

ASSEMBLY, No. 5491

STATE OF NEW JERSEY 219th LEGISLATURE

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Sponsored by:

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District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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SYNOPSIS

Requires Internet websites and mobile applications obtain affirmative consent from user before changing terms-of-service agreement.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/5/2021)

1 AN ACT concerning Internet website and mobile application terms-
2 of-service agreements and supplementing P.L.1960, c.39
3 (C.56:8-1 et seq.).

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in this act:

9 “Account” means an arrangement under a terms-of-service
10 agreement in which a person operating an Internet website or
11 mobile application carries, maintains, processes, receives, or stores
12 a digital asset of the user or provides goods or services to the user.

13 “Carries” means engages in the transmission of an electronic
14 communication.

15 “Digital asset” means an electronic record in which an individual
16 has a right or interest.

17 “Electronic” means relating to technology having electrical,
18 digital, magnetic, wireless, optical, electromagnetic, or similar
19 capabilities.

20 “Mobile application” means a computer program or software
21 application designed to run on a mobile device such as a cellphone,
22 tablet, or watch.

23 “Person” means an individual, estate, business or nonprofit
24 entity, public corporation, government or governmental subdivision,
25 agency, or instrumentality, or other legal entity.

26 “User” means a person that has an account with a person
27 operating an Internet website or mobile application.

28 “Terms-of-service agreement” means an agreement that controls
29 the relationship between a user and a person operating an Internet
30 website or mobile application.

31 b. In addition to the requirements set forth in P.L.1981, c.454
32 (C.56:12-14 et seq.) and notwithstanding any other law to the
33 contrary, a person operating an Internet website or mobile
34 application shall notify a user of any changes to the terms-of-
35 service agreement in a clear and conspicuous manner, using easy to
36 understand language, which requires a user to affirmatively consent
37 to the amended terms.

38 c. A violation of subsection b. of this section is an unlawful
39 practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.).

40
41 2. This act shall take effect immediately.

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44 STATEMENT

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46 This bill requires that websites and mobile applications obtain
47 affirmative consent from a user before changing a terms-of-service
48 (ToS) agreement.

1 This bill provides that a person operating a website or mobile
2 application is to notify a user of any changes to the ToS agreement
3 in a clear and conspicuous manner in easy to understand language
4 which requires a user to affirmatively consent to the amended
5 terms.

6 The bill defines “terms-of-service agreement” to mean an
7 agreement controlling the relationship between a user and person
8 operating a website or mobile application.

9 Websites and mobile applications increasingly have extensive
10 access to their user’s personal information. Many persons operating
11 websites and mobile applications reserve the right to unilaterally
12 change their ToS agreements, often without obtaining a user’s
13 consent. It is the sponsor’s intent that this bill will help provide a
14 user with more control over his or her personal information by
15 eliminating the ability of a website or mobile application to change
16 its ToS agreement without receiving a user’s explicit consent and
17 providing a clear explanation of any changes prior to
18 implementation.