SENATE, No. 3636

STATE OF NEW JERSEY

219th LEGISLATURE

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Sponsored by:
Senator THOMAS H. KEAN, JR.
District 21 (Morris, Somerset and Union)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.

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

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

1. a. As used in this act:

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

"Carries" means engages in the transmission of an electronic communication.

"Digital asset" means an electronic record in which an individual has a right or interest.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Mobile application" means a computer program or software application designed to run on a mobile device such as a cellphone, tablet, or watch.

"Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

"User" means a person that has an account with a person operating an Internet website or mobile application.

"Terms-of-service agreement" means an agreement that controls the relationship between a user and a person operating an Internet website or mobile application.

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

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

2. This act shall take effect immediately.

STATEMENT

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

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

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

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