

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

AB 1709 (Lowenthal)  
Version: April 23, 2026  
Hearing Date: June 30, 2026  
Fiscal: Yes  
Urgency: No  
AWM

**SUBJECT**

Covered platforms: age restriction: e-Safety Advisory Commission

**DIGEST**

This bill prohibits covered platforms, as defined, that provide addictive feeds from allowing users under the age of 16 to create or maintain an account; permits the Attorney General to adopt regulations to implement this prohibition; and establishes the e-Safety Advisory Commission to advise the Attorney General on, among other things, implementation and enforcement.

**EXECUTIVE SUMMARY**

Social media can be great. People build close connections with their “pocket friends” whom they’ve never met, and would never have met, in real life. People share jokes, trade memes, and commiserate over bad news. People hear from viewpoints they never would have heard and learn things about themselves they might never have discovered.

Social media can be awful. People are barraged with images of impossible beauty standards, unrealistic goals, and artifice. Every other post is an ad, or a scam, or an ad for a scam. Then there’s the harassment – if you’re queer, or a person of color, or fat, or a woman, personal attacks are just part of the experience.

All social media users are familiar with these highs and lows, but research indicates that no one feels them more acutely than children. Social media use has been linked to increasing depression, anxiety, suicidality, eating disorders, and countless other harmful effects. And while many youth are aware that social media is bad for them, many of them feel like they can’t quit it. This is, sadly, often by design: many social media platforms incorporate “addictive features” into their products to maximize user engagement, because more engagement means more ad sales means more profits.

Following the lead of Australia and a growing number of other jurisdictions, this bill prohibits “covered platforms,” including social media platforms and other online services that provide users “addictive feeds,” from allowing children under 16 years of age to create or maintain accounts, and requires the platforms to verify users’ ages pursuant to the Digital Age Assurance Act. The bill authorizes the Attorney General to promulgate necessary regulations and to alter the scope of what is considered a “covered platform,” as necessary. The bill also establishes the e-Safety Advisory Commission to provide guidance to the Attorney General in implementation and enforcement. The author has agreed to a number of amendments to change the scope of the bill, creating more opportunities for children under 16 years of age to experience the best of social media without suffering through the worst of it.

This bill is sponsored by the California Commission on the Status of Women and Girls and the Organization for Media Safety, and is supported by the American Academy of Pediatrics, the California Initiative for Technology & Democracy, the California Police Chiefs Association, the Children’s Advocacy Institute at the University of San Diego School of Law, and Common Sense Media. This bill is opposed by a number of organizations, including tech industry organizations, youth and LGBTQ advocacy groups, and privacy advocates. The Senate Privacy, Digital Technologies, and Consumer Protection Committee passed this bill with a vote of 7-0.

### **PROPOSED CHANGES TO THE LAW**

Existing constitutional law:

- 1) Provides that Congress shall make no law abridging the freedom of speech. (U.S. Const., 1st amend. (the First Amendment) & 14th amend.; *see Gitlow v. People of State of New York* (1925) 268 U.S. 652, 666 (First Amendment guarantees apply to the states through the due process clause of the Fourteenth Amendment).)
- 2) Provides that every person may freely speak, write, and publish their sentiments on all subjects, and that a law may not restrain or abridge liberty of speech. (Cal. Const., art. I, § 2.)

Existing federal law:

- 1) Provides that a provider or user of an interactive computer service shall not be treated as the publisher or speaker of any information provided by another information content provider. (47 U.S.C. § 230(c)(1) (Section 230).)
- 2) Provides that a provider or user of an interactive computer service shall not be held liable on account of either of the following:
  - a) Any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene,

lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.

- b) Any action taken to enable or make available to information content providers or others the technical means to restrict access to such material. (Section 230, subd. (c)(2).)

Existing state law:

- 1) Defines “social media platform” as a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:
  - a) A substantial function of the service or application is to connect users to allow users to interact socially with each other within the service or application. A service or application that provides email or direct messaging services is considered to meet this criterion based on that function alone.
  - b) The service or application allows users to do all the following:
    - i. Construct a public or semipublic profile for purposes of signing into and using the service or application.
    - ii. Populate a list of other users with whom an individual shares a social connection within the system.
    - iii. Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users. (Bus. & Prof. Code, § 22675(f).)
- 2) Establishes the Protecting Our Kids from Social Media Addiction Act, prohibits an operator of an addictive internet-based service or application, including a social media platform, from providing an addictive feed, as defined, to a minor user. (Health & Saf. Code, div. 20, ch. 24, §§ 27000 et seq.)
- 3) Defines “addictive feed” as an internet website, online service, online application, or mobile application, or a portion thereof, in which multiple pieces of media generated or shared by users are, either concurrently or sequentially, recommended, selected, or prioritized for display to a user based, in whole or in part, on information provided by the user, or otherwise associated with the user or the user’s device, unless any of the following conditions are met, alone or in combination with one another:
  - a) The information is not persistently associated with the user or user’s device and does not concern the user’s previous interactions with media generated or shared by others.
  - b) The information consists of search terms that are not persistently associated with the user or user’s device.
  - c) The information consists of user-selected privacy or accessibility settings, technical information concerning the user’s device, or device communications or signals concerning whether the user is a minor.

- d) The user expressly and unambiguously requested the specific media or media by the author, creator, or poster of the media, or the blocking, prioritization, or deprioritization of such media, provided that the media is not recommended, selected, or prioritized for display based, in whole or in part, on other information associated with the user or the user's device, except as otherwise permitted by this chapter and, in the case of audio or video content, is not automatically played.
  - e) The media consists of direct, private communications between users.
  - f) The media recommended, selected, or prioritized for display is exclusively the next media in a preexisting sequence from the same author, creator, poster, or source and, in the case of audio or video content, is not automatically played.
  - g) The recommendation, selection, or prioritization of the media is necessary to comply with the act. (Health & Saf. Code, § 27000.5(a).)
- 4) Establishes the Digital Age Assurance Act, which establishes a device-based age verification system in which parents who allow their children to be the primary user of a device can enter a non-identifying age-bracket signal that operating systems and application stores must send to application developers. (Civ. Code, §§ 1798.500 et seq.)
  - 5) Provides that the Digital Age Assurance Act takes effect January 1, 2027. (Civ. Code, § 1798.505.)

This bill:

- 1) Makes findings and declarations relating to the evidence about social media platforms' addictive features, those features' association with poor mental health outcomes, and the state's compelling interest in protecting its children and youth from social media products designed to exploit their developmental vulnerabilities.
- 2) Defines the following terms:
  - a) "Addictive feature" means a psychologically exploitative feature intended to maximize engagement that foreseeably leads to compulsive use, including, but not limited to, notifications, addictive feeds, endless scrolls, autoplay, and their functional equivalents, including any feature that learns from user information or behavior in order to prolong engagement with a particular internet website, online service, online application, or mobile application.
  - b) "Addictive feed" means a website, online service, online application, or mobile application, or a portion thereof, in which multiple pieces of media generated or shared by users are, either concurrently or sequentially, recommended, selected, or prioritized for display to a user based, in whole or in part, on information provided by the user, or otherwise associated with the user or the user's device, unless any of the following conditions are met:

- i. The information is not persistently associated with the user or user's device.
    - ii. The information consists of search terms that are not persistently associated with the user or user's device.
    - iii. The information consists of user-selected privacy or accessibility settings, technical information concerning the user's device, or device communications or signals concerning whether the user is a minor.
    - iv. The user expressly and unambiguously requested the specific media or media by the author, creator, or poster of the media, or the blocking, prioritization, or deprioritization of that media, provided that the media is not recommended, selected, or prioritized for display based, in whole or in part, on other information associated with the user or the user's device, except as otherwise permitted by this chapter and, if the media is audio or video content, is not automatically played.
    - v. The media consists of direct, private communications between users.
    - vi. The media recommended, selected, or prioritized for display is exclusively the next media in a preexisting sequence from the same author, creator, poster, or source and, if the media is audio or video content, is not automatically played.
    - vii. The recommendation, selection, or prioritization of the media is necessary to comply with state or federal law.
  - c) "Covered platform" means, subject to regulations, a website, online service, online application, or mobile application, including a social media platform that offers or provides users with an addictive feed as a significant part of the service provided, but does not include the following:
    - i. A website, online service, online application, or mobile application for which interactions between users are limited to commercial transactions or to consumer reviews of products, sellers, services, events, or places, or any combination thereof.
    - ii. A website, online service, online application, or mobile application that operates a feed for the primary purpose of cloud storage.
- 3) Prohibits a covered platform from permitting a user under the age of 16 to create or maintain an account.
- 4) Requires a covered platform to implement reasonable measures to prevent users under the age of 16 from accessing or using accounts.
- 5) Requires a covered platform to verify the age of a user pursuant to the Digital Age Assurance Act, subject to regulation by the Attorney General. Requires personal information collected for age assurance to be all of the following:
  - a) Used solely for age-related eligibility determinations.
  - b) Retained only for the minimum period necessary to complete a verification process.

- c) Not used for advertising, profiling, or algorithmic recommendation purposes.
- 6) Requires a covered platform to implement reasonable security practices to protect age assurance data.
- 7) Permits the Attorney General, in consultation with the e-Safety Commission, to adopt regulations to implement and enforce these provisions.

### COMMENTS

#### 1. Author's comment

According to the author:

AB 1709 would establish a state-wide minimum age requirement for users to create or maintain accounts on social media platforms that use addictive feeds as a significant part of the service provided by their platform. This bill is grounded in a substantial and growing body of research showing that early and unrestricted access to social media can harm children's mental health, cognitive development, and overall well-being. Children under 16 face heightened risks online, including compulsive use patterns, exposure to harmful content, and negative mental health outcomes. These risks are not incidental but are closely tied to how modern social media platforms are designed. Many platforms rely on algorithmically driven feeds that prioritize engagement, often by delivering highly stimulating or emotionally charged content. This design encourages prolonged use and can foster addictive behaviors, particularly in younger users whose self-regulation skills and executive functioning are still developing.

AB 1709 addresses these well researched and proven harms by establishing clear, enforceable minimum age of 16 for social media use. By requiring platforms to implement meaningful age verification and prevention measures, the bill shifts responsibility from individual users to the companies that control access and design. This approach aims to reduce early exposure to addictive platform features during a key developmental window and to encourage safer, age-appropriate digital environments.

#### 2. The rise of social media, the decline of youth health, and other countries' responses

As of 2025, the vast majority of American adults and teens use social media. Among adults, the top social media platforms are YouTube (84 percent of American adults), Facebook (71 percent), and Instagram (50 percent).<sup>1</sup> Among teens, the top social media

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<sup>1</sup> Gottfried & Park, *Americans' Social Media Use 2025* (Nov. 20, 2025) Pew Research Center, <https://www.pewresearch.org/internet/2025/11/20/americans-social-media-use-2025/>. All links in this analysis are current as of June 27, 2026.

platforms are YouTube (90 percent of American teens), TikTok (68 percent), and Instagram (63 percent).<sup>2</sup> About half of adults say that they go on Facebook or YouTube at least once a day.<sup>3</sup> Daily use of YouTube, TikTok, and Instagram is at 76 percent, 61 percent, and 55 percent of teens, respectively; 21 percent of teens report using TikTok, and 17 percent of teens report using YouTube, “almost constantly.”<sup>4</sup>

The Senate Privacy, Digital Technologies, and Consumer Protection Committee’s analysis of this bill sets forth the extensive evidence that social media usage is negatively correlated with youth mental health and that social media platforms are aware that their products harm children. That analysis is incorporated herein by reference. The crux of it is:

There are various features of social media that are believed to contribute to excessive social media use and preoccupation and attendant mental health issues in children, and that are repeatedly highlighted as the most problematic for users, especially children. They are pinpointed by academic research,<sup>5</sup> and lawsuits brought by most states’ Attorneys General,<sup>6</sup> as the core of the problem. These include the display of “likes” and other feedback on posted media that drive minors’ unhealthy comparisons to others and their obsessive usage. In addition, the constant notifications that are sent to users nudge them back onto a platform throughout the day and night to seek the next hit of dopamine. The biggest and most central of them all is the algorithmic feeds that are fueled by a user’s own information and inferences drawn from their past behavior and data collected from other sources. While these features can effectively serve up content curated for a user’s personal tastes and create social connections among users, it is these types of features that are most concerning to advocates for reform. The addictive features of online sites and services are the target of this bill

The American Academy of Pediatrics, writing in support, also explains:

Excessive screen time and social media use are associated with increased stress, anxiety, depression, and reduced coping abilities among adolescents. Researchers from UCSF who analyzed national data from the Adolescent Brain Cognitive Development Study found that increases in social media use among preteens

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<sup>2</sup> Faverio & Sidoti, *Teens, Social Media and AI Chatbots 2025* (Dec. 9, 2025) Pew Research Center, <https://www.pewresearch.org/internet/2025/12/09/teens-social-media-and-ai-chatbots-2025/>. Snapchat, used by 55 percent of American teens, is a close fourth. (*Ibid.*)

<sup>3</sup> Gottfried & Park, *supra*.

<sup>4</sup> Faverio & Sidoti, *supra*.

<sup>5</sup> Kirsten Weir, *Social media brings benefits and risks to teens. Here’s how psychology can help identify a path forward* (September 1, 2023) American Psychological Association, <https://www.apa.org/monitor/2023/09/protecting-teens-on-social-media>.

<sup>6</sup> Matt Richtel, *Is Social Media Addictive? Here’s What the Science Says* (October 25, 2023) The New York Times, <https://www.nytimes.com/2023/10/25/health/social-media-addiction.html>.

predicted subsequent increases in depressive symptoms over time (Nagata, 2025). At the same time, approximately one in five teens themselves report that social media harms their mental health, with girls reporting negative impacts at particularly high rates (Pew Research Center, 2025).

At the end of 2025, Australia became the first country in the world to enact legislation prohibiting social media platforms from allowing users under the age of 16 to create or maintain accounts.<sup>7</sup> Since then, a number of other countries have proposed or enacted similar bans, although the precise details and enforcement mechanisms vary.

3. This bill, as currently in print, prohibits a “covered platform” from allowing a user under 16 years of age to create or maintain an account on the platform

This bill prohibits “covered platforms” from allowing children under 16 years of age from creating or maintaining accounts on their platforms. The definition of “covered platform” includes social media platforms, but also extends to any other website, online service, online application, or mobile application that offers or provides users with an “addictive feed” as part of the service. An “addictive feed” involves multiple pieces of media generated or shared by users that are, either concurrently or sequentially, recommended, selected, or prioritized for display to a user based, in whole or in part, on information provided by the user, or otherwise associated with the user or the user’s device.

A covered platform must implement reasonable measures to prevent children under 16 from accessing or using accounts and to verify the age of any users in accordance with the recently enacted Digital Age Assurance Act, i.e., using the age associated with the device. The Digital Age Assurance Act takes effect next year.<sup>8</sup> The bill also provides that personal information about the bill must be used solely for age-related eligibility determinations and not used for advertising, profiling, or algorithmic purposes. If the platform detects an account associated with a minor under the age of 16, it must delete the account, along with any personal information associated with the account or collected as part of their age assurance efforts.

The bill is enforceable only by the Attorney General or a local public prosecutor. A covered platform is subject to a civil penalty of up to \$50,000 per minor for a knowing violation and \$25,000 per minor for a negligent violation. The court should consider the size of the covered platform, the severity and the duration of the violation, and the covered platform’s good faith efforts to comply with this measure in determining the size of the penalty to assess.

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<sup>7</sup> Reuters staff, *From Australia to Europe, countries move to curb children’s social media access* (Jun. 8, 2026) Reuters, <https://www.reuters.com/legal/government/australia-europe-countries-move-curb-childrens-social-media-access-2026-06-08/>.

<sup>8</sup> Civ. Code, § 1798.505.

This bill also creates the e-Safety Commission within the Department of Justice, which is tasked with advising the Attorney General on implementation and enforcement, as well as other issues relevant to covered platforms and minor users. The Commission is required to report annually to the Legislature about its activities, compliance rates by covered platforms, enforcement actions taken, and proposed changes to the law. The Attorney General may, in consultation with the e-Safety Commission, adopt regulations as needed to implement and enforce this measure. The Attorney General is also empowered to alter the scope of the definition of “covered platform” if the Attorney General determines that doing so is necessary to ensure that “covered platform” extends to all websites, online services and applications, or mobile applications that make addictive features available to users under 16 years of age.

#### 4. Concerns about the bill in print

Although this bill does not affect a total ban on social media for users under 16 years of age, this bill does wholly prevent those users from being on a platform that provides an “addictive feed” to *any* users. To the extent minors want to be on social media, they will be limited to (1) platforms that don’t have addictive feeds, or (2) if any platform is willing to offer it, a kids-only version of existing platforms, where they would be completely walled off from the other 16+ version.

A number of concerns have been raised about this approach. For example, The Trevor Project writes:

We know from research – and from what LGBTQ+ young people tell our trained counselors at Trevor – that social media has the potential to cause harm. Social media can contribute to negative outcomes such as bullying, anxiety, depression, and eating disorders, and it’s important that these issues are addressed through proactive measures. We appreciate the intent behind AB 1709 to protect young people from harmful online experiences and platform design. We also support the bill’s recognition that online safety requires ongoing oversight and evidence-based policymaking, including the creation of the e-Safety Advisory Commission to advise on privacy implications, harmful design features, and the differential impact of online safety laws on young people of different backgrounds and identities.

However, we cannot ignore the reality that many LGBTQ+ young people – especially those who do not live in supportive homes or communities – turn to the internet to better understand themselves, and to find support and belonging. These online spaces can be life-saving; LGBTQ+ young people with access to affirming online spaces report significantly lower odds of attempting suicide. Properly designed and moderated, online platforms have demonstrated the ability to bring youth together, connect them to the support they need, and even positively impact their mental health and well-being.

ACLU California Action argues that a social media ban will be counterproductive:

Moreover, bans do not stop youth from seeking connection online. Evidence from UNICEF shows that when mainstream platforms become inaccessible, young people turn to workarounds or migrate to less regulated, less safe environments. This displacement undermines safety goals and can increase exposure to harmful content. Brookings Institute researchers have similarly noted that bans may fail to curb excessive use while raising serious concerns about free expression, privacy, and children's rights.

A coalition of opponents, including Lawyers for Good Government and EducateUS, argues that this bill is unconstitutional:

First, there is no "kid exception" to the First Amendment. Just like adults, young people enjoy First Amendment rights to speak and to access speech on social media. Indeed, courts across the country have struck down laws banning young people from social media, ruling that the laws violate both young people's and adults' First Amendment rights. The Supreme Court has also repeatedly struck down laws that restrict minors' speech or impose parental-permission requirements on non-sexual content. Banning young people entirely from social media is an extreme measure that doesn't match the actual risks of online engagement. And California does not have a valid interest in overriding parents' and children's rights to decide for themselves how to use social media.

Constitutional scholar Erwin Chemerinsky agrees, writing in a recent op-ed:

These laws are motivated by the laudable goal of protecting children. Studies document that social media use is correlated to depression, low self-esteem, bullying and predatory behavior directed at children. The Assembly is following the lead of Australia, which adopted a law in 2025 that prohibits children under 16 from having access to 10 social media platforms, including TikTok, Instagram, YouTube, Snapchat, Facebook, X and Reddit.

But attempts — like AB 1709 — to have California join Australia in banning children from using social media ignore a critical difference between these countries: the First Amendment of the U.S. Constitution. Banning those under 16 from having access to social media is at odds with the fundamental premise of the First Amendment.

Furthermore, age verification laws not only restrict access by children, but also for adults who are unable or unwilling to link their government identification to their online activity.<sup>9</sup>

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<sup>9</sup> Chemerinsky, *A well-intentioned California social media bill is unconstitutional* (Jun. 10, 2026) The Sacramento Bee, <https://www.sacbee.com/opinion/article316048947.html>.

## 5. Amendments

In response to good faith stakeholder concerns, the author has proposed amendments that refine the bill and narrow it to a more targeted scope. Under this new framework:

- The definition of “covered platforms” is narrowed to mean only (1) a social media platform on which an addictive feature is a significant part of the service provided by the platform, or (2) any other website, online service, online application, or mobile application specified in regulations adopted by the Attorney General pursuant to this bill.
- Instead of banning under-16s from social media platforms with addictive features, the bill provides that, if a platform decides to allow under-16s on the site, those accounts must be set up without any addictive features. In other words, if those social media platforms like Instagram and YouTube<sup>10</sup> choose to allow users under the age of 16 to have accounts on their platforms, those accounts must be programmed to operate without the addictive features available to older users.
- “Addictive features” is defined to include addictive feeds and autoplay, as well as any other feature the Attorney General decides to identify as addictive by regulation.
- The age verification mechanism for this bill will be conducted through one of two mechanisms. First, if the individual’s device is configured to transmit an age range pursuant to the Digital Age Assurance Act, the platform shall rely on that data. If the account is being established on a device without a Digital Age Assurance Act signal, the platform shall follow the age assurance regulations adopted pursuant to the Protecting Our Kids from Social Media Addiction Act.<sup>11</sup> These changes ensure that social media platforms are not engaging in duplicative age verification efforts.

A full mock-up of the amendments is set forth at the end of this analysis as Appendix A.

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<sup>10</sup> Committee staff are aware that questions have been raised over whether YouTube is a social media platform. It is, both under the statutory definition and as a matter of common understanding. (*See, e.g., Moody v. NetChoice, LLC* (2024) 603 U.S. 707, 719 (“The biggest social-media companies – entities like Facebook and YouTube – host a staggering amount of content”); *Murthy v. Missouri* (2024) 603 U.S. 43, 50 (“With their billions of active users, the world’s major social-media companies host a ‘staggering’ amount of content on their platforms...Yet for many of these companies, including Facebook, Twitter, and YouTube, anything goes.”); *NetChoice v. Bonta* (9th Cir. 2025) 152 F.4th 1002 (NetChoice asserted institutional standing to challenge the Protecting Our Kids From Social Media Act on behalf of “YouTube, Facebook, Instagram, Nextdoor, Pinterest, and X”).)

<sup>11</sup> *See* SB 976 (Skinner, Ch. 321, Stats. 2024).

6. Constitutional questions – as amended

The amendments proposed by the author alter the nature of the constitutional analysis, so this Comment examines the constitutional issues posed by bill as the author proposes to amend it.

*a. Section 230*

Section 230 provides that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”<sup>12</sup> Section 230 also provides a safe harbor for content moderation, by stating that no provider or user shall be held liable because of good-faith efforts to restrict access to material that is “obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.”<sup>13</sup> Section 230 preempts any state law inconsistent with its terms.<sup>14</sup>

As amended, the bill does not address third-party content at all. Instead, it addresses a social media platform’s own conduct, i.e., features incorporated into the platform’s design to make it more addictive. Although a platform might use third-party content as fodder for those features, the specific content of any particular post is irrelevant; it is the platform’s own product design that is regulated by this bill. The United States Court of Appeals for the Ninth Circuit has already held that Section 230 does not immunize a social media platform for its own design choices.<sup>15</sup> This bill is consistent with that holding.

*b. The First Amendment*

“[M]inors are entitled to a significant measure of First Amendment protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected materials to them.”<sup>16</sup> “No doubt a State poses a legitimate power to protect children from harm, but that does not include a free-floating power to restrict the ideas to which children may be exposed.”<sup>17</sup> Any measure protecting children from the worst effects of social media, therefore, must still be respectful of minors’ First Amendment rights.

The first question is whether this bill imposes a restriction on speech at all. Facially, the bill does not restrict speech; it merely regulates social media platforms’ conduct. But a court will nevertheless apply First Amendment scrutiny to statutes which, “although

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<sup>12</sup> 47 U.S.C. § 230(c)(1).

<sup>13</sup> *Id.*, § 230(c)(1) & (2).

<sup>14</sup> *Id.*, § 230(e)(1) & (3).

<sup>15</sup> See *Lemmon v. Snap, Inc.* (2021) 995 F.3d 1085, 1092.

<sup>16</sup> *Brown v. Entertainment Merchants Ass’n* (2011) 564 U.S. 786, 795 (internal quotation marks omitted).

<sup>17</sup> *Ibid.* (internal citation omitted).

directed at activity with no expressive component, impose a disproportionate burden upon those engaged in protected First Amendment activities.”<sup>18</sup> Because this bill affects minors under 16 years of age from creating the same type of social media accounts as persons aged 16 years or older, a First Amendment analysis seems appropriate.

The next question is whether this bill imposes a content-based or a content-neutral restriction on speech. As amended, the answer is probably content-neutral. There is nothing on the face of the bill that restricts any particular type of content; it merely restricts a platform’s ability to apply certain features to how content is presented. Moreover, the Ninth Circuit has already rejected the argument that a law is content-based merely because it focuses on social media.<sup>19</sup> Under this approach, the bill will likely be subjected to intermediate scrutiny.

The United States Supreme Court has explained:

To survive intermediate scrutiny, a regulation need not be the least-restrictive means of advancing the Government’s interests. Rather, the standard is satisfied so long as the regulation promotes a substantial government interest that would be achieved less affectively absent the regulation and does not burden substantially more speech than is necessary.<sup>20</sup>

Last year, the United States Court of Appeals for the Eleventh Circuit vacated an injunction issued against Florida’s law restricting social media access for minors.<sup>21</sup> Florida’s law is more restrictive than this bill as the author proposes to amend it: the bill prohibits social media platforms with addictive features from allowing persons under 14 years of age from creating accounts, and requires 14- and 15-year olds to obtain parental consent to open an account.<sup>22</sup> The Eleventh Circuit held that the law was content-neutral and therefore subject to intermediate scrutiny.<sup>23</sup> The Eleventh Circuit agreed that the governmental interest in protecting minors from platforms with addictive features was legitimate and substantial, and that there was a high likelihood that the state would prevail on the argument that the interest would be achieved less effectively without the law.<sup>24</sup>

This bill is similarly content-neutral. Moreover, as amended, the bill creates a path for minors to access the content they wish to access without being bombarded with addictive features. Under the amendments, a platform does not need to create a wholly different “kids” version of the platform; users of all ages can access the same platform,

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<sup>18</sup> *Arcara v. Cloud Books, Inc.* (1996) 478 U.S. 697, 704-705.

<sup>19</sup> *NetChoice, supra*, 152 F.4th at p. 1016.

<sup>20</sup> *TikTok Inc. v. Garland* (2025) 604 U.S. 56, 76 (cleaned up).

<sup>21</sup> *Computer & Communications Industry Association v. Uthmeier* (11th Cir., Nov. 25, 2025) 2025 WL 3458571.

<sup>22</sup> *Id.* at p. \*1.

<sup>23</sup> *Id.* at p. \*6.

<sup>24</sup> *Computer & Communications Industry Association, supra*, 2025 WL 3458571 at p. \*6.

but for the under-16's, the addictive features have to be turned off. By creating this pathway, instead of imposing an outright ban, this bill is clear that the goal is not to keep kids from the speech they truly wish to seek out; the goal is to keep them free of the exploitative features that social media platforms employ to sell more ad space. It appears, therefore, that this law could withstand intermediate scrutiny review.<sup>25</sup>

Although the bill's opponents have not made the argument in connection with this particular bill, it's worth mentioning that, in some cases, social media platforms have argued that their modes of presenting content to users is expressive content protected under the First Amendment. Whether a particular presentation of content is truly expressive or not will vary on a platform-by-platform basis. "[T]he more an algorithm implements human editorial decisions, the more it is likely to be expressive for First Amendment purposes... On the other hand, an algorithm that responds solely to how users act online, merely giving them the content they appear to want, probably is not expressive."<sup>26</sup> Whether a particular addictive feature is, in fact, a platform's expressive conduct, rather than the product of an algorithm, will need to be determined on an as-applied basis, but it does not appear likely that there are so many human-curated addictive features that this bill would be invalidated on a facial challenge.

*c. The impending age verification question*

As the author proposes to amend it, this bill requires a social media platform to verify a user's age through one of two methods: first, through the age verification feature transmitted by the device pursuant to the Digital Age Assurance Act, if one is available; and if there is no device-level transmission, through the methods permitted under the Protecting Our Kids from Social Media Addiction Act (Act) and regulations adopted thereunder.<sup>27</sup> The Digital Age Assurance Act takes effect on, and regulations under the Act must be adopted on or before, January 1, 2027,<sup>28</sup> so both of these options will be feasible as of this bill's operative date.

The question of age verification, and its implications for privacy and chilling speech, is a complicated one. NetChoice sought an injunction against the Act in 2024, before it even took effect. The district court enjoined portions of the Act unrelated to the age-verification requirement but declined to enjoin the age-verification portions because NetChoice's challenge was not yet ripe.<sup>29</sup> The Ninth Circuit affirmed, noting that

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<sup>25</sup> The United States Court of Appeals for the Sixth Circuit recently held that an Ohio law requiring a child under 16 years of age to obtain parental consent to create or maintain a social media account, if the platform targets or is reasonably anticipated to be accessed by children, was content-based and subject to strict scrutiny, but then held that the law survived strict scrutiny on NetChoice's facial challenge. (*NetChoice v. Yost* (6th Cir. 2026) –F.4th – 2026 WL 1758907.) Precedent thus suggests that, even if a court applied strict scrutiny to this bill, it could be upheld.

<sup>26</sup> *NetChoice, supra*, 152 F.4th at p. 1014 (cleaned up).

<sup>27</sup> Health & Saf. Code, div. 20, ch. 24, § 27000 et seq.

<sup>28</sup> *Id.*, § 27006.

<sup>29</sup> *NetChoice v. Bonta, supra*, 152 F.4th at p. 1011-1012.

“without knowing what age-verification the Act will require, we cannot determine whether those procedures unconstitutionally chill the speech of users,” or “whether the requirements are unconstitutional in a substantial number of their applications.”<sup>30</sup>

The United States Supreme Court has upheld an age-verification requirement for pornographic websites, even though the requirement had the potential to chill adults’ access to speech, holding that “no person – adult or child – has a First Amendment right to access speech that is obscene to minors without first submitting proof of age.”<sup>31</sup> It is unclear, however, whether age verification to access non-obscene speech will be granted the same leeway. This unresolved issue is not particular to this bill; it is inherent to any law that attempts to create age-based requirements on the internet, and the state can only wait and see how the courts rule.

## 7. Arguments in support

According to Common Sense Media:

Children are uniquely vulnerable to manipulative design features engineered to maximize compulsive engagement. Features like infinite scroll, autoplay, and algorithmic feeds are intentionally engineered to maximize compulsive engagement among young users and adolescents underdeveloped executive function makes them especially susceptible to these “dopamine-driven” reinforcement systems. Peer-reviewed research continues to link problematic social media use to anxiety, depression, sleep disruption, diminished attention, and impaired cognitive control.

AB 1709 responds directly to these harms by requiring platforms to take meaningful steps to prevent under-16 access, ensure deletion of under-age accounts and associated data, and limit the use of age-assurance information to privacy-protective purposes. The bill also establishes an e-Safety Advisory Commission within the Department of Justice to guide implementation and enforcement – an essential structure for ensuring accountability and consistency across platforms.

## 8. Arguments in opposition

According to the Chamber of Progress:

Australia’s experience shows that a blanket under-16 social media ban is a blunt restriction, not a targeted safety measure. The law, in force since December 2025, requires platforms to take “reasonable steps” to block under-16s, backed by massive fines. But early evidence suggests it has not cleanly solved the problem it set out to address. As of March 2026, regulators reported that many under-16s still retained or created accounts and were able to bypass age-assurance systems, triggering

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<sup>30</sup> *Id.* at p. 1022.

<sup>31</sup> *Free Speech Coalition, Inc. v. Paxton* (2025) 606 U.S. 461, 478.

investigations into major platforms. At the same time, the policy restricts young people's rights in a sweeping way. Critics, including the Australian Human Rights Commission, argue that limiting youth access to communication platforms should be done through the least restrictive means possible, not a categorical ban. A blanket prohibition cuts off access to information, expression, and participation in public life, raising serious proportionality concerns...

Even where enforcement succeeds in part, it may simply displace risk rather than reduce it. Australia's framework excludes messaging apps and gaming platforms, meaning young users can shift to less regulated or less visible spaces. Critics argue this fragmentation makes harms harder to monitor and address, rather than eliminating them. Finally, the burdens of a blanket ban fall unevenly. Teens who rely most on online communities, including LGBTQ+ youth, disabled youth, and those in rural or unsafe environments, face the greatest loss of access. At the same time, more resourced users are better positioned to circumvent restrictions.

### SUPPORT

California Commission on the Status of Women and Girls (co-sponsor)  
Organization of Social Media Safety (co-sponsor)  
American Academy of Pediatrics  
California Initiative for Technology & Democracy  
California Police Chiefs Association  
Children's Advocacy Institute at the University of San Diego School of Law  
Common Sense Media

### OPPOSITION

Advocates for Youth  
ACLU California Action  
American Innovators Network  
Chamber of Progress  
Children's Online Safety and Privacy Research  
Civil Justice Association of California  
COLAGE  
Computer and Communications Industry Association  
Design It For Us  
EducateUS  
Electronic Frontier Foundation  
Fight for the Future  
Gen-Z for Change  
If/When/How: lawyering for Reproductive Justice  
Internet Works  
Lawyers for Good Government

NetChoice  
Nexus of Privacy  
Oakland Privacy  
Secular Education Association  
SIECUS: Sex Ed for Social Change  
TechNet  
The Trevor Project  
Youth People’s Alliance  
Youth Power Project

### **RELATED LEGISLATION**

#### **Pending legislation:**

AB 1856 (Wicks, 2026) amends the Digital Age Assurance Act to address multi-user/family-account scenarios and expands its scope to create a parallel age-signal framework for browsers and certain websites that are otherwise required by law to verify users’ ages. AB 1856 is pending before the Senate Privacy, Digital Technologies, and Consumer Protection Committee.

AB 2 (Lowenthal, 2025) increases the penalties that can be sought against a social media platform, as defined, if the platform fails to exercise ordinary care or skill and injures a child. AB 2 is pending before this Committee and is set to be heard on the same date as this bill.

#### **Prior legislation:**

SB 976 (Skinner, Ch. 321, Stats. 2024) prohibited operators of “internet-based services or applications” from providing “addictive feeds,” as those terms are defined, to minors without parental consent and from sending notifications to minors at night and during school hours without parental consent, as provided, and required operators to make available to parents a series of protective measures for controlling access to and features of the platform for their children. The bill remains in effect despite ongoing litigation.<sup>32</sup>

AB 3172 (Lowenthal, 2024) was largely identical to this bill but took amendments that narrowed the enforcement to public prosecutors and raised the standard of liability to knowingly and willfully. AB 3172 died on the Senate Floor.

AB 2273 (Wicks, Ch. 320, Stats. 2022) established the California Age-Appropriate Design Code Act (AADC), placing a series of obligations and restrictions on businesses that provide online services, products, or features likely to be accessed by children, and requires these businesses to “[e]stimate the age of child users with a reasonable level of certainty appropriate to the risks that arise from the data management practices of the

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<sup>32</sup> See *NetChoice, LLC v. Bonta* (9th Cir. 2025) 152 F.4th 1002, 1025.

business or apply the privacy and data protections afforded to children to all consumers.” Portions of the AADC have been enjoined, and litigation is ongoing.<sup>33</sup>

**PRIOR VOTES**

Senate Privacy, Digital Technologies, and Consumer Protection Committee (Ayes 7,  
Noes 0)

Assembly Floor (Ayes 76, Noes 0)

Assembly Appropriations Committee (Ayes 13, Noes 1)

Assembly Judiciary Committee (Ayes 10, Noes 0)

Assembly Privacy and Consumer Protection Committee (Ayes 13, Noes 1)

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<sup>33</sup> See *NetChoice, LLC v. Bonta* (9th Cir. 2026) 170 F.4th 744, 751-752 (*NetChoice II*).

## APPENDIX A

The agreed-upon amendments are set forth below, subject to any nonsubstantive changes the Office of Legislative Counsel may make. The amendments are to Section 2 of the bill only, so Sections 1, 3, and 4 are not included in this mockup. The amendments will also add co-authors and principal co-authors at the request of the author. Additions are in bold and underline; deletions are in strikethrough.

### Amendments to AB 1709

SEC. 2. Chapter 22.9 (commencing with Section 22682) is added to Division 8 of the Business and Professions Code, to read:

#### CHAPTER 22.9. Covered Platform Age Restriction

22682. For purposes of this chapter:

(a) "Addictive feature" means **any of the following** a psychologically exploitative features intended to maximize engagement that foreseeably leads to compulsive use; ~~including, but not limited to, notifications, addictive feeds, endless scrolls, autoplay, and their functional equivalents, including any feature that learns from user information or behavior in order to prolong engagement with a particular internet website, online service, online application, or mobile application.~~

**(1) An addictive feed.**

**(2) Autoplay.**

**(3) Any other feature defined in regulations adopted pursuant to Section 22686 as an addictive feature.**

(b) "Addictive feed" means an internet website, online service, online application, or mobile application, or a portion thereof, in which multiple pieces of media generated or shared by users are, either concurrently or sequentially, recommended, selected, or prioritized for display to a user based, in whole or in part, on information provided by the user, or otherwise associated with the user or the user's device, unless any of the following conditions are met:

(1) The information is not persistently associated with the user or user's device and does not concern the user's previous interactions with media generated or shared by others.

(2) The information consists of search terms that are not persistently associated with the user or user's device.

(3) The information consists of user-selected privacy or accessibility settings, technical information concerning the user's device, or device communications or signals concerning whether the user is a minor.

(4) The user expressly and unambiguously requested the specific media or media by the author, creator, or poster of the media, or the blocking, prioritization, or deprioritization of that media, provided that the media is not recommended, selected, or prioritized for display based, in whole or in part, on other information associated with the user or the user's device, except as otherwise permitted by this chapter and, if the media is audio or video content, is not automatically played.

(5) The media consists of direct, private communications between users.

(6) The media recommended, selected, or prioritized for display is exclusively the next media in a preexisting sequence from the same author, creator, poster, or source and, if the media is audio or video content, is not automatically played.

(7) The recommendation, selection, or prioritization of the media is necessary to comply with state or federal law.

(c) (1) "Covered platform" means, subject to regulations adopted pursuant to Section ~~22687~~ **22686**, an internet website, online service, online application, or mobile application, ~~including, but not limited to, that is~~ a social media platform, ~~as defined in Section 22675~~, that offers users or provides users with an addictive **feed feature** as a significant part of the service provided by that internet website, online service, online application, or mobile application.

(2) "Covered platform" does not include either of the following:

(A) An internet website, online service, online application, or mobile application for which interactions between users are limited to commercial transactions or to consumer reviews of products, sellers, services, events, or places, or any combination thereof.

(B) An internet website, online service, online application, or mobile application that operates a feed for the primary purpose of cloud storage.

(d) "Personal information" has the meaning defined in Section 1798.140 of the Civil Code.

**(e) "Social media platform" has the meaning defined in Section 22675.**

(ef) "User" means a natural person who resides in the state and accesses or seeks to create an account on a covered platform.

22683. (a) ~~(1)~~ A covered platform shall not ~~permit~~ **provide an addictive feature to** a user who is under 16 years of age ~~to create or maintain an account on the covered platform.~~

**(2) Paragraph (1) does not prohibit a covered platform from permitting a user who is under 16 years of age to create or maintain an account on the covered platform if that user is not provided with any addictive feature.**

(b) A covered platform shall implement reasonable measures to prevent users under 16 years of age from accessing or using accounts on the covered platform **that offer or provide any addictive feature.**

22684. (a) ~~(1)~~ A covered platform shall verify the age of a user pursuant to the Digital Age Assurance Act (Title 1.81.9 (commencing with Section 1798.500) of Part 4 of Division 3 of the Civil Code) subject to any regulation adopted by the Attorney General pursuant to Section 22686.

**(2) If a covered platform is unable to verify the age of the user pursuant to paragraph (1), the covered platform shall instead rely on the age determination with respect to the user made pursuant to Section 27001(a) of the Health and Safety Code.**

(b) ~~(1)~~ **Except as provided in paragraph (2), a** covered platform shall delete the account of a user under 16 years of age and any personal information associated with the user of the account.

**(2) This subdivision does not apply to a covered platform that permits a user who is under 16 years of age to create or maintain an account on the platform pursuant to paragraph (2) of subdivision (a) of Section 22683.**

~~22685. (a) Personal information collected for age assurance under this chapter shall be all of the following:~~

~~(1) Used solely for age-related eligibility determinations.~~

~~(2) Retained only for the minimum period necessary to complete the verification process.~~

~~(3) Not used for advertising, profiling, or algorithmic recommendation purposes.~~

~~(b) A covered platform shall implement reasonable security procedures and practices to protect age assurance data from unauthorized access, use, or disclosure.~~

22686. (a) The Attorney General may, in consultation with the e-Safety Advisory Commission, adopt regulations to implement and enforce this chapter in order to further the purpose of protecting minors online.

(b) Pursuant to subdivision (a), the Attorney General may alter the scope of “covered platform” if the Attorney General determines that doing so is necessary to ensure that “covered platform” applies to internet websites, online services, online applications, or mobile applications that make addictive features available to users under 16 years of age.

22687. (a) This chapter shall be enforced by a civil action brought only by the Attorney General, or a local public prosecutor.

(b) A covered platform that violates this chapter shall be subject to a civil penalty of the following:

(1) Up to fifty thousand dollars (\$50,000) per affected minor for a knowing violation.

(2) Up to twenty-five thousand dollars (\$25,000) per affected minor for a negligent violation.

(c) In assessing a civil penalty under this section, a court shall consider the size of the covered platform, the severity and duration of the violation, and the covered platform’s good faith efforts to comply with this chapter.