

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2623

Introduced by Assembly Member Gordon

February 19, 2016

~~An act to amend Section 82016 of the Government Code, relating to the Political Reform Act of 1974. An act to add Section 22575.5 to the Business and Professions Code, relating to privacy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2623, as amended, Gordon. ~~Political Reform Act of 1974: controlled committees. Internet privacy policy: commercial operator: short form.~~

Existing law requires an operator, as defined, 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 the commercial Web site or online service to conspicuously post, or make available, its privacy policy, as specified. Under existing law, an operator is in violation if the operator fails to post its policy within 30 days after being notified of noncompliance or if the operator's failure to comply with the requirements, or with the provisions of its posted policy, is knowing and willful or negligent and material.

This bill would additionally require the operator to provide a short form of the privacy policy to a consumer at the beginning of the privacy policy and, if the commercial Internet Web site or online service provides the consumer with a user licensing agreement or terms of service, above the agreement or terms, as specified. The bill would provide that an operator is in violation of this requirement only if the

operator knowingly and willfully fails to comply with the requirement or if the operator fails to post its privacy policy short form within 30 days after being notified of noncompliance.

~~The Political Reform Act of 1974 defines various terms for purposes of the reporting and disclosure requirements of the act. The act defines a controlled committee as a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. The act provides that a candidate or state measure proponent controls a committee if he or she, or his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.~~

~~This bill would establish a presumption that a committee is significantly influenced by a candidate for purposes of these provisions if any of several specified factors are satisfied. The bill would also make technical, nonsubstantive changes to that provision.~~

~~The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a 2/3 vote of each house and compliance with specified procedural requirements.~~

~~This bill would declare that it furthers the purposes of the act.~~

Vote: 2/3-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. Section 22575.5 is added to the Business and
- 2 Professions Code, to read:
- 3 22575.5. (a) An operator of a commercial Internet Web site
- 4 or online service that is required to post or make available its
- 5 privacy policy pursuant to Section 22575 shall provide a short
- 6 form of the privacy policy to a consumer at the beginning of the
- 7 privacy policy and, if the commercial Internet Web site or online
- 8 service provides the consumer with a user licensing agreement or
- 9 terms of service, at the beginning of the agreement or terms.
- 10 (b) The short form required by subdivision (a) shall do all of
- 11 the following:
- 12 (1) List the categories of personally identifiable information
- 13 identified in the privacy policy pursuant to paragraph (1) of

1 *subdivision (b) of Section 22575, using the following specific*
2 *descriptions:*

3 *(A) For information described in paragraphs (1) to (6),*
4 *inclusive, of subdivision (a) of Section 22577, the descriptions*
5 *used in those paragraphs.*

6 *(B) For information described in paragraph (7) of subdivision*
7 *(a) of Section 22577, the following descriptions:*

8 *(i) Browser history.*

9 *(ii) Phone or text logs.*

10 *(iii) Contact lists.*

11 *(iv) Biometrics.*

12 *(v) Financial information.*

13 *(vi) Health, medical, or therapeutic information.*

14 *(vii) Location.*

15 *(viii) User files.*

16 *(2) (A) List the categories of third-party persons or entities*
17 *identified in the privacy policy pursuant to paragraph (1) of*
18 *subdivision (b) of Section 22575, using the following specific*
19 *descriptions:*

20 *(i) Advertising networks.*

21 *(ii) Telecommunication carriers.*

22 *(iii) Commercial data resellers.*

23 *(iv) Data analytics providers.*

24 *(v) Operating systems and platforms.*

25 *(vi) Social networks.*

26 *(B) Compliance with subparagraph (A) is not required when a*
27 *contract between the commercial Internet Web site or online*
28 *service and the third party explicitly does both of the following:*

29 *(i) Limits the uses of the information provided by the commercial*
30 *Internet Web site or online service to the third party solely to*
31 *provide a service to, or on behalf of, the commercial Internet Web*
32 *site or online service.*

33 *(ii) Prohibits the sharing of the consumer information by that*
34 *third party with subsequent third parties.*

35 *(3) State whether or not the operator maintains a process that,*
36 *if maintained, would be required to be described by the privacy*
37 *policy pursuant to paragraph (2) of subdivision (b) of Section*
38 *22575.*

39 *(4) If the operator satisfies the requirements of paragraph (5)*
40 *of subdivision (b) of Section 22575 by providing a hyperlink*

1 pursuant to paragraph (7) of subdivision (b) of Section 22575,
2 include a hyperlink to the same online location.

3 (c) An operator shall be in violation of this section only if the
4 operator knowingly and willfully fails to comply with this section
5 or if the operator fails to post its privacy policy short form within
6 30 days after being notified of noncompliance.

7 SECTION 1. ~~Section 82016 of the Government Code is~~
8 ~~amended to read:~~

9 82016. (a) “Controlled committee” means a committee that
10 is controlled, directly or indirectly, by a candidate or state measure
11 proponent or that acts jointly with a candidate, controlled
12 committee, or state measure proponent in connection with the
13 making of expenditures. A candidate or state measure proponent
14 controls a committee if he or she, his or her agent, or any other
15 committee he or she controls has a significant influence on the
16 actions or decisions of the committee.

17 (b) ~~Notwithstanding subdivision (a), a political party committee,~~
18 ~~as defined in Section 85205, is not a controlled committee.~~

19 (c) ~~For purposes of subdivision (a), a committee is presumed~~
20 ~~to be significantly influenced by a candidate, his or her agent, or~~
21 ~~another committee he or she controls if any of the following are~~
22 ~~satisfied:~~

23 (1) ~~The candidate, or his or her agent, is a voting member of~~
24 ~~the committee’s governing body.~~

25 (2) ~~The candidate, or his or her agent, is involved in the~~
26 ~~decisionmaking of the committee, or the development or~~
27 ~~implementation of the committee’s campaign strategy.~~

28 (3) ~~The candidate, or his or her agent, is substantially involved~~
29 ~~in directing the day-to-day operations of the committee.~~

30 SEC. 2. ~~The Legislature finds and declares that this bill furthers~~
31 ~~the purposes of the Political Reform Act of 1974 within the~~
32 ~~meaning of subdivision (a) of Section 81012 of the Government~~
33 ~~Code.~~