

SENATE PRIVACY, DIGITAL TECHNOLOGIES, AND CONSUMER PROTECTION COMMITTEE
Senator Christopher Cabaldon, Chair
2025-2026 Regular Session

AB 2076 (Lowenthal)
Version: June 4, 2026
Hearing Date: June 22, 2026
Fiscal: No
Urgency: No
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SUBJECT

The Parent's Accountability and Child Protection Act: online marketplaces: nitrous oxide

DIGEST

This bill bolsters the Parent's Accountability and Child Protection Act (PACPA) by adding nitrous oxide to the list of prohibited items, prohibiting online sellers from accepting gift cards or store credit for purchases of specified products or services, and increasing the potential civil penalties to be assessed against violators.

EXECUTIVE SUMMARY

PACPA requires a person or business that seeks to sell any product or service that is illegal under state law to sell to a minor to, notwithstanding any general term or condition, take reasonable steps, as specified, to ensure that the purchaser is of legal age at the time of purchase or delivery, including, but not limited to, verifying the age of the purchaser. This includes products and services such as dangerous fireworks, tanning, firearms, cigarettes, blunt wraps, and controlled substances. Public prosecutors are authorized to bring a civil action against a business or person that violates the law seeking a civil penalty not exceeding \$7,500.

This bill establishes \$7,500 as the civil penalty and provides for larger penalties against larger businesses. The bill also adds nitrous oxide to the list of covered products or services and prohibits online sellers from accepting gift cards or store credit in purchases of certain covered products and services. The bill is sponsored by the San Diego County District Attorney's Office and the Children's Advocacy Institute. It is supported by various law enforcement organizations and labor groups, including the California Narcotic Officers' Association and United Food and Commercial Workers, Western States Council. No timely opposition has been received by the Committee. The bill passed out of the Senate Judiciary Committee on a vote of 11-0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires, pursuant to PACPA, a person or business that conducts business in California, and that seeks to sell any product or service in or into California that is illegal under state law to sell to a minor to, notwithstanding any general term or condition, take reasonable steps, as specified, to ensure that the purchaser is of legal age at the time of purchase or delivery, including verifying the age of the purchaser. (Civ. Code § 1798.99.1(a)(1).)
- 2) Provides that reasonable steps include:
 - a) Requiring the purchaser or recipient to input, scan, provide, or display a government-issued identification, provided that the person or business complies with all laws governing the retention, use, and disclosure of personally identifiable information, as specified.
 - b) Requiring the purchaser to use a nonprepaid credit card for an online purchase.
 - c) Implementing a system that restricts individuals with accounts designated as minor accounts from purchasing the products listed.
 - d) Shipping the product or service to an individual who is of legal age. (Civ. Code § 1798.99.1(a)(2).)
- 3) Lists the items subject to PACPA, including cigarettes, dangerous fireworks, and firearms. (Civ. Code § 1798.99.1(b)-(c).)
- 4) Prohibits a person or business subject to PACPA from retaining, using, or disclosing any information it receives from a purchaser or recipient in an effort to verify age for any purpose other than as required by law. (Civ. Code § 1798.99.1(a)(6).)
- 5) Subjects violators to a civil penalty of up to \$7,500 in actions brought by public prosecutors. (Civ. Code § 1798.99.1(d).)

This bill:

- 1) Prohibits, pursuant to PACPA, an online seller from allowing a purchaser to use a gift card or store credit for certain products or services described therein.
- 2) Adds nitrous oxide to the list of products that are covered by PACPA.
- 3) Increases the civil penalty to \$7,500 per violation and allows for injunctive relief and attorney's fees and costs for a prevailing plaintiff.

- 4) Authorizes the court to increase the civil penalty to up to \$250,000 per violation against a business with annual gross revenues in excess of \$25,000,000 if it finds that doing so is necessary to deter future violations.

COMMENTS

1. PACPA overview

There are many laws protecting children in California from harmful materials. AB 2511 (Chau, Ch. 872, Stats. 2018) established PACPA to ensure that minors are not able to purchase specified products or services that they are not legally allowed to purchase. It requires businesses to take reasonable steps to ensure that the purchaser is of legal age at the time of purchase or delivery, including, but not limited to, verifying the age of the purchaser. The law lists various conduct that meets this threshold, including requiring the purchaser or recipient to input, scan, provide, or display a government-issued identification, requiring the purchaser to use a nonprepaid credit card for an online purchase, and implementing a system that restricts individuals with accounts designated as minor accounts from purchasing the products listed.

The products or services that are illegal to sell to a minor under state law that are subject to PACPA include:

- An aerosol container of paint that is capable of defacing property
- Etching cream that is capable of defacing property
- Dangerous fireworks
- Tanning in an ultraviolet tanning device
- Dietary supplement products containing ephedrine group alkaloids
- Body branding
- Firearms or handguns
- A BB device
- Ammunition or reloaded ammunition
- Any tobacco, cigarette, cigarette papers, blunt wraps, any other preparation of tobacco, any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance
- Electronic cigarettes
- A less lethal weapon

There are increasing reports that online businesses, in particular, are not adequately abiding by the procedures laid out in PACPA. The federal Food and Drug Administration (FDA) recently issued warning letters to online sellers with respect to their sales of prohibited products to minors:

On August 23, 2023, FDA issued warning letters to 15 online retailers for selling and/or distributing unauthorized e-cigarette products packaged to look like youth-appealing characters, school supplies, toys, and drinks. Since the appearance of these illegal products can be deceiving, the agency is also seeking to raise awareness among parents, teachers, and other adults headed into the new school year.¹

A recent report by the Children's Advocacy Institute (CAI) at the University of San Diego School of Law, a sponsor of the bill, examined whether Amazon.com is complying with PACPA:

The aim of the law is to prevent children from buying products online that they may not lawfully buy in brick-and-mortar stores. The law was enacted after several investigative news reports documented how a minor was able to buy dangerous weapons on the marketplace. The examination found that Amazon is currently not complying with §1798.99.1. When it comes to many products that are illegal to sell to minors – some of which are potentially dangerous to children -- Amazon is not engaging in any of the required steps to ensure children cannot buy certain products.²

2. Expanding PACPA enforcement

This bill bolsters the protections laid out in PACPA and the consequences for failing to comply. According to the author:

Young people represent a disproportionate share of recreational nitrous oxide users, drawn in by its low cost and easy availability. Repeated recreational use carries severe consequences, including nerve damage, paralysis, loss of consciousness, and in some cases, death. Yet nothing in current law requires online sellers to verify a buyer's age before this dangerous gas lands at their door – leaving a critical gap in protections for California's children.

AB 2076 closes that gap. This bill adds nitrous oxide to the list of products requiring age verification for online purchase under California's Parents' Accountability and Child Protection Act. Preventing access is only part of the solution. When businesses fail to follow the law, the consequences must be real. The bill strengthens enforcement by increasing penalties for

¹ *Retailers Warned to Stop Selling Illegal E-Cigarettes Resembling Youth-Appealing Characters, School Supplies, Toys, and Drinks* (August 23, 2023) FDA, <https://www.fda.gov/tobacco-products/ctp-newsroom/retailers-warned-stop-selling-illegal-e-cigarettes-resembling-youth-appealing-characters-school>. All internet citations current as of June 6, 2026.

² *Amazon: Breaking the Law and Placing Children at Risk?* (April 8, 2025) CAI, https://catcher.sandiego.edu/items/usdlaw/04032025_REPORT_FINAL_AMAZON.pdf.

sellers who fail to comply with age verification requirements, helping protect children from products that can severely harm them.

First, the bill adds nitrous oxide to the list of prohibited products or services. The author argues:

[B]ecause nitrous oxide is not currently listed among the products subject to online age verification requirements under Cal. Civ. Code §1798.99.1, minors are able to purchase it online without any legal obligation on the retailer to verify their age. Adding nitrous oxide to the statute directly closes this gap, bringing it in line with other already-restricted products like spray paint, tobacco, and BB guns, and requiring online retailers to take reasonable steps to confirm a purchaser's age before completing a sale.

Second, the bill increases the penalties and remedies available. Currently, public prosecutors can seek a penalty *not exceeding* \$7,500 per violation. The bill sets the civil penalty at \$7,500 and allows for increased penalties of up to \$250,000 per violation against businesses with over \$25 million in gross revenue the preceding calendar year if the court finds that doing so is necessary to deter future violations. The bill also explicitly provides for injunctive relief and reasonable attorneys' fees and costs.

Finally, online sellers are prohibited from allowing a purchaser to use a gift card or store credit for certain products or services identified in PACPA. The author explains:

[E]ven where age verification measures do exist, the problem notes they are frequently bypassed through fabricated credentials. Gift cards exacerbate this vulnerability because they are typically purchased with cash, carry no identity information, and generate no traceable financial record — making them a convenient tool for anonymous purchases. Prohibiting their use for dangerous age-restricted products removes one of the most accessible workarounds to age verification, adding a meaningful layer of protection even when other safeguards prove inadequate.

3. Stakeholder positions

The San Diego County District Attorney's Office, a co-sponsor of the bill, writes:

Nitrous oxide has been used and abused for centuries. What has changed is its availability, the mechanism of delivery, and its popularity. Small 8-gram chargers containing the gas have largely given way to large multi-liter sized canisters accompanied by devices designed specifically to facilitate the drug's ingestion. These large canisters are brightly colored

and the gas within flavored with the taste of fruit, candy, and desserts. Labels affixed to the canisters advise against inhalation and express “for culinary use only.” The transparency of this façade is evident when one considers that these large canisters are regularly being distributed to, and sold out of, smoke shops, convenience stores, and online retailers direct to consumers.

This bill will add nitrous oxide to the list of products and services that are illegal to sell to minors under state law that require a person or business that conducts business in California to take reasonable steps to verify the age of the purchaser at the time of purchase or upon delivery, as provided by California Civil Code section 1798.99.1. The bill will further prohibit the use of a gift card or store credit for specified products or services that are illegal to sell to minors and would impose civil penalties for each violation.

Writing in support, the California Medical Association asserts:

Nitrous oxide has legitimate uses in medical, dental, and culinary settings, but its recreational misuse has escalated sharply in recent years, particularly among young people. Users are drawn in by its low cost and easy availability online. The health consequences are severe and well-documented: recreational inhalation can cause loss of consciousness, permanent nerve damage, spinal cord and brain damage, and death.

California law has prohibited selling nitrous oxide to minors since 2009, yet online retailers continue to do so with little to no meaningful age verification. A 2025 report by the Children's Advocacy Institute at the University of San Diego School of Law found that large online platforms are in violation of nearly every provision of California's existing age-verification requirements. The law is being ignored, and children are being put at risk.

AB 2076 addresses both the access problem and the enforcement problem.

SUPPORT

Children's Advocacy Institute (co-sponsor)
San Diego County District Attorney's Office (co-sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Children's Hospital Assn

California Coalition of School Safety Professionals
California District Attorneys Association
California Labor Federation, AFL-CIO
California Medical Association (CMA)
California Narcotic Officers' Association
California Reserve Peace Officers Association
Claremont Police Officers Association
Consumer Federation of California
Consumer Protection Policy Center/USD School of Law
Corona Police Officers Association
County of Santa Clara
Culver City Police Officers' Association
Fullerton Police Officers' Association
Hammond Climate Solutions Foundation
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
United Food and Commercial Workers, Western States Council

OPPOSITION

None received

RELATED LEGISLATION

SB 659 (Reyes, 2025) would have allowed public prosecutors and a parent or legal guardian of a minor acquiring a specified product to bring an action for enhanced civil penalties against an online business in violation of PACPA. SB 659 died in the Senate Appropriations Committee.

AB 3080 (Alanis, 2024) would have amended PACPA to include providing access to pornographic internet websites and updating what constitutes reasonable steps to ensure the user is of legal age at the time of access, including by verifying the age of the user. AB 3080 died in the Senate Appropriations Committee.

AB 2511 (Chau, Ch. 872, Stats. 2018) *See* Comment 1.

PRIOR VOTES:

Assembly Floor (Ayes 65, Noes 3)

Assembly Appropriations Committee (Ayes 12, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)

Assembly Privacy and Consumer Protection Committee (Ayes 12, Noes 2)
