

ASSEMBLY BILL

No. 1064

Introduced by Assembly Member Bauer-Kahan

February 20, 2025

An act to add Chapter 25.1 (commencing with Section 22757.20) to Division 8 of the Business and Professions Code, relating to artificial intelligence.

LEGISLATIVE COUNSEL’S DIGEST

AB 1064, as introduced, Bauer-Kahan. Leading Ethical AI Development (LEAD) for Kids Act.

The California AI Transparency Act requires a person that creates, codes, or otherwise produces a generative artificial intelligence system that has over 1,000,000 monthly visitors or users and is publicly accessible within the geographic boundaries of the state to make available an AI detection tool at no cost to the user that, among other things, allows a user to assess whether image, video, or audio content, or content that is any combination thereof, was created or altered by the covered provider’s generative artificial intelligence system.

This bill, the Leading Ethical AI Development (LEAD) for Kids Act, would establish, and provide for the membership of, the LEAD for Kids Standards Board in the Government Operations Agency and require the Governor to appoint an executive officer of the board, subject to Senate confirmation, who would hold the office at the pleasure of the Governor. The act would require, on or before January 1, 2027, the board to adopt regulations governing, among other things, criteria for determining the level of estimated risk of a covered product based on an analysis that weighs the likelihood and severity of reasonably foreseeable adverse impacts against the anticipated benefits of the

covered product and denominating the risk levels, as prescribed. The act would define “covered product” to mean an artificial intelligence system that is intended to, or highly likely to, be used by children, pursuant to regulations adopted by the board.

The act would, among other things, require, on or before July 1, 2027, a developer to do certain things with respect to a covered product, including preparing and submitting to the board a risk level assessment in order to determine the appropriate risk classification of the covered product. The act would authorize the board to refer violations of the act to the Attorney General and would authorize the Attorney General to recover a certain civil penalty, as prescribed. The act would authorize a child who suffers actual harm as a result of a violation of the act, or a parent or guardian acting on behalf of that child, to bring a civil action to recover, among other relief, actual damages.

The act would create in the State Treasury the LEAD for Kids AI Fund into which any civil penalty recovered by the Attorney General pursuant to the act is deposited and would make the moneys in the fund available, only upon appropriation by the Legislature, for the purpose of administering the act.

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. Chapter 25.1 (commencing with Section
2 22757.20) is added to Division 8 of the Business and Professions
3 Code, to read:

4
5 CHAPTER 25.1. LEADING ETHICAL AI DEVELOPMENT (LEAD)
6 FOR KIDS
7

8 22757.20. This chapter shall be known as the Leading Ethical
9 AI Development (LEAD) for Kids Act.

10 22757.21. For purposes of this chapter:

11 (a) “Adverse impacts” are significant negative impacts to a
12 child’s health, safety, privacy, educational opportunities or
13 outcomes, or access to essential services or benefits.

14 (b) “Artificial intelligence” means an engineered or
15 machine-based system that varies in its level of autonomy and that
16 can, for explicit or implicit objectives, infer from the input it

1 receives how to generate outputs that can influence physical or
2 virtual environments.

3 (c) “Board” means the LEAD for Kids Standards Board created
4 pursuant to this chapter.

5 (d) “Child” means a natural person under 18 years of age who
6 resides in this state.

7 (e) “Covered product” means an artificial intelligence system
8 that is intended to, or highly likely to, be used by children, pursuant
9 to regulations adopted by the board.

10 (f) “Deployer” means a person, partnership, state or local
11 governmental agency, corporation, or developer, or any contract
12 or agent of those entities, that uses a covered product for a
13 commercial or public purpose.

14 (g) “Developer” means a person, partnership, state or local
15 governmental agency, corporation, or deployer that designs, codes,
16 substantially modifies, or otherwise produces a covered product.

17 (h) “Incident” means a discreet occurrence of an adverse impact
18 to a child caused by a covered product.

19 (i) “Personal information” has the meaning defined in Section
20 1798.140 of the Civil Code.

21 (j) “Prohibited covered product” means a product that poses a
22 prohibited risk pursuant to regulations adopted by the board.

23 (k) “Risk” means the composite measure of an event’s likelihood
24 of occurring and the magnitude or degree of the consequences of
25 the corresponding event.

26 (l) “Risk level assessment” means a structured evaluation of an
27 artificial intelligence’s known or reasonably foreseeable risks to
28 children.

29 (m) “Substantially modifies” means to create a new version,
30 release, update, or other modification to a covered product that
31 materially changes its uses or outputs.

32 (n) “System information label” means a consumer-facing label
33 that includes information about a covered product’s purpose,
34 functioning, data sources, and risk level.

35 (o) “Trade secrets” has the meaning defined in Section 3426.1
36 of the Civil Code.

37 22757.22. (a) (1) There is hereby established the LEAD for
38 Kids Standards Board in the Government Operations Agency. The
39 Governor shall appoint an executive officer of the board, subject
40 to Senate confirmation, who shall hold the office at the pleasure

1 of the Governor. The executive officer shall be the administrative
2 head of the board and shall exercise all duties and functions
3 necessary to ensure that the responsibilities of the board are
4 successfully discharged.

5 (2) The board shall be composed of the following nine members:

6 (A) A member of academia appointed by the Governor and
7 subject to Senate confirmation.

8 (B) A technologist appointed by the Governor and subject to
9 Senate confirmation.

10 (C) A member of civil society appointed by the Governor and
11 subject to Senate confirmation.

12 (D) An expert in technology ethics appointed by the Governor
13 and subject to Senate confirmation.

14 (E) An expert in education appointed by the Governor and
15 subject to Senate confirmation.

16 (F) A member of academia with expertise in artificial
17 intelligence appointed by the Speaker of the Assembly.

18 (G) A member of academia with expertise in social science
19 appointed by the Speaker of the Assembly.

20 (H) Two members appointed by the Senate Committee on Rules.

21 (3) A member of the board shall meet all of the following
22 criteria:

23 (A) A member shall be free of direct and indirect external
24 influence and shall not seek or take instructions from another.

25 (B) A member shall not take an action or engage in an
26 occupation, whether gainful or not, that is incompatible with the
27 member's duties.

28 (C) A member shall not, either at the time of the member's
29 appointment or during the member's term, have a financial interest
30 in an entity that is subject to regulation by the board.

31 (4) A member of the board shall serve at the pleasure of the
32 appointing authority but shall serve for no longer than eight
33 consecutive years.

34 (b) (1) The board shall ensure that regulations adopted pursuant
35 to this chapter are consistent with widely accepted standards for
36 governance of artificial intelligence, taking into account
37 technological standards, technological advances, scientific literature
38 and advances, and societal changes as they pertain to risks posed
39 to children by covered products.

1 (2) The board shall consult with individuals from the public
2 who possess expertise directly related to the board's functions,
3 including technical, ethical, regulatory, and other relevant areas.

4 (c) On or before January 1, 2027, the board shall adopt
5 regulations governing all of the following:

6 (1) Criteria for developers to determine if an artificial
7 intelligence system is subject to this chapter.

8 (2) Criteria for determining the level of estimated risk of a
9 covered product based on an analysis that weighs the likelihood
10 and severity of reasonably foreseeable adverse impacts against the
11 anticipated benefits of the covered product and denominating the
12 risk levels pursuant to all of the following:

13 (A) "Prohibited risk," which shall be applied to a covered
14 product for which the costs of foreseeable adverse impacts likely
15 outweigh the benefits and includes, but is not limited to, all of the
16 following:

17 (i) Anthropomorphic chatbots that offer companionship and are
18 likely to cause the child to develop an ongoing emotional
19 attachment or to manipulate the child's behavior in harmful ways.

20 (ii) Artificial intelligence used in educational settings that
21 collects or processes biometric data of children.

22 (iii) Social scoring systems based on a child's behavior or
23 personal characteristics.

24 (iv) Artificial intelligence that detects the emotions of children.

25 (v) Artificial intelligence used to develop facial recognition
26 databases through untargeted scraping of children's facial images
27 from the internet or surveillance footage.

28 (B) "High risk," which shall be applied to a covered product
29 for which the benefits may outweigh the costs of foreseeable
30 adverse impacts and includes, but is not limited to, using artificial
31 intelligence to do any of the following:

32 (i) Perform a function related to pupil assessment or discipline.

33 (ii) Target advertisements to children.

34 (iii) For a specific purpose that would otherwise qualify as a
35 prohibited risk, as set forth in regulations adopted by the board,
36 provided that the use is strictly necessary to prevent threats to
37 health or safety.

38 (C) "Moderate risk," which shall be applied to a covered product
39 for which the benefits convincingly outweigh the costs of
40 foreseeable adverse impacts.

1 (D) “Low risk,” which shall be applied to a covered product for
2 which there are few, if any, foreseeable adverse impacts.

3 (3) Guidance for developers to classify covered products
4 according to risk level, as described in paragraph (2).

5 (4) Reasonable steps a developer of a prohibited risk covered
6 product is required to take to ensure that children are not able to
7 access the product.

8 (5) Requirements for predeployment and postdeployment
9 assessments, including, but not limited to, the purpose for which
10 the covered product is intended, technical capabilities, limitations
11 and functionality, specific adverse impacts, internal governance,
12 and the timing for the development and submission to the board
13 of those evaluations and assessments. The board shall also provide
14 guidance to avoid duplication of efforts with respect to any other
15 state or federal laws that require similar documentation.

16 (6) Requirements for artificial intelligence information labels
17 to ensure that, for each covered product, the public is able to access
18 baseline information on the covered product, including the covered
19 product’s purpose, a description of how it works, its risk level,
20 potential adverse impacts, and any other information necessary to
21 assess the impact of the system on children.

22 (7) Standards for audits of covered products, including the
23 timing of audits, qualifications and training of auditors, rules
24 governing auditor independence and oversight, and audit reports
25 that auditors are required to provide to the board. The board shall
26 also establish rules for the protection of trade secrets in connection
27 with the performance of audits.

28 (8) The creation of an incident reporting mechanism that enables
29 third parties to report incidents of adverse impacts resulting from
30 the use of a covered product directly to a developer or the board.

31 (9) The creation of a publicly accessible registry for covered
32 products that contains high-level summaries of audit reports,
33 incident reports, system information labels, and any additional
34 information specified by the board.

35 (10) (A) Registration fees for developers that do not exceed
36 the reasonable regulatory costs incident to administering this
37 chapter.

38 (B) A registration fee described by this paragraph shall be
39 deposited into the LEAD for Kids AI Fund established pursuant
40 to Section 22757.27.

1 22757.23. (a) On or before July 1, 2027, a developer shall do
2 all of the following with respect to a covered product:

3 (1) Register the covered product using the registry developed
4 by the board.

5 (2) Prepare and submit to the board a risk level assessment in
6 order to determine the appropriate risk classification of the covered
7 product.

8 (3) Develop and implement an artificial intelligence information
9 label for the covered product.

10 (b) In addition to the duties required under subdivision (a), all
11 of the following apply:

12 (1) With respect to a covered product that poses a prohibited
13 risk, the developer shall take reasonable steps to ensure that
14 children are not able to access the product.

15 (2) With respect to a high-risk covered product, the developer
16 shall conduct predeployment and postdeployment assessments
17 pursuant to the requirements established by the board.

18 (c) With respect to incident reports, a developer shall do all of
19 the following:

20 (1) Within 30 days of learning of an incident, file a report with
21 the board with any required information.

22 (2) Within 30 days of the substantiation of the incident by the
23 board, file a description of the incident on the developer's internet
24 website.

25 (d) With respect to licensing the covered product to deployers,
26 a developer shall do both of the following:

27 (1) Ensure that the terms of the license require it to be used in
28 a manner that would not change the covered product's risk level
29 to a higher level of risk.

30 (2) Revoke the license if the developer knows, or should know,
31 that the deployer is using the covered product in a manner that is
32 inconsistent with the terms required under paragraph (1).

33 (e) A developer shall not train a covered product with the
34 personal information of a child unless the child's parent or guardian
35 has affirmatively provided written consent to the developer to use
36 the child's personal information for that specific purpose.

37 (f) (1) On or after July 1, 2027, a developer shall submit a
38 covered product it develops to an independent third party audit on
39 a schedule determined by the board according to the risk level
40 posed by the covered product.

1 (2) A developer whose covered product is subject to an audit
2 shall provide the auditor with all necessary documentation and
3 information for the auditor to perform the audit.

4 (3) If an auditor discovers substantial noncompliance with this
5 chapter, the auditor shall promptly notify the board.

6 22757.24. (a) A deployer of a prohibited risk covered product
7 shall implement any applicable procedures adopted by the
8 developer to ensure that a child is not able to access the product.

9 (b) A deployer of a covered product shall publicly display
10 developer license usage requirements. A deployer's usage
11 requirements shall not change the covered product's risk level to
12 a higher level of risk.

13 (c) With respect to incident reports, a deployer shall do both of
14 the following:

15 (1) Within 30 days of learning of the incident, file a report with
16 the board with any required information.

17 (2) Within 30 days of the substantiation of the incident by the
18 board, file a description of the incident on the deployer's internet
19 website.

20 (d) A deployer shall not opt in to a data sharing agreement that
21 allows the developer to train a covered product with the personal
22 information of a child unless the child's parent or guardian has
23 affirmatively provided written consent to the deployer to use the
24 child's personal information for that specific purpose.

25 22757.25. A developer or deployer, or any contractor or
26 subcontractor of a developer or deployer, shall not do any of the
27 following:

28 (a) Prevent an employee from disclosing information to the
29 Attorney General pertaining to a reasonable belief supporting the
30 existence of a potential violation of this chapter.

31 (b) Retaliate against an employee for disclosing information
32 under subdivision (a).

33 (c) Make false or materially misleading statements related to
34 its compliance with obligations imposed under this chapter.

35 22757.26. (a) The board may refer violations of this chapter
36 to the Attorney General.

37 (b) With respect to violations related to the risk level
38 classification of a covered product, the board may allow the
39 developer to take corrective action if the board determines that the
40 circumstances indicate that the erroneous classification was neither

1 unreasonable nor in bad faith. If the developer fails to do so within
2 30 days, the board may refer the matter to the Attorney General.

3 (c) Upon receiving a referral from the board, the Attorney
4 General may bring an action for all of the following:

5 (1) A civil penalty of twenty-five thousand dollars (\$25,000)
6 for each violation.

7 (2) Injunctive or declaratory relief.

8 (3) Reasonable attorney's fees.

9 (d) A child who suffers actual harm as a result of a violation of
10 this chapter, or a parent or guardian acting on behalf of that child,
11 may bring a civil action to recover all of the following:

12 (1) Actual damages.

13 (2) Punitive damages.

14 (3) Reasonable attorney's fees and costs.

15 (4) Injunctive or declaratory relief.

16 (5) Any other relief the court deems proper.

17 22757.27. (a) There is hereby created in the State Treasury
18 the LEAD for Kids AI Fund into which any civil penalty recovered
19 by the Attorney General pursuant to Section 22757.26 shall be
20 deposited.

21 (b) Moneys in the fund shall be available, only upon
22 appropriation by the Legislature, for the purpose of administering
23 this chapter.