

ASSEMBLY BILL

No. 836

Introduced by Assembly Member Essayli

February 14, 2023

An act to add Title 15.5 (commencing with Section 3200) to Part 4 of Division 3 of the Civil Code, relating to the internet.

LEGISLATIVE COUNSEL'S DIGEST

AB 836, as introduced, Essayli. Social media platform: traditional First Amendment forum.

Existing constitutional law establishes the right of freedom of speech. Existing case law interpreting those provisions applies varying levels of scrutiny to state action that restricts protected speech, based in part on the nature of the forum in which the speech occurs.

This bill would declare that, notwithstanding any law, a social media platform, as defined, shall be considered a traditional First Amendment forum for those purposes, as specified. The bill would require a social media platform located in California to develop a policy or mechanism to address content or communications that constitute unprotected speech, including obscenity, incitement of imminent lawless action, and true threats, or that purport to state factual information that is demonstrably false.

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. Title 15.5 (commencing with Section 3200) is
- 2 added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 15.5. SOCIAL MEDIA PLATFORMS

3200. (a) Notwithstanding any other law, a social media platform located in California shall be considered a traditional First Amendment forum, as set forth in *PruneYard Shopping Center v. Robbins* (1980) 447 U.S. 74.

(b) A social media platform located in California shall develop a policy or mechanism to address content or communications that constitute unprotected speech, including obscenity, incitement of imminent lawless action, and true threats, or that purport to state factual information that is demonstrably false.

(c) As used in this section:

(1) “Located in California” means, to the extent consistent with federal law, either the person operating the social media platform maintains a business in California, or the user of that platform is located in California.

(2) “Social media platform” means an electronic service held open to the general public to post electronic content or communication, including, but not limited to, videos, still photographs, or messages, intended to facilitate the sharing of information, ideas, personal messages, and other content. Social media platform does not include a platform operated by a local, state, or federal entity or agency of government.