

CONCURRENCE IN SENATE AMENDMENTS

AB 2076 (Lowenthal)

As Amended June 4, 2026

Majority vote

SUMMARY

Expands the Parent's Accountability and Child Protection Act (PACPA) by (1) adding nitrous oxide to the list of highly dangerous products that are banned for minors; (2) prohibiting the use of gift cards or store credit to purchase such products; and (3) enhancing liability for businesses that make over \$25 million a year.

Senate Amendments

Add store credit to the provision prohibiting online sellers from allowing a purchaser to use a gift card to purchase highly dangerous products banned for minors.

COMMENTS

The Parent's Accountability and Child Protection Act. PACPA requires sellers of products or services that are illegal to sell to minors 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. Reasonable steps include (1) the provision of a government-issued identification, subject to all laws governing retention, use, and disclosure of personally identifiable information, (2) requiring the purchaser to use a nonprepaid credit card for an online purchase, or (3) implementing a system that restricts individuals with accounts designated as minor accounts from purchasing the prohibited products. The act prohibits a person from retaining, using, or disclosing any information it receives from a purchaser or recipient to verify age, unless required by law. Violators are liable for a civil penalty of up to \$7500 in actions brought by public prosecutors.¹

A 2025 report by the bill's co-sponsor, the Children's Advocacy Institute at the University of San Diego School of Law, found that PACPA is being flouted by one particular large online platform. The report, entitled "Amazon: Breaking the Law and Placing Children at Risk?" concludes "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." Researchers found that the platform:

Accepted fabricated credentials, including incorrect driver's license numbers paired with made-up birthdates, to complete age verification.

- 1) Permitted payment with prepaid credit cards and gift cards for restricted items.
- 2) Ceased prompting for age verification altogether after a single transaction, allowing subsequent purchases of restricted items with no verification.
- 3) Delivered dangerous products, including BB weapons, with no adult signature required.

¹ Civ. Code Section 1798.99.1.

Adds nitrous oxide to the list of highly dangerous products under PACPA. AB 2076 adds to PACPA's list of banned products nitrous oxide. Although nitrous oxide has legitimate uses in food preparation and dentistry, when inhaled it can have an intoxicating effect. The misuse of nitrous oxide can entail serious health consequences, including loss of consciousness, paralysis, spinal cord and brain damage, and death.²

The bill incorporates an existing definition of “nitrous oxide” under Penal Code section 381c, which provides that the term refers to any of the following substances: N₂O, dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas. That section expressly excludes the sale of nitrous oxide contained in food products for use as a propellant. This definition is incorporated into PACPA's provisions governing highly dangerous products, such as guns, ammunition, other weapons, and tobacco. Age verification under existing law for such products can only be accomplished by provision of a government-issued identification or shipping the product or service to an individual who is of legal age.

Prohibits the use of gift cards or store credit to purchase highly dangerous products. The aforementioned report highlights how pre-paid gift cards can be used to make purchases without having to provide identifying information, leading to an easy end-run around age verification requirements. This bill would, for the list of highly dangerous banned products under PACPA, prohibit the use of gift cards or store credit for the purchase of such products, closing a significant loophole.

Enhances liability for larger businesses. According to the sponsors, PACPA's current \$7,500 civil penalty cap is insufficient to ensure meaningful compliance with PACPA, undermining its effectiveness on the platforms where the law's impact ought to be its greatest. To increase accountability under PACPA, the bill (1) makes the civil penalty \$7,500 instead of capping it at that amount; (2) grants courts discretion to increase the civil penalty to up to \$250,000 if the defendant's revenues in the prior year were over \$25,000,000 and the court finds that increasing the penalty is necessary to deter future violations; and (3) authorizes public prosecutors to seek injunctive relief and attorney's fees.

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. However, preventing access is only part of the solution. When businesses fail to follow the law, there must be real consequences. The bill strengthens enforcement by increasing penalties for sellers who fail to comply with age verification requirements, helping protect children from products that can severely harm them.

² US Food & Drug Administration, “FDA Advises Consumers Not to Inhale Nitrous Oxide Products,” <https://www.fda.gov/food/alerts-advisories-safety-information/fda-advises-consumers-not-inhale-nitrous-oxide-products>.

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

None on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee:

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).

VOTES:

ASM PRIVACY AND CONSUMER PROTECTION: 12-2-1

YES: Bauer-Kahan, Bryan, Irwin, Lowenthal, McKinnor, Ortega, Patterson, Pellerin, Petrie-Norris, Ward, Wicks, Wilson

NO: Macedo, DeMaio

ABS, ABST OR NV: Hoover

ASM JUDICIARY: 11-0-1

YES: Kalra, Lee, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ABS, ABST OR NV: Macedo

ASM APPROPRIATIONS: 12-0-3

YES: Wicks, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

ABS, ABST OR NV: Hoover, Ta, Tangipa

ASSEMBLY FLOOR: 65-3-12

YES: 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

NO: DeMaio, Ellis, Macedo

ABS, ABST OR NV: Arambula, Chen, Flora, Garcia, Hoover, Johnson, Lackey, Patterson, Ramos, Celeste Rodriguez, Ta, Tangipa

UPDATED

VERSION: June 4, 2026

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FN: 0004089