

UNFINISHED BUSINESS

Bill No: SB 867
Author: Padilla (D), et al.
Amended: 8/27/26
Vote: 21

SENATE PRIV., DIGITAL TECH. & CONS. PROT. COMMITTEE: 9-0, 4/6/26
AYES: Cabaldon, Jones, Gonzalez, McNerney, Ochoa Bogh, Padilla, Reyes,
Umberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/14/26
AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

SENATE FLOOR: 39-0, 5/28/26
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear,
Cabaldon, Caballero, Cervantes, Choi, Cortese, Durazo, Gonzalez, Grayson,
Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello,
Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-
Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Dahle

ASSEMBLY FLOOR: Passed, 8/31/26

SUBJECT: Toys: companion chatbots

SOURCE: Children Now

DIGEST: This bill provides that no person shall manufacture, sell, or exchange, possess with intent to sell or exchange, or expose or offer for sale or exchange to any retailer any toy, as defined, that includes a companion chatbot. This bill sunsets on January 1, 2031.

Assembly Amendments modify the definition of “toy” to mean a physical product designed, marketed, or manufactured for use in play by children under 16 years of age.

ANALYSIS:

Existing law:

- 1) Requires an operator to prevent a companion chatbot on its companion chatbot platform from engaging with users unless the operator maintains a protocol for preventing the production of suicidal ideation, suicide, or self-harm content to the user, including, but not limited to, by providing a notification to the user that refers the user to crisis service providers, including a suicide hotline or crisis text line, if the user expresses suicidal ideation, suicide, or self-harm. Requires an operator to publish details on this protocol on the operator's website. (Business & Professions (Bus. & Prof.) Code § 22602(b).)
- 2) Requires an operator, if a reasonable person interacting with a companion chatbot would be misled to believe that the person is interacting with a human, to issue a clear and conspicuous notification indicating that the companion chatbot is artificially generated and not human. (Bus. & Prof. Code § 22602(a).)
- 3) Requires an operator, for a user that the operator knows is a minor, to do all of the following:
 - a) Disclose to the user that the user is interacting with artificial intelligence (AI).
 - b) Provide by default a clear and conspicuous notification to the user at least every three hours for continuing companion chatbot interactions that reminds the user to take a break and that the companion chatbot is artificially generated and not human.
 - c) Institute reasonable measures to prevent its companion chatbot from producing visual material of sexually explicit conduct or directly stating that the minor should engage in sexually explicit conduct. (Bus. & Prof. Code § 22602(c).)
- 4) Defines the relevant terms, including:
 - a) "Companion chatbot" means an artificial intelligence system with a natural language interface that provides adaptive, human-like responses to user inputs and is capable of meeting a user's social needs, including by exhibiting anthropomorphic features and being able to sustain a relationship across multiple interactions. However, there are several exemptions included.
 - b) "Companion chatbot platform" means a platform that allows a user to engage with companion chatbots.
 - c) "Operator" means a person who makes a companion chatbot platform available to a user in the state. (Bus. & Prof. Code § 22601.)

- 5) Requires an operator, beginning July 1, 2027, to annually report to the Office of Suicide Prevention specified information, which shall not include any identifiers or personal information about users. Requires the Office of Suicide Prevention to post data from the reports on its website. (Bus. & Prof. Code § 22603.)
- 6) Requires an operator to disclose to a user of its platform that companion chatbots may not be suitable for some minors, as provided. (Bus. & Prof. Code § 22604.)
- 7) Provides that a person who suffers injury in fact as a result of a violation of this chapter may bring a civil action to recover all of the following relief:
 - a) Injunctive relief.
 - b) Damages in an amount equal to the greater of actual damages or \$1,000 per violation.
 - c) Reasonable attorney's fees and costs. (Bus. & Prof. Code § 22605.)
- 8) Requires a developer to request a signal with respect to a particular user from an operating system provider or a covered application store when the application is downloaded and launched. A developer that receives such a signal is deemed to have actual knowledge of the age range of the user to whom that signal pertains across all platforms of the application and points of access of the application, even if the developer willfully disregards the signal. (Civil (Civ.) Code § 1798.501(b).)

This bill:

- 1) Prohibits a person from manufacturing, selling, or exchanging, possessing with intent to sell or exchange, or exposing or offering for sale or exchange to any retailer any toy that includes a companion chatbot. Violations are subject to the enforcement mechanism laid out in Section 22605 of the Business and Professions Code.
- 2) Sunsets the above provision on January 1, 2031.
- 3) Defines “toy” to mean a physical product designed, marketed, or manufactured for use in play by children under 16 years of age.

Background

AI companion chatbots created through generative AI have become increasingly prevalent. They seek to offer consumers the benefits of convenience and personalized interaction. These chatbots are powered by large language models

that generally learn intimate details and preferences of users based on their interactions and user customization. Millions of consumers use these chatbots as friends, mentors, and even romantic partners.

Many studies and reports point to the addictive nature of these chatbots and call for more research into their effects and for meaningful guardrails. Increasing the urgency of such efforts, several high-profile incidents resulting in users harming themselves and even committing suicide have been reported in the last few years. In response to these increasing concerns about their effects on users, including impacts on mental health and real-world relationships, SB 243 (Padilla, Chapter 677, Statutes of 2025) was signed into law. It imposes a number of obligations on operators of “companion chatbot platforms” in order to safeguard users. This bill now expands that act by imposing a four-year moratorium on making or selling any toy that includes a companion chatbot, as provided.

This bill is sponsored by Children Now. It is supported by a host of advocacy organizations, including CALPIRG and Transparency Coalition.AI. It is opposed by the Civil Justice Association of California and the California Retailers Association. For a more thorough analysis of this bill and its provisions, please see the Senate Privacy, Digital Technologies, and Consumer Protection Committee analysis.

Comment

To respond to the issues raised by the widespread deployment of companion chatbots, several bills in 2025 sought to regulate the creation and deployment of these companion chatbots, especially when put into the hands of children. SB 243 (Padilla, Chapter 677, Statutes of 2025) requires operators of “companion chatbot platforms” that allow users to engage with chatbots to maintain certain protocols aimed at preventing some of the worst outcomes and, only when the user is known to the operator to be a minor, to make certain disclosures and to institute reasonable measures to prevent such things as sexually explicit material from being produced or from “directly stating that the minor should engage in sexually explicit conduct.” A report is required to be sent annually to the Office of Suicide Prevention. Violations are subject to civil enforcement by those injured.

This bill further fortifies the law around companion chatbots by placing a four-year moratorium on manufacturing, selling, or exchanging, possessing with intent to sell or exchange, or exposing or offering for sale or exchange to any retailer any toy that includes a companion chatbot. “Toy” is defined as a physical product designed, marketed, or manufactured for use in play by children under 16 years of age.

As these provisions are placed in the existing law established by SB 243, violations are subject to the same enforcement mechanism, which authorizes a person who suffers injury in fact as a result of a violation to bring a civil action to recover injunctive relief, actual or statutory damages, and reasonable attorney's fees and costs.

According to the author:

Artificial intelligence is rapidly changing our world. AI has the capacity to be a powerful tool for innovation, but if left unchecked, can also cause grave harm. Recently, toys with AI chatbot capabilities have emerged, introducing companion chatbots marketed towards one of our most vulnerable populations, our children. These products are advertised to children as young as 3 and come in the form of popular children's toys, such as teddy bears, robots, and dolls.

Companion chatbots have already proven to be unsafe and dangerous for minors. In Florida, 14-year-old Sewell Setzer tragically ended his life after forming a romantic, sexual, and emotional relationship with a chatbot. When he expressed to his AI companion that he was struggling, the bot was unable to respond with empathy or the necessary resources to help. Instead, the bot encouraged him to "come home" just seconds before he ended his life. Now, this same technology is being put into toys.

Numerous examples already exist of these toys going awry, including instances of toys providing children with explicit BDSM advice and tips on how to find knives and matches inside their homes. SB 867 proposes a moratorium on the sale and manufacturing of toys with AI chatbot capabilities for children under 18 for a period of four years to allow time for us to modernize guardrails before putting these toys into the hands of our children. Our safety regulations around this kind of technology are in their infancy and need to grow as exponentially as the capabilities of this technology. Pausing the sale of these chatbot-integrated toys ensures that safety regulations have the necessary time to catch up.

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

According to the Senate Appropriations Committee:

Unknown, potentially significant court cost pressures for new workload to adjudicate additional civil actions that allow for the recovery of injunctive relief,

actual or statutory damages, and reasonable attorney's fees and costs (Trial Court Trust Fund, General Fund). Creating or expanding a civil cause of action, as specified in this bill, could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the courts. The actual fiscal impact on the courts will depend on many unknown factors, including the number of cases filed and the factors unique to each case. (See Staff Comments)

According to the Assembly Appropriations Committee:

Potential court cost pressures of an unknown, but potentially significant amount (Trial Court Trust Fund, General Fund) for new workload to adjudicate additional civil actions seeking injunctive relief, actual or statutory damages, and reasonable attorney's fees and costs. By subjecting a new category of prohibited conduct to the existing private right of action under Business and Professions Code Section 22605, this bill could lead to additional and potentially lengthier or more complex civil proceedings, with attendant workload and resource costs to the courts. The actual fiscal impact on the courts will depend on many unknown factors, including the number of cases filed and the circumstances unique to 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.

Department of Justice (DOJ) costs of approximately \$850,000 or less annually (Unfair Competition Law Fund) in each fiscal year from 2026-27 through 2030-31. The DOJ reports that the Consumer Protection Section (CPS) within the Public Rights Division anticipates increased workload to investigate and prosecute violations of the bill's manufacture-and-sale prohibition and to provide technical support reviewing compliance. To meet this workload, CPS would require one deputy attorney general, one information technology specialist, one special investigator, and one legal secretary in each of those years. The DOJ states these costs cannot be absorbed within existing budgeted resources, and implementation will be dependent on an appropriation of funds. Because the moratorium sunsets on January 1, 2031, the DOJ workload is correspondingly time-limited.

SUPPORT: (Verified 8/26/26)

Children Now (Source)

American Academy of Pediatrics, California
California Initiative for Technology & Democracy, a Project of California
Common CAUSE
CALPIRG, California Public Interest Research Group
Center for Public Interest Law/children's Advocacy Institute/University of San
Diego
Kapor Center Advocacy
Transparency Coalition.ai
Youth Leadership Institute

OPPOSITION: (Verified 8/26/26)

California Retailers Association
Civil Justice Association of California

ARGUMENTS IN SUPPORT: Children Now writes:

Research has consistently shown that children are vulnerable to persuasive design and technologies. Young children often perceive conversational AI as having human-like knowledge, intentions, and authority, which can lead them to trust and follow recommendations even when those systems produce inaccurate or harmful responses. Studies have found that children interacting with voice assistants frequently treat them as virtual agents and may rely on them for guidance and emotional interaction, raising concerns about manipulation, misinformation, and unhealthy attachment.

Experts have also raised alarms about AI's ability to be inappropriate, unsafe, or manipulative in conversations with young users. Chatbots can produce inaccurate or fabricated information, reinforce harmful ideas, or respond in ways that are not developmentally appropriate for children. When these systems are used in toys specifically marketed as companions for younger children, the potential for harm increases significantly.

SB 867 establishes a temporary moratorium that takes a precautionary approach to this emerging technology. SB 867 does not chill innovation; instead, it gives time for policymakers and experts to develop safety standards, transparency requirements, and consumer protections for AI designed to interact directly with children.

ARGUMENTS IN OPPOSITION: Civil Justice Association of California (CJAC) writes:

As drafted, the definition of what constitutes a “toy” appears expansive and could extend beyond traditionally understood children’s products. Without clearer boundaries, the bill risks capturing a wide range of consumer products that may incorporate interactive or AI-enabled features but are not primarily designed or marketed as toys. This lack of clarity creates uncertainty for manufacturers and retailers attempting to determine whether their products fall within the scope of the moratorium.

In addition, the bill raises broader concerns regarding liability exposure. By establishing restrictions on an emerging category of technology without clear, objective standards, SB 867 may invite increased litigation and inconsistent enforcement. When statutory requirements are ambiguous, they can be difficult to interpret and apply, which in turn creates risk for compliant actors and incentivizes disputes over the meaning and application of the law. This dynamic can burden courts and stakeholders without necessarily advancing consumer protection goals.

Prepared by: Christian Kurpiewski / P., D.T., & C.P. / (916) 651-1548
8/31/26 12:50:33

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