

THIRD READING

Bill No: AB 2076
Author: Lowenthal (D), et al.
Amended: 6/4/26 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/16/26

AYES: Umberg, Niello, Allen, Caballero, Durazo, Laird, Reyes, Stern,
Valladares, Wahab, Wiener

NO VOTE RECORDED: Ashby, Weber Pierson

SENATE PRIV., DIGITAL TECH., & CONS. PROT. COMMITTEE: 9-0, 6/22/26

AYES: Cabaldon, Jones, Gonzalez, McNerney, Ochoa Bogh, Padilla, Reyes,
Umberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/26

AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 65-3, 5/21/26 - See last page for vote

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

SOURCE: Children's Advocacy Institute at the University of San Diego School
of Law
San Diego County District Attorney's Office

DIGEST: This bill amends the Parent's Accountability and Child Protection Act (PACPA) to prohibit the use of gift cards to purchase covered products, add nitrous oxide to the list of covered products, and increases the remedies recoverable by a public prosecutor in an action for a violation of PACPA.

ANALYSIS:

Existing law:

- 1) Establishes PACPA, which requires a person or business that sells any product or service into California that is illegal under state law to sell to a minor, notwithstanding any general term or condition, to take reasonable steps to ensure that the purchaser is of legal age at the time of the purchase or delivery, including, but not limited to, verifying the age of the purchaser. (Civil (Civ.) Code, § 1798.99.1(a).)
- 2) Establishes two categories of products or services that are illegal to sell to a minor in this state, as follows:
 - a) Category 1: spray paint or etching cream capable of defacing property; dangerous fireworks; tanning in an ultraviolet tanning device; dietary supplements containing ephedrine group alkaloids; and body branding. (Civ. Code, § 1798.99.1(b).)
 - b) Category 2: 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; and a less-lethal weapon, as defined. (Civ. Code, § 1798.99.1(c).)
- 3) Provides that reasonable steps for age verification for the sale of products or services in Category 1 include, but are not limited to, any of the following:
 - a) Requiring the purchaser or recipient to input, scan, provide, or display a government-issued identification, as defined, 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 from purchasing prohibited products.
 - d) Shipping the product or service to an individual who is of legal age. (Civ. Code, § 1798.99.1(a)(2).)
- 4) Provides that reasonable steps for age verification for the sale of products or services in Category 2 include, but are not limited to, any of the following:

- a) Requiring the purchaser or recipient to input, scan, provide, or display a government-issued identification, as defined, provided that the person or business complies with all laws governing the retention, use, and disclosure of personally identifiable information, as specified.
 - b) Shipping the product to an individual who is of legal age. (Civ. Code, § 1798.99.1(a)(3).)
- 5) Provides that reasonable steps under 3) and 4) shall not include consent obtained through the minor. (Civ. Code, § 1798.99.1(a)(4).)
 - 6) Provides that a seller's reasonable and good faith reliance on bona fide evidence of the purchaser's age shall constitute an affirmative defense to any action under PACPA. (Civ. Code, § 1798.99.1(a)(5).)
 - 7) Provides that, in any action brought by a public prosecutor, a business or person who violates PACPA shall be subject to a civil penalty not exceeding \$7,500 for each violation. (Civ. Code, § 1798.99.1(d).)
 - 8) Provides that PACPA does not apply to a business that is regulated by state or federal law providing greater protection to personal information or requiring greater age verification than provided by PACPA, and that compliance with state or federal law shall be deemed compliance with PACPA with respect to covered products and services. (Civ. Code, § 1798.99.1(e).)
 - 9) Makes it a misdemeanor to sell, furnish, administer, distribute, or give away, or to offer to sell, furnish, administer, distribute, or give away, a device, canister, tank, or receptacle exclusively containing nitrous oxide, as defined, or exclusively containing a chemical compound mixed with nitrous oxide, to a minor. (Penal (Pen.) Code, § 381c.)

This bill:

- 1) Prohibits a person or business from allowing a purchaser to use a gift card for products and services within Category 2 of PACPA.
- 2) Adds, to the list of PACPA Category 2 products, nitrous oxide, as defined.
- 3) Adds the following to the available remedies available in a public prosecutor's action for a violation of PACPA:
 - a) If the defendant had annual gross revenues in excess of \$25 million in the preceding calendar year, the court may, in its discretion, increase the

statutory penalty up to \$250,000 per violation if it finds that doing so is necessary to deter violations.

b) Injunctive relief.

c) Reasonable attorney's fees and costs recoverable by the prevailing plaintiff.

4) Makes nonsubstantive and technical conforming changes.

Comments

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, notwithstanding any general term or condition, 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. Covered products and services under PACPA include dangerous fireworks, tanning, firearms, cigarettes, blunt wraps, and controlled substances. PACPA provides non-exhaustive lists of examples of age verification methods that constitute "reasonable steps." A public prosecutor may bring a civil action against a business or person that violates PACPA to recover a civil penalty not exceeding \$7,500 per violation.

This bill modifies PACPA in three ways. First, this bill prohibits specified products and services covered by PACPA from being purchased with a gift card or store credit. Second, this bill adds nitrous oxide to the list of substances requiring age verification under PACPA. Third, this bill increases the remedies available under PACPA, by (1) increasing the available civil remedy to up to \$250,000 per violation, if the defendant has annual revenues in excess of \$25 million and the court finds that the increased civil penalty is necessary to deter violations; and (2) permitting the court to award injunctive relief and reasonable attorney's fees and costs to a prevailing plaintiff.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

According to the Senate Appropriations Committee, the fiscal effect is as follows:

Minor to moderate cost pressures annually to adjudicate civil offenses by expressly authorizing public prosecutors to bring enforcement actions pertaining to the sale of nitrous oxide to minors. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. An eight-hour court day costs approximately \$10,500 based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. While the courts are

not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. The FY 2026–27 Budget appropriated \$70 million General Fund for this purpose (Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 8/13/26)

Children’s Advocacy Institute at the University of San Diego School of Law (co-source)

San Diego County District Attorney’s Office (co-source)

Arcadia Police Officers’ Association

Brea Police Association

Burbank Police Officers’ Association

California Association of School Police Chiefs

California Children’s Hospital Association

California Coalition of School Safety Professionals

California Federation of Labor Unions, AFL-CIO

California Medical Association

California Narcotic Officers’ Association

California Reserve Peace Officers Association

Children Now

City of Alameda

City of Tulare

Claremont Police Officers Association

Consumer Federation of California

Corona Police Officers Association

County of Humboldt

County of Santa Clara

Culver City Police Officers’ Association

Fullerton Police Officers’ Association

League of California Cities

Los Angeles School Police Management Association

Los Angeles School Police Officers Association

Murrieta Police Officers’ Association

Newport Beach Police Officers Association

Palos Verdes Police Officers Association

Placer County Deputy Sheriffs’ Association

Pomona Police Officers’ Association

Riverside Police Officers Association

Riverside Sheriffs’ Association

Teamsters California

United Food and Commercial Workers Western States Council

OPPOSITION: (Verified 8/13/26)

Civil Justice Association of California

ARGUMENTS IN SUPPORT: According to the United Food and Commercial Workers Western States Council and the California Federation of Labor Unions, AFL-CIO:

UFCW was a supporter of the 2018 bill upon which AB 2076 is based, AB 2511 (Chau). Aside from UFCW caring about child protection like every other Californian, the reason UFCW supports AB 2076 is the same reason we supported AB 2511: competitive fairness. Amazon should not be able to earn money and a competitive advantage from selling items that are unlawful to sell to children without Amazon engaging in the kind of age verification expected of every small corner store or brick-and-mortar retail employer of our members.

The evidence that Amazon is not complying with the current age verification law can fairly be attributable to the less-than-small-claims-court financial consequences for violating the law. If California is going to get serious about ensuring multibillion dollar Big Tech corporations obey the laws California enacts, it must expose these corporations to the kind of financial consequences that will make the world's richest people think twice about violating the law. Said another way, the cost of violating the law cannot, as it currently is here, be an easily absorbable cost of doing an otherwise profitable business.

ARGUMENTS IN OPPOSITION: According to the Civil Justice Association of California:

While amendments reduce the civil penalties per violation, the penalties remain disproportionate to the alleged violation as they scale based solely on a business's annual gross revenue. Although deterrence is an important goal, increasing penalties from \$7,500 to up to \$250,000 based on revenue thresholds alone is not appropriate...

AB 2076 continues to raise concerns under the Equal Protection Clauses of the U.S. and California Constitutions. While the bill no longer includes a marketplace-only prohibition, the bill now prohibits online sellers from allowing purchasers of any age to use a gift card or store credit for specified products or services that are unlawful to sell to a minor.

This restriction appears to extend beyond the intended scope of the Parent's Accountability and Child Protection Act and results in similarly situated purchasers being treated differently based solely on their method of payment. Such distinctions raise constitutional concerns where there is no clear, rational basis for the differential treatment.

ASSEMBLY FLOOR: 65-3, 5/21/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, Dixon, Elhawary, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NOES: DeMaio, Ellis, Macedo

NO VOTE RECORDED: Arambula, Chen, Flora, Garcia, Hoover, Johnson, Lackey, Patterson, Ramos, Celeste Rodriguez, Ta, Tangipa

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
8/15/26 14:09:24

**** END ****