

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0184.01 Jennifer Berman x3286

SENATE BILL 21-132

SENATE SPONSORSHIP

Donovan,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING A STUDY OF CONSUMER PROTECTION REGULATION OF**
102 **DIGITAL COMMUNICATIONS PLATFORMS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the digital communications division (division) and the digital communications commission (commission) within the department of regulatory agencies. On an annual basis and for a reasonable fee determined by the commission, the division shall register digital communications platforms, which are certain communications-oriented online businesses, such as social media

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
Amended 2nd Reading
March 26, 2021

platforms or media-sharing platforms, that conduct business in Colorado or own or operate services that are offered to Colorado residents. A digital communications platform that fails to register with the division commits a class 2 misdemeanor, punishable by a fine of up to \$5,000 for each day that the violation continues.

The division shall investigate and the commission may hold hearings on claims filed with the division alleging that a digital communications platform has allowed a person to engage in one or more unfair or discriminatory digital communications practices on the platform, which practices:

- Include practices that promote hate speech; undermine election integrity; disseminate intentional disinformation, conspiracy theories, or fake news; or authorize, encourage, or carry out violations of users' privacy; and
- May include business, political, or social practices that are conducted in a manner that a person aggrieved by the practices can demonstrate are unfair or discriminatory to the aggrieved person. Such practices, if done in an unfair or discriminatory manner, might include:
 - Practices that target users for purposes of collecting and disseminating users' personal data, including users' sensitive data;
 - Profiling users based on their personal data collected;
 - Selling or authorizing others to use users' personal data to provide location-based advertising or targeted advertising; or
 - Using facial recognition software and other tracking technology.

If a person who files a complaint with the division exhausts all administrative remedies and proceedings, the person may file a civil action in district court alleging an unfair or discriminatory digital communications practice.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. In Colorado Revised Statutes, 2-3-1704, add (13)**

3 as follows:

4 **2-3-1704. Powers and duties of the joint technology committee**

5 **- reporting - repeal. (13) (a) DURING THE 2021 LEGISLATIVE INTERIM,**

6 **THE COMMITTEE SHALL STUDY WHETHER AND HOW THE GENERAL**

1 ASSEMBLY COULD ADDRESS, THROUGH LEGISLATION, CONSUMER
2 PROTECTION CONCERNS RELATED TO DIGITAL COMMUNICATIONS
3 PLATFORMS THAT:

4 (I) DO BUSINESS IN COLORADO;

5 (II) FACILITATE COMMUNICATIONS BETWEEN USERS, ALLOW USERS
6 TO CREATE AND SHARE CONTENT, AND ARE EITHER SOCIAL MEDIA
7 PLATFORMS SUCH AS FACEBOOK AND TWITTER OR MEDIA-SHARING
8 PLATFORMS SUCH AS YOUTUBE; AND

9 (III) ARE NOT MARKETPLACE FACILITATORS, AS DEFINED IN
10 SECTION 39-26-102 (5.9), OR OTHER SERVICE-ORIENTED DIGITAL
11 COMMUNICATIONS PLATFORMS SUCH AS TRANSPORTATION NETWORK
12 COMPANIES, AS DEFINED IN SECTION 40-10.1-602 (3), OR SHORT-TERM
13 RENTAL PLATFORMS SUCH AS AIRBNB.

14 (b) IN CONDUCTING THE STUDY, THE COMMITTEE:

15 (I) SHALL CONSULT WITH, AND SEEK PRESENTATIONS FROM, THE
16 OFFICE OF INFORMATION TECHNOLOGY AND THE ATTORNEY GENERAL'S
17 OFFICE;

18 (II) MAY CONSULT WITH, AND SEEK PRESENTATIONS FROM, ANY
19 OTHER STATE AGENCIES AND ANY EXPERTS OR INTERESTED PERSONS ON
20 THE MATTER, INCLUDING AN EXPERT IN CONSTITUTIONAL FIRST
21 AMENDMENT LAW AND THE MEDIA;

22 (III) MAY CONSIDER A DIGITAL COMMUNICATIONS PLATFORM'S
23 EXISTING POLICIES AND PRACTICES REGARDING IF AND HOW THE
24 PLATFORM ADDRESSES ANY ISSUES ARISING FROM A USER'S USE OF THE
25 PLATFORM IF SUCH USE COULD BE VIEWED AS:

26 (A) PROMOTING VIOLENCE;

27 (B) UNDERMINING ELECTION INTEGRITY;

1 (C) DISSEMINATING INTENTIONAL DISINFORMATION; OR

2 (D) DIRECTLY ATTACKING PROTECTED GROUPS;

3 (IV) MAY CONSIDER WHETHER A DIGITAL COMMUNICATIONS
4 PLATFORM'S EXISTING POLICIES AND PRACTICES CHILL FREE SPEECH;

5 (V) MAY CONSIDER WHETHER AND HOW CONSUMER COMPLAINTS
6 ABOUT A DIGITAL COMMUNICATIONS PLATFORM'S POLICIES AND PRACTICES
7 COULD BE ADDRESSED BY THE STATE; AND

8 (VI) MAY CONSIDER DIGITAL COMMUNICATIONS PLATFORMS' USE
9 OF:

10 (A) FACIAL RECOGNITION SOFTWARE OR OTHER TRACKING
11 TECHNOLOGY;

12 (B) COLLECTION AND DISSEMINATION OF USERS' PERSONAL DATA
13 FOR LOCATION-BASED ADVERTISING AND OTHER MARKETING PURPOSES;

14 AND

15 (C) DESIGN PRACTICES THAT INCREASE DATA COLLECTION
16 WITHOUT USERS' CONSENT.

17 (c) ON OR BEFORE THE FIRST DAY OF THE REGULAR LEGISLATIVE
18 SESSION COMMENCING ON OR AFTER JANUARY 1, 2022, THE COMMITTEE
19 SHALL SUBMIT A WRITTEN REPORT ON ITS FINDINGS AND
20 RECOMMENDATIONS REGARDING THE STUDY TO THE MEMBERS OF THE
21 HOUSE OF REPRESENTATIVES AND THE SENATE. IF, AS PART OF ITS REPORT,
22 THE COMMITTEE RECOMMENDS LEGISLATION, ANY SUCH LEGISLATION
23 INTRODUCED IN THE REGULAR LEGISLATIVE SESSION COMMENCING ON OR
24 AFTER JANUARY 1, 2022, IS EXEMPT FROM THE FIVE-BILL LIMITATION
25 SPECIFIED IN RULE 24 OF THE JOINT RULES OF THE SENATE AND THE HOUSE
26 OF REPRESENTATIVES.

27 (d) THIS SUBSECTION (13) IS REPEALED, EFFECTIVE SEPTEMBER 1,

1 2022.

2 **SECTION 2. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly; except
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V
6 of the state constitution against this act or an item, section, or part of this
7 act within such period, then the act, item, section, or part will not take
8 effect unless approved by the people at the general election to be held in
9 November 2022 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.