

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2076 (Lowenthal)
Version: June 4, 2026
Hearing Date: June 16, 2026
Fiscal: No
Urgency: No
AWM

SUBJECT

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

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.

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, 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, the bill prohibits specified products and services covered by PACPA from being purchased with a gift card or store credit. Second, the bill adds nitrous oxide to the list of substances requiring age verification under PACPA. Third, the 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.

This bill is sponsored by the Children's Advocacy Institute at the University of San Diego School of Law and the San Diego County District Attorney's Office, and is supported by nearly 30 groups including labor organizations, consumer protection groups, law enforcement associations, and medical organizations. This bill is opposed by the Civil Justice Association of California. If this Committee passes this bill, it will be referred to the Senate Privacy, Digital Technologies, and Consumer Protection Committee.

PROPOSED CHANGES TO THE LAW

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. (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. (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

1. Author's comment

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

2. Background on PACPA

AB 2511 (Chau, Ch. 872, Stats. 2018) established PACPA to ensure that minors cannot circumvent age restrictions on purchasing products and services by buying them online. To that end, PACPA requires businesses to take reasonable steps to ensure that a purchaser is of legal age at the time of purchase or delivery, including, but not limited to, verifying the age of the purchaser.¹ The products or services that are illegal to sell to a minor under state law that are subject to PACPA include:

1. An aerosol container of paint that is capable of defacing property.
2. Etching cream that is capable of defacing property.
3. Dangerous fireworks.
4. Tanning in an ultraviolet tanning device.
5. Dietary supplement products containing ephedrine group alkaloids.
6. Body branding.
7. Firearms or handguns.
8. A BB device.
9. Ammunition or reloaded ammunition.

¹ Civ. Code, § 1798.99.1(a).

10. 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.
11. Electronic cigarettes.
12. A less lethal weapon.²

Items 1-6 are grouped together, and PACPA permits a business to satisfy its age verification obligation for these products and services through acts 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.³ Items 7-12 are grouped together and considered more dangerous than items 1-6; for this group, PACPA lists only two acceptable methods of age verification: the presentation of government-issued identification or shipping the product or service to a person who is of legal age.⁴

PACPA may be enforced by a public prosecutor, who may seek a civil penalty of up to \$7,500 per violation.⁵ A seller's reasonable and good faith reliance on bona fide evidence of the purchaser or recipient's age is an affirmative defense to a PACPA claim.⁶

3. This bill updates PACPA and increases the remedies available for a PACPA violation

This bill makes three changes to PACPA.

First, the bill prohibits an online seller from permitting a user to use a gift card or store credit to purchase products and services in PACPA's more-dangerous-product classification (including firearms, ammunition, and controlled substances). This measure is intended to prevent a minor from circumventing PACPA through a payment method that does not have an age floor.

Second, the bill adds nitrous oxide, as defined in the Penal Code, to the list of more-dangerous products covered by PACPA. As explained by the Office of the San Diego District Attorney, one of the bill's sponsors, "there has been a dramatic increase in the use of nitrous oxide and a corresponding increase in both direct and indirect harms to both users of the drug and innocent third parties," including injuries caused by persons

² *Id.*, § 1798.99.1(b) & (c).

³ *Id.*, § 1798.99.1(a)(2).

⁴ *Id.*, § 1798.99.1(a)(3).

⁵ *Id.*, § 1798.99.1(d).

⁶ *Id.*, § 1798.99.1(a)(5).

driving while impaired by nitrous oxide and deaths directly caused by nitrous oxide poisoning. It is already illegal to sell nitrous oxide to a minor in California,⁷ so adding an age verification requirement for online sales appears consistent with existing law.

Third, this bill increases PACPA's remedies. Under this bill, a public prosecutor in a civil action for a violation of PACPA may seek a civil penalty of up to \$250,000 if the defendant had annual gross revenues of over \$25 million in the preceding calendar year. The court may, in its discretion, award the heightened civil penalty if it determines that doing so is necessary to deter future violations. The bill also permits, in every PACPA suit, the court to award injunctive relief and reasonable attorney's fees and costs to the prevailing plaintiff.

4. 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.

5. 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

⁷ See Pen. Code, § 381c.

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.

SUPPORT

Children's Advocacy Institute at the University of San Diego School of Law (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 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

Claremont Police Officers Association

Consumer Federation of California

Corona Police Officers Association

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
United Food and Commercial Workers Western States Council

OPPOSITION

Civil Justice Association of California⁸

RELATED LEGISLATION

Pending legislation: None known

Prior legislation:

SB 659 (Reyes, 2025) would have expanded PACPA to (1) create a private right of action for a parent or legal guardian of a minor who acquired a product or service in violation of PACPA; (2) increased the available statutory penalties for a violation, including creating tiered penalties based on whether the violation was negligent, knowing or willful, or intentional; and (3) excluded PACPA from applying to an online business that generates less than \$100 million in gross revenue in the preceding calendar year. 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) established PACPA. AB 2511 is discussed further in Comment 2 of this analysis.

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)

⁸ Several other organizations that opposed prior versions of the bill removed their opposition following the June 4, 2026, amendments.