under subdivision
23 (b) does not ensure complete or comprehensive removal of the
24 content or information ~~submitted to or~~ *publicly* posted on the
25 operator's Internet Web site, *online* service, *online application*, or
26 *mobile* application by the *registered* user.

27 (b) An operator or a third party is not required to erase or
28 otherwise eliminate, *or to enable erasure or elimination of*, content
29 or information in ~~either or~~ *any of* the following circumstances:

30 (1) Any other provision of federal or state law requires the
31 operator or third party to maintain the content or information.

32 (2) The content or information was ~~submitted~~ *publicly posted*
33 to the operator's Internet Web site, *online* service, *online*
34 *application, or mobile* application by a third party other than the
35 minor, *who is a registered* user, including any content or
36 information ~~submitted~~ *publicly posted* by the ~~minor~~ *registered*
37 user that was republished or ~~resubmitted~~ *reposted* by the third
38 party.

1 (3) *The operator anonymizes the content or information posted*
2 *by the minor who is a registered user, so that the minor who is a*
3 *registered user cannot be individually identified.*

4 (c) This section shall not be construed to limit the authority of
5 a law enforcement agency to obtain any content or information
6 from an operator as authorized by law or pursuant to an order of
7 a court of competent jurisdiction.

8 ~~(d) This section shall become operative on January 1, 2015.~~

9 (d) *An operator shall be deemed compliant with this section if:*

10 (1) *It renders the content or information posted by the minor*
11 *user no longer visible to other users of the service and the public*
12 *even if the content or information remains on the operator's servers*
13 *in some form.*

14 (2) *Despite making the original posting by the minor user*
15 *invisible, it remains visible because a third party has copied the*
16 *posting or reposted the content or information posted by the minor.*

17 (e) *This section shall not be construed to require an operator*
18 *or an Internet Web site, online service, online application, or*
19 *mobile application to collect age information about users.*

20 (f) *“Publicly posted” means content or information that can be*
21 *accessed by a user in addition to the minor who posted the content*
22 *or information, whether the user is a registered user or not, of the*
23 *Internet Web site, online service, online application, or mobile*
24 *application where the content or information is posted.*

25 22582. *This chapter shall become operative on January 1,*
26 *2015.*