ASSEMBLY BILL   No. 1043

Introduced by Assembly Member Wicks
(Principal coauthor: Senator Umberg)
(Coauthors: Assembly Members Bauer-Kahan, Dixon, Harabedian, Hoover, Kalra, and Stefani)

February 20, 2025

An act to add Title 1.81.9 (commencing with Section 1798.500) to Part 4 of Division 3 of the Civil Code, relating to consumer protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1043, as amended, Wicks. Age verification signals: software applications and online services.

Existing law generally provides protections for minors on the internet, including the California Age-Appropriate Design Code Act that, among other things, requires a business that provides an online service, product, or feature likely to be accessed by children to do certain things, including estimate the age of child users with a reasonable level of certainty appropriate to the risks that arise from the data management practices of the business or apply the privacy and data protections afforded to children to all consumers and prohibits an online service, product, or feature from, among other things, using dark patterns to lead or encourage children to provide personal information beyond what is reasonably expected to provide that online service, product, or feature *or* to forego privacy protections.

This bill would require, among other things related to age verification on the internet, a covered manufacturer to provide an accessible interface ~~for requiring account holders,~~ *at account setup that requires an account holder,* as defined, to indicate the birth date, age, or both, of the user of that device for the sole purpose of providing a signal regarding the user's age bracket to applications available in a covered application store and would require the covered manufacturer to provide developers, as defined, with a digital signal via a real-time application programming interface regarding whether a user is in any of several age brackets, as prescribed. The bill would define "covered manufacturer" to mean a person who is a manufacturer of a device, an operating system for a device, or a covered application store. The bill would require a developer with actual knowledge of a user's age to ~~provide any readily available features for account holders~~ *connect account holders with any existing tools* to support a user with respect to the user's use of the service and as appropriate given the risks that arise from use of the ~~application, as specified.~~ *application.*

This bill would punish noncompliance with a civil penalty to be enforced by the Attorney General, as prescribed.

This bill would declare its provisions to be severable.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Title 1.81.9 (commencing with Section 1798.500)
2 is added to Part 4 of Division 3 of the Civil Code, to read:
3
4 TITLE 1.81.9. DIGITAL AGE ASSURANCE ACT
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6 1798.500. For the purposes of this title:
7 (a) *(1)* "Account holder" means a parent or legal guardian of
8 a ~~device~~ user who is under 18 years of age.
9 *(2) "Account holder" does not include a parent of an*
10 *emancipated minor or a parent or legal guardian who is not*
11 *associated with a user's device.*
12 (b) "Age bracket data" means nonpersonally identifiable data
13 derived from a user's birth date or age for the sole purpose of
14 sharing with developers of applications that indicates only any of
15 the following:

1 (1) Whether a user is under five years of age.
2 (2) Whether the user is at least 5 years of age and under 10 years
3 of age.
4 (3) Whether the user is at least 10 years of age and under 13
5 years of age.
6 (4) Whether the user is at least 13 years of age and under 16
7 years of age.
8 (5) Whether the user is at least 16 years of age and under 18
9 years of age.
10 (6) Whether the user is at least 18 years of age.
11 (c) "Application" means a software application or online service,
12 product, or feature that may be run or directed by a user on a
13 computer, a mobile device, or any other general purpose computing
14 device.
15 (d) "Child" means a consumer who is under 18 years of age.
16 (e) "Covered application store" means a publicly available
17 internet website, software application, online service, or platform
18 that distributes and facilitates the download of applications from
19 third-party developers to users of a computer, a mobile device, or
20 any other general purpose computing device.
21 (f) "Covered manufacturer" means a person who is a
22 manufacturer of a device, an operating system for a device, or a
23 covered application store.
24 (g) "Developer" means a person that ~~creates,~~ owns, *maintains,*
25 or controls an ~~application and is responsible for the design,~~
26 ~~development, maintenance, and distribution of the application to~~
27 ~~end users.~~ *application.*
28 (h) "Online service, product, or feature" does not mean any of
29 the following:
30 (1) A broadband internet access service, as defined in Section
31 3100.
32 (2) A telecommunications service, as defined in Section 153 of
33 Title 47 of the United States Code.
34 (3) The delivery or use of a physical product.
35 (i) "Signal" means age bracket data or notice of parent or
36 guardian consent sent by a real-time secure application
37 programming interface or operating system to an application.
38 (j) "User" means a child that is the primary user of the device.
39   1798.501. (a) A covered manufacturer shall do all of the
40 following:

1 (1) Provide an accessible interface ~~for requiring account holders~~
2 *at account setup that requires an account holder* to indicate the
3 birth date, age, or both, of the user of that device for the sole
4 purpose of providing a signal regarding the user's age bracket to
5 applications available in a covered application store.
6 (2) If the covered manufacturer is a covered application store:
7 (A) For ~~users~~ *a user* under 16 years of ~~age,~~ *age who has an*
8 *account holder,* obtain account holder consent before permitting
9 ~~users~~ *the user* to download an application distributed, or made
10 accessible via, the covered application store.
11 (B) Provide *to* a developer in the covered application store a
12 signal indicating whether an account holder *who is the parent or*
13 *guardian of a user under 16 years of age* has provided consent
14 under ~~this paragraph.~~ *subparagraph (A).*
15 (C) Provide ~~an option to connect~~ *developers with the ability to*
16 *disclose to* the account holder ~~with the developer for the purpose~~
17 ~~of managing~~ *information or* any parental tools provided by the
18 developer.
19 (3) Provide developers with a digital signal via a real-time
20 application programming interface identifying which of the
21 following categories pertains to the user:
22 (A) Under five years of age.
23 (B) At least 5 years of age and under 10 years of age.
24 (C) At least 10 years of age and under 13 years of age.
25 (D) At least 13 years of age and under 16 years of age.
26 (E) At least 16 years of age and under 18 years of age.
27 (F) At last 18 years of age.
28 *(4) A covered manufacturer shall send only the minimum amount*
29 *of information necessary to comply with this title and shall not*
30 *share the digital signal information with a third party for a purpose*
31 *not required by this title.*
32 (b) (1) A developer with actual knowledge of a user's age shall
33 ~~provide any readily available features for account holders~~ *connect*
34 *account holders with any existing tools* to support a user with
35 respect to the user's use of the service and as appropriate given
36 the risks that arise from use of the ~~application, including features~~
37 ~~to do all of the following:~~ *application.*
38 ~~(A) Help manage which accounts are affirmatively linked to~~
39 ~~the user.~~
40 ~~(B) Manage the delivery of age-appropriate content.~~

1 (C) Limit the amount of time that the user spends daily on
2 application.
3 (2) A developer that receives a signal indicating a user's age
4 shall be deemed to have actual knowledge of the user's age. *age*
5 *even if the developer willfully disregards the signal.*
6 (3) A developer shall treat a signal indicating a user's age as
7 the authoritative *primary* indicator of a user's age for purposes of
8 determining the user's age and for compliance with any state law
9 requiring age verification or parental or guardian consent. *age.*
10 (4) *(A)* A developer that relies in good faith on a signal
11 indicating a user's age provided by a covered manufacturer is
12 presumed to have accurately determined the user's age and to be
13 in compliance with any state law that requires *online* age
14 verification or parental guardian consent.
15 *(B) The presumption of accuracy established by this paragraph*
16 *is rebuttable by credible evidence that the user's age is different*
17 *than the signal indicating a user's age provided by the covered*
18 *manufacturer.*
19 *(5) A developer that receives a signal indicating a user's age*
20 *pursuant to this title may use that signal to comply with applicable*
21 *law but shall not do either of the following:*
22 *(A) Request more information than the minimum amount of*
23 *information necessary to comply with this title.*
24 *(B) Share the signal with a third party for a purpose not required*
25 *by this title.*
26 1798.502. *(a)* A person that violates this title shall be subject
27 to an injunction and liable for a civil penalty of not more than two
28 thousand five hundred dollars ($2,500) per affected child for each
29 negligent violation or not more than seven thousand five hundred
30 dollars ($7,500) per affected child for each intentional violation,
31 which shall be assessed and recovered only in a civil action brought
32 in the name of the people of the State of California by the Attorney
33 General.
34 *(b) A covered manufacturer that makes a good faith effort to*
35 *comply with this title, taking into consideration available*
36 *technology and any reasonable technical limitations or outages,*
37 *shall not be liable for an erroneous signal indicating a user's age*
38 *or any conduct by a developer that receives a signal indicating a*
39 *user's age.*

1   1798.503. (a) This title does not modify, impair, or supersede
2 the operation of any antitrust law.
3   (b) This title does not require the collection of additional
4 personal information from device owners or device users other
5 than that which is necessary to comply with Section 1798.501.
6   (c) A covered manufacturer shall comply with this title in a
7 nondiscriminatory manner.
8   (d) The protections provided by this title are in addition to those
9 provided by any other applicable law, including, but not limited
10 to, the California Age-Appropriate Design Code Act (Title 1.81.47
11 (commencing with Section 1798.99.28)).
12   *(e) If any provision of this title, or application thereof, to any*
13 *person or circumstance is held invalid, that invalidity shall not*
14 *affect other provisions or applications of this title that can be given*
15 *effect without the invalid provision or application, and to this end*
16 *the provisions of this title are declared to be severable.*

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