

ASSEMBLY THIRD READING

AB 2246 (Wicks)

As Amended April 23, 2026

Majority vote

SUMMARY

Establishes child privacy and design requirements for businesses providing online services, products, or features likely to be accessed by children. Replicates many provisions of the California Age-Appropriate Design Code Act (AADC) of 2022 in a new section of the Business and Professions Code, while omitting and recasting the provisions enjoined or invalidated by the Ninth Circuit.

Major Provisions

- 1) Requires covered businesses to estimate the age of child users (using the device-based age verification system established by AB 1043 (Wicks), Chapter 675, Statutes of 2025 or apply child-level privacy protections to all users, configure default privacy settings to a high level of privacy, provide privacy disclosures in clear language suited to the age of children likely to access the service, provide an obvious signal to a child when the child is being monitored or tracked, and provide tools for children and parents to exercise privacy rights.
- 2) Prohibits covered businesses from using a child's personal information in a way the business knows or has reason to know will cause an average child to experience significant mental suffering or distress, or discrimination on the basis of a protected characteristic; profiling a child by default; collecting, selling, sharing, or retaining personal information not necessary to provide the service; collecting or sharing precise geolocation information by default; using dark patterns to encourage children to provide personal information beyond what is reasonably expected; or using age-estimation information for any other purpose.
- 3) Authorizes the Attorney General to bring civil actions for civil penalties of \$5,000 per affected child for negligent violations and \$15,000 per affected child for intentional violations.

COMMENTS

Background. In 2022, the Legislature, drawing on a similar law adopted in the United Kingdom, enacted the California Age-Appropriate Design Code Act (AADC), a bipartisan measure intended to protect the privacy, safety, and well-being of children when engaging with online products and services that children are likely to access. This Committee's analysis emphasized that the AADC is distinct from other federal and state efforts to protect children online because those statutes permit online platforms to treat all consumers as adults, unless there is actual knowledge that a consumer is a child, and therefore do not offer the highest privacy protections by design or default. The AADC inverted this scheme by instead requiring that if a platform is likely to be accessed by children, it should be safe for kids.

In broad strokes, the AADC requires covered businesses to perform data protection impact assessments (DPIA) and mitigate identified harms, estimate the age of users, and provide default privacy settings, among other protections. The law also prohibits businesses from using a child's personal information in a materially detrimental way, profiling the child, collecting and sharing more personal information than is necessary, collecting precise geolocation information, and

using dark patterns. The AADC also provides for the creation of a Data Protection Working Group (DPWG) and is enforceable only by the Attorney General.

Shortly after the passage of the AADC, NetChoice, a trade association whose members include Google, Meta, and Amazon, initiated a litigation saga that continues to this day. Last month, however, the Ninth Circuit issued a decision that suggests that the bulk of the law's provisions may be constitutional or can be so by excising vague language. This bill broadly replicates the provisions of the AADC, other than those governing the DPWG, while omitting and recasting the portions that the Ninth Circuit has deemed unconstitutional – namely, the DPIA and related provisions, and vague language in the data use restriction, prohibition on profiling, data minimization, and dark patterns prohibition.

According to the Author

As new technology continues to emerge and evolve, there needs to be comprehensive guardrails that protect children and their privacy while they are interacting and consuming content online. Providing more safeguards for children and their privacy is important because its misuse can expose children to harmful material, risks to their mental and physical health, and other challenges. AB 2246 would help make technology and online products safer for children and protect them from risks and features that may be harmful to them.

Arguments in Support

Children Now, the bill's sponsor, writes:

Shortly after the AADC was signed into law by the Governor, an industry trade association sued to block its implementation, resulting in years of litigation. Recent rulings from the Ninth Circuit Court of Appeals (March 2026) have narrowed the scope of the legal dispute. While certain provisions—particularly those related to data protection impact assessments (DPIAs) and vague data-use restrictions—have been enjoined, the court upheld key structural elements of the law. Notably, the court found that the central "reasonably likely to be accessed by children" standard is likely constitutional on its face, and upheld the age verification requirements. The ruling solidified the CA AADC as the most significant legislation to benefit and protect children since the enactment of the federal Children's Online Privacy Protection Act (COPPA) in 1994. It has turned the internet on its head and mandated that young people are able to navigate the internet safely in ways they have never been permitted.

Since the enactment of the CA AADC, at least another dozen states have followed with similar legislation. Many of those states have had the benefit of adapting their legislation to align with the findings of the Ninth Circuit Court of Appeals. With the introduction of AB 2243, California can also adapt its most expansive child online protection law to similarly withstand constitutional scrutiny and continue to lead the country in preventing harms stemming from online activities.

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Appropriations Committee:

- 1) Possible costs (General Fund, Consumer Protection Fund) to the Department of Justice (DOJ) of an unknown amount. Actual costs will depend on whether the Attorney General pursues enforcement actions, and, if so, the level of additional staffing needed by DOJ to handle the related workload. If DOJ hires staff to handle enforcement actions authorized by this bill, the department would incur significant workload costs, likely in the low hundreds of thousands of dollars annually at a minimum. If DOJ does not pursue enforcement as authorized by this bill, the department would likely not incur costs.
- 2) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate any additional filings. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.

VOTES

ASM PRIVACY AND CONSUMER PROTECTION: 13-0-2

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

ABS, ABST OR NV: Macedo, DeMaio

ASM JUDICIARY: 11-0-1

YES: Kalra, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ABS, ABST OR NV: Macedo

ASM APPROPRIATIONS: 13-0-2

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

ABS, ABST OR NV: Ta, Tangipa

UPDATED

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