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June 18, 2026

The Honorable Christopher Cabaldon
Chair, Senate Privacy, Digital Technologies, and Consumer Protection Committee
1020 N Street, Room 568
Sacramento, CA 95814

Re: AB 1709 (Lowenthal) – Covered Platforms: Age Restriction & e-Safety Advisory Commission

Dear Chair Cabaldon:

The Electronic Privacy Information Center (EPIC) writes to express our **support if amended** for AB 1709. While we support the creation of the e-Safety Advisory Commission, we fear that Section 2 of the bill as currently drafted (banning minors from social media) is likely to both fail to achieve its purpose and to be struck down by the courts on First Amendment grounds, in the process creating harmful precedent that could set back the effort to protect kids online more broadly. However, with the amendments we suggest in this letter, AB 1709 can be made both effective and constitutional.

About EPIC

EPIC is an independent nonprofit research organization founded 30 years ago to protect privacy, freedom of expression, and democratic values in the information age.[1] In recent years, much of our work has focused on holding tech platforms—especially social media platforms—accountable for the harms their products cause and promoting reasonable kids' online safety laws.

We are extremely grateful for California's long-standing leadership in this area and have, for years, been actively involved in defending California's social media laws—as well as those recently enacted by other states—from the tech industry's First Amendment challenges. We filed influential amicus briefs defending the constitutionality of both the Protecting Our Kids from Social Media

[1] EPIC, *About EPIC*, https://epic.org/about/.

Addiction Act (2024's SB 976)[2] and the California Age-Appropriate Design Code (CAADC).[3] We also bring the expertise gained from our involvement in those legal challenges to help state legislators craft strong kids online safety laws that can withstand constitutional challenge.[4]

Concerns with AB 1709 As Drafted

We firmly believe that the First Amendment leaves ample room for bold and meaningful regulation of social media and laws keeping kids safe online. However, the approach currently taken in Section 2 of AB 1709—flatly banning minors from having accounts on certain platforms—*does* raise serious First Amendment problems. It substantially inhibits minors' ability to access and engage in speech on what have become some of the primary venues for public discourse. There are many other ways to more effectively protect kids from the harms of social media that do not have these speech-suppressing effects.[5]

As it stands, AB 1709 is set to be swiftly struck down by the courts, in the process risking the creation of harmful precedents that could make it harder to regulate social media in other ways as well. Even if the ban were allowed to take effect, it would likely fail to change tech companies' behavior in the ways that would benefit kids. This is not the right approach.

A Social Media Ban Burdens Kids' First Amendment Rights

Minors have a First Amendment right to access social media, and government restrictions on their access burden that right. Beginning with *Reno v. ACLU*,[6] the U.S. Supreme Court has repeatedly held that people have the same rights to access information online as they do offline. Social media

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[2] EPIC, *EPIC Leads Group of Law & Technology Scholars in Rebutting Social Media Companies' Arguments that Surveillance-Based Feeds Are Constitutionally-Protected Speech* (Mar. 10, 2026), https://epic.org/epic-leads-group-of-law-technology-scholars-in-rebutting-social-media-companies-arguments-that-surveillance-based-feeds-are-constitutionally-protected-speech/; EPIC, *EPIC-Led Group of Law and Technology Experts Urges Ninth Circuit to Rule that Social Media Companies' Addictive Technology Is Not Protected Expression* (Mar. 7, 2025), https://epic.org/in-netchoice-v-bonta-amicus-brief-epic-asks-ninth-circuit-to-rule-that-social-media-companies-addictive-content-neutral-technology-is-not-protected-expression/; EPIC, *EPIC Urges Northern District of California to Reject NetChoice's Request to Enjoin California Law to Regulate Addictive Feeds for Minors* (Dec. 11, 2024), https://epic.org/epic-urges-northern-district-of-california-to-reject-netchoices-request-to-enjoin-california-law-to-regulate-addictive-feeds-for-minors/.

[3] EPIC, *EPIC Urges Ninth Circuit to Rule Kids Privacy Law Doesn't Violate Constitution* (June 18, 2025), https://epic.org/epic-urges-ninth-circuit-to-rule-kids-privacy-law-doesnt-violate-constitution/; EPIC, *EPIC Leads Coalition Brief Defending California's New Age-Appropriate Design Code* (May 2, 2023), https://epic.org/epic-leads-coalition-brief-defending-californias-new-age-appropriate-design-code/.

[4] EPIC, *Platform Accountability & Governance*, https://epic.org/issues/platform-accountability-governance/.

[5] For a full, in-depth comparison of social media bans against design regulation, *see* Megan Iorio, *To Protect Kids Online, Don't Ban Them From Social Media. Regulate Design.*, EPIC (Apr. 20, 2026), https://epic.org/to-protect-kids-online-dont-ban-them-from-social-media-regulate-design/.

[6] 521 U.S. 844 (1997).

platforms host vast quantities of information, almost all of which users undeniably have a right to access under the First Amendment. These platforms also facilitate communication and association among users, often on topics that form the core of First Amendment protections. Recognition of this led the Court to explicitly acknowledge a First Amendment right to access social media in *Packingham v. North Carolina*.[7]

There is no reason to think that this right does not extend to minors. As the Court explained in *Brown v. Entertainment Merchants Association*,[8] minors' speech rights are nearly coextensive with those of adults. It is only in rare circumstances when there is a "longstanding tradition" of the government restricting kids' access to speech that the First Amendment does not apply.[9] While such a tradition exists for certain categories of content on social media, like materials obscene for minors, there is no tradition of restricting minors' access to the overwhelming majority of material found on these platforms.

The fact that a law burdens speech rights does not, by itself, make it unconstitutional. The problem is that AB 1709 restricts much more speech than is necessary. A content-neutral restriction of speech like AB 1709 must satisfy *intermediate scrutiny* in order to be upheld.[10] Though more deferential to the government than the infamous strict scrutiny, intermediate scrutiny still requires that the law both (1) serve an important governmental interest unrelated to the suppression of free speech, and (2) not burden substantially more speech than necessary to further its goal.[11] The existence of a far less restrictive means of achieving the government's goal signals that a law is not adequately tailored.

The ban imposed by Section 2 of AB 1709 is unfortunately bound to fail this test. While there is an important governmental interest unrelated to the suppression of speech at play, the law simply is not adequately tailored to achieve that end. The legislative findings in AB 1709's preamble identify the law's purpose as protecting kids from the addictive design features of social media platforms. This is an important, content-neutral goal for regulators. But a reviewing court will recognize that banning kids from social media burdens far more speech than is necessary to accomplish this goal.

As currently drafted, AB 1709 prohibits minors from having accounts on any platform that "provides users with an addictive feed as a significant part of the service provided." Notably, this means that even if a company stopped providing addictive feeds (or any addictive features for that matter) to minors, they would still be required to bar minors from their platform if they kept addictive feeds available to adults.[12] A reviewing court will likely view this as overbroad, as banning kids from

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[7] 582 U.S. 98 (2017).
[8] 564 U.S. 786 (2011).
[9] *Id.* at 795.
[10] *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989).
[11] *TikTok Inc. v. Garland*, 604 U.S. 56, 67 (2025)
[12] It is worth noting that the First Amendment analysis conducted by the Assembly Judiciary Committee, which did not find serious First Amendment risks, reached this conclusion only because it relied on a different—and we believe incorrect—reading of the bill itself. The Assembly Committee report assumed that

platforms that do not provide addictive features to kids in the first place does not advance the government's interest in protecting kids from those addictive features. A far more narrowly tailored alternative exists: simply prohibit platforms from providing addictive features to minors. For these reasons, we fear AB 1709, in its current form, is destined to be struck down as unconstitutional.

Indeed, every trial court that has ruled on the merits of these bans has decided to enjoin them.[13] While appellate courts have allowed two laws styled as social media bans to go into effect while litigation over their constitutionality continues,[14] these rulings did not come out of the Ninth Circuit (which has generally demonstrated a greater sensitivity to speech concerns), were not final merits decisions, and certainly do not mean these bans will ultimately be upheld by the Supreme Court.

To reduce AB 1709's litigation risk, the Committee may be tempted to amend the bill to only apply to platforms that provide addictive feeds *to minors* (rather than all those that provide addictive feeds to anyone). This would allow companies to comply not just by kicking kids off platforms, but simply by removing those specific features for kids.

This would essentially turn AB 1709 into a restriction on addictive features that has been dressed up to look like a social media ban. While this would be a step in the right direction, the framing of the bill as a "social media ban" (or "age delay") is still likely to lead to worse court decisions than a law that explicitly and directly regulates design features, particularly in the Ninth Circuit. If the legislature intends for AB 1709 to force companies to stop using addictive features on kids, then the legislature should directly regulate the design of the platforms, not frame the law as a ban.

The Assembly Judiciary Committee's analysis of AB 1709 downplayed these concerns by relying exclusively on the Eleventh Circuit decision in *CCIA v. Uthmeier*. But the Eleventh Circuit is a far different environment than the Ninth Circuit. Judges in the Ninth Circuit have generally demonstrated great sensitivity to apparent speech concerns. This heightened sensitivity has led one

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because the bill only applies to platforms that utilize an addictive feed, "[i]n theory, a platform could create youth-oriented accounts that remove the addictive feed component and would not be prohibited under this bill." If this were actually the case, the bill would be better (though still imperfectly) placed to survive intermediate scrutiny. But we cannot find any provision in the bill that would actually allow this. A platform that provides safe youth-oriented accounts would still be providing an addictive feed "as a significant part of the service" to adults, and, as such, would still constitute a covered platform. To our read, the only way for a platform to avoid the ban would be for it to stop offering addictive feeds to all users altogether.

[13] *See, e.g.*, *NetChoice v. Jones*, 822 F. Supp. 3d 656 (E.D. Va. Feb. 27, 2026); *NetChoice, LLC v. Carr*, 789 F. Supp. 3d 1200 (N.D. Ga. 2025); *NetChoice, LLC v. Fitch*, 787 F. Supp. 3d 262 (S.D. Miss. 2025); *NetChoice, LLC v. Yost*, 778 F. Supp. 3d 923 (S.D. Ohio 2025); *NetChoice, LLC v. Griffin*, 2025 WL 978607 (W.D. Ark. Mar. 31, 2025); *SEAT v. Paxton*, 765 F. Supp. 3d 575 (W.D. Tex. 2025); *NetChoice v. Murrill*, 812 F. Supp. 3d 594 (M.D. La. Dec. 15, 2025); *CCIA v. Paxton*, 747 F. Supp. 3d 1011 (W.D. Tex. 2024); *NetChoice, LLC v. Reyes*, 748 F. Supp. 3d 1105 (D. Utah. 2024).

[14] *See NetChoice v. Uthmeier*, 2025 WL 3458571 (11th Cir. Nov. 25, 2025); *NetChoice v. Fitch*, 134 F.4th 799 (5thCir. 2025).

district court judge to enjoin the CAADC twice, each time announcing a dangerously overbroad rule that would give industry a get-out-of-jail free card for the harm their design choices cause.[15] The Ninth Circuit largely reversed these injunctions, but a single mention of "harmful content" in the data protection impact assessment (DPIA) triggered the panel to find that the *whole* DPIA provision likely violated the First Amendment.[16] Indeed, that single mention of harmful content in the CAADC has colored the way judges, litigants, and civil liberties groups view the law as a whole, leading them to see it as an excuse to limit kids' access to information instead of as a regulation of corporate bad behavior.

Framing a restriction on addictive design as a social media ban will play into the hands of tech industry actors who will challenge this law in court. A law that looks like a ban and is marketed like a ban is likely to be seen by judges in the Ninth Circuit as a ban. This is likely to lead judges to strike down the law using unfavorable and unhelpful language. And industry can be expected to exploit this language to try to get other laws—like California's Protecting Our Kids from Social Media Addiction Act—struck down too. In this way, adopting a social media ban could create a legal environment that is more hostile to regulation than we have today, thus making it harder to protect kids moving forward.

To the extent that the legislature is concerned that California's design laws are not faring well in litigation, it is important to emphasize that a social media ban will fare no better and likely far worse. A ban on addictively designed social media raises the exact same questions—and more—as a law restricting access to addictive design features. In both cases, a court must decide whether turning addictive design features off for underage users is an unconstitutional infringement on speech. The only difference is that, in the case of a ban, a court can also strike down the law if it decides companies' alternative compliance option—following the letter of the law—burdens substantially more speech than necessary.

The Assembly Judiciary Committee's analysis of AB 1709 did not take into account the fact that the Eleventh Circuit in *CCIA v. Uthmeier* did not fully analyze either of these questions. The court completely ignored the constitutionality of restricting kids' access to the addictive features that define the covered entities. The court also failed to consider whether prohibiting access to addictive social media restricted far more speech than just prohibiting the addictive features. A Ninth Circuit court—and the Supreme Court down the line—is unlikely to commit such dramatic oversights.

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[15] *See* Megan Iorio, *NetChoice v. Bonta: The Case That Threatens the Future of Privacy*, EPIC (Oct. 19, 2023), https://epic.org/netchoice-v-bontathe-case-that-couldthreaten-the-future-of-privacy/; Megan Iorio, *Judge in California Age-Appropriate Design Code Case Gets the First Amendment Wrong—Again*, EPIC (Mar. 14, 2025), https://epic.org/judge-in-california-age-appropriate-design-code-case-gets-the-first-amendment-wrong-again/.

[16] EPIC, Ninth Circuit Strikes Down Portion of California AADC but Leaves the Rest Intact for Now (Aug. 16, 2024), https://epic.org/ninth-circuit-strikes-down-portion-of-california-aadc-but-leaves-the-rest-intact-for-now/.

What is more, contrary to the view expressed in the Assembly Judiciary Committee's report, California's design laws are actually doing quite well in litigation so far. While the Ninth Circuit has enjoined parts of the CAADC, the court has provided the legislature sufficient guidance to make targeted amendments that would leave the broad substance of the law intact.[17] Meanwhile, NetChoice has thus far failed to secure an injunction against the central provision of SB 976—the limit on addictive feeds—as well as the age assurance and privacy mode provisions.[18] Even the parts of SB 976 that the courts have enjoined are not final says on the constitutionality of such provisions and leave ample regulatory options available to lawmakers. Overall, the lesson from California's design litigation is that content-neutral design laws have a good chance of being upheld in the Ninth Circuit.

A Social Media Ban Does Not Adequately Force Companies to Change Their Harmful Practices

In addition to being constitutionally vulnerable, a social media ban is also a less effective—and more harmful—way to achieve its desired goal than restricting addictive design features themselves.

A ban on addictive social media invites malicious compliance—that is, it invites companies to comply with the letter of the law and ban underage users from their platform instead of changing their platform design. This is exactly what is happening in Florida, where companies are complying by deleting or suspending underage accounts, not by removing addictive features.[19]

On many covered platforms, deleting an underage user's account is equivalent to a ban, since these platforms require users to have an account to view and post content. On others, users may be able to view content without an account but cannot actively participate in communication.

Unlike design restrictions, bans deprive minors of the positive aspects of social media alongside the negative. The harm of this is especially great for kids in vulnerable or marginalized groups, especially LGBTQ teens who may seek acceptance online that they unfortunately cannot find in their local communities.

Of course, these downsides of a ban may be viewed by lawmakers as outweighed by the need to do something to protect kids from the harms of social media. But a law that flatly bans minors from

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[17] EPIC, *Ninth Circuit Deals Another Blow to Big Tech's Campaign for Broad Immunity from Regulation, Allows Parts of California's Design Code to Go into Effect* (Mar. 12, 2026), https://epic.org/ninth-circuit-deals-another-blow-to-big-techs-campaign-for-broad-immunity-from-regulation-allows-parts-of-californias-design-code-to-go-into-effect/.

[18] EPIC, *Ninth Circuit Rejects NetChoice's Attack on California's Addictive Feed Regulation* (Sep. 9, 2025), https://epic.org/ninth-circuit-rejects-netchoices-attack-on-californias-addictive-feed-regulation/; EPIC, 9, 2025), https://epic.org/ninth-circuit-rejects-netchoices-attack-on-californias-addictive-feed-regulation/; EPIC, *Judge Allows California Regulation of Addictive Feeds to Go Into Effect* (Dec. 31, 2024), https://epic.org/judge-allows-california-regulation-of-addictive-feeds-to-go-into-effect/.

[19] Andrew Atterbury, *Florida AG Sues TikTok in Latest Move Against Tech Giants*, Politico (June 15, 2025), https://www.politico.com/news/2026/06/15/florida-lawsuit-tiktok-uthmeier-childrens-safety-00962084.

social media does nothing to actually address the addictive and harmful design practices that motivated such a ban in the first place. In fact, banning minors from platforms can stymie such design-regulation efforts by giving the appearance that the problem has been solved.

In reality, kids are likely to circumvent bans, such as by using VPNs. Early data from Australia shows that seven out of ten under 16s who had social media accounts before the ban still have them after the ban.[20] When minors inevitably circumvent the ban, they will access platforms that have no protections in place whatsoever. Australia knows their ban is not doing enough to protect kids and are now exploring imposing a duty of care on platforms to integrate safety by design.[21] Bans also do nothing to prepare kids to be able to use social media responsibly upon reaching majority.

On platforms that do not require accounts to view content, an account ban is especially ineffective, as companies can comply with the law *and* still provide addictive features to underage users. Companies can deliver features like infinite scroll, autoplay, and manipulative timing of rewards to users who do not have an account. Companies can—and do—collect behavioral data about how users without accounts interact with a platform and use this data to deliver addictive feeds.[22] Indeed, companies have a number of options for associating behavioral data with underage users—like collecting their unique device IDs—that the companies can use to track and profile underage users over time. Companies do not need users to have accounts to deliver harmful, addictive features to them.

The problem with social media is not access but design. Tech companies know their products are addictive; in fact, they intentionally design them to be that way. The answer is to regulate design itself, rather than restricting access.

Suggestions for Amendment

In light of these concerns, we urge the Committee to amend AB 1709 to prohibit companies from providing addictive features to kids, rather than ban kids from platforms. Specifically, we propose amending Section 2 of the bill to strengthen California's existing Protecting Our Kids from Social Media Addiction Act (henceforth "SB 976").

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[20] eSafety Commissioner, *Social Media Minimum Age: Compliance Update* (Mar. 2026), https://www.esafety.gov.au/sites/default/files/2026-03/SocialMediaMinimumAgeComplianceUpdateMarch2026.pdf?v=1774905032806; *see also* Victoria Kim, *Australia's Social Media Ban Is Floundering. Can It Still Help Younger Kids?,* N.Y. Times (June 10, 2026), https://www.nytimes.com/2026/06/10/world/australia/australia-social-media-ban-under-16.html.

[21] Senuri Wijenayake, et al., *Australia Wants Social Media to be 'Safe by Design'. What Does That Actually Look Like?*, The Conversation (June 7, 2026), https://theconversation.com/australia-wants-social-media-to-be-safe-by-design-what-does-that-actually-look-like-284424.

[22] *See* YouTube, *YouTube Kids Privacy Policy* (Jan. 22, 2026), https://kids.youtube.com/t/privacynotice (describing the behavioral data YouTube Kids collects from signed out users).

SB 976, enacted by the legislature in 2024, was an important, well-crafted, and groundbreaking law prohibiting platforms from providing addictive feeds to minors. It has inspired a growing number of other states to follow suit. But it can and should go further. If California is serious about protecting kids from addictive design features, it should expand and strengthen SB 976 to do just that.

In particular, we propose:

1. Expanding SB 976 to apply not just to addictive feeds and nighttime push notifications, but also to other addictive features that the Attorney General determines—on the advice of the e-Safety Commission—should be prohibited for minors. This would add much-needed agility and future-proofing to the law.
2. Requiring platforms turn these addictive features off for all users by default, and only turn them on when a user both (1) requests the addictive feature, and (2) proves they are not a minor. This change would ensure that companies do not require age assurance at account creation, but instead only when a user wishes to access an addictive feature. It also has the added benefit of giving adults more control over their online experience, without curtailing their autonomy.
3. Adding a provision prohibiting companies from using dark patterns to badger users into turning addictive features on. This will increase the efficacy of the law by ensuring that companies do not subvert user choice to keep addictive features off.
4. Removing SB 976's parental consent carveout. Currently, SB 976 allows platforms to provide addictive feeds and push notifications to kids if parental consent has been provided. This unfairly burdens parents, forcing them to be the enforcers of the government's regulations. It also reduces the law's efficacy, as parents who provide consent leave their kids without much-needed protections. AB 1709 correctly recognizes that platforms should never be able to provide addictive feeds and related features to kids, regardless of parental consent. The Committee should apply that idea to SB 976.

We attach redlines implementing the above suggestions for your consideration and would be delighted to discuss them further.

These amendments take the essence of AB 1709, while recrafting the bill to both more effectively achieve the legislature's goals—and do so in a way that is well-positioned to survive legal challenge. We thank you for your consideration of them.

Sincerely,

/s/ Megan Iorio

Megan Iorio
Senior Counsel & Director
Platform Governance & Accountability Program

/s/ Hayden Davis

Hayden Davis
Redstone Public Service Fellow

AB 1709 SUGGESTED REDLINES

SECTION 1.

The Legislature finds and declares all of the following:

(a) Social media platforms are intentionally designed to maximize user engagement through features such as algorithmic content recommendation, infinite scroll, autoplay, and notifications, which mirror known behavioral reinforcement systems associated with addiction.

(b) Internal statements from social media company executives and researchers confirm that these platforms are engineered to encourage compulsive use, including through "dopamine-driven" feedback loops and reward systems designed to keep users returning repeatedly, often without regard to user well-being.

(c) Internal company documents further demonstrate that increasing "time spent" by young users has been a central business objective, including efforts to attract users at younger ages and maximize engagement during adolescence.

(d) Evidence from internal research and communications within social media companies indicates that employees and leadership have recognized that their products may foster addictive behaviors, including comparisons to slot machine-like reinforcement systems and acknowledgment that some users struggle to disengage despite limited benefit.

(e) Adolescents are uniquely vulnerable to these addictive design features due to ongoing brain development, including underdeveloped executive function, reduced impulse control, and heightened sensitivity to social reward and peer validation.

(f) Internal platform research has acknowledged that minor users are "particularly sensitive to reinforcement in the form of social reward," have limited ability to self-regulate usage, and lack the neurological development necessary to effectively control screen time.

(g) Peer-reviewed research demonstrates that problematic social media and internet use is associated with measurable changes in the brain's reward system, including increased sensitivity to rewards and structural and functional alterations, particularly among adolescents.

(h) Longitudinal neuroimaging research has found that habitual social media checking behaviors can alter brain development by increasing responsiveness to social rewards, which reinforces compulsive engagement patterns over time.

(i) A growing body of scientific literature shows that excessive and problematic social media use is associated with cognitive and behavioral harms, including diminished attention, reduced cognitive control, impaired memory and analytical skills, and decreased capacity for deep interpersonal interaction.

(j) Studies also demonstrate that problematic social media use is linked to increased psychological distress, including anxiety, depression, and sleep disruption, as well as interference with essential daily activities, including academic responsibilities, physical activity, and in-person social connection.

(k) Experts have concluded that social media harms adolescents at a scale that is sufficient to produce population-level effects on mental health and well-being.

(l) Despite growing evidence of harm, current regulatory frameworks do not adequately address the addictive design of social media platforms or provide consistent protections to prevent early exposure among minors.

(m) The State of California has a compelling interest in protecting children and adolescents from products and environments that are intentionally designed to exploit developmental vulnerabilities and reinforce compulsive use behaviors.

(n) Prohibiting the use of addictive feeds and related addictive design features for minors ~~Establishing a minimum age requirement for social media use~~ is a reasonable and evidence-based measure to reduce exposure to addictive digital environments during critical stages of neurological and psychological development.

(o) The creation of the eSafety Advisory Commission is necessary to provide ongoing oversight, research, and enforcement related to digital platform safety, including addressing emerging risks associated with addictive design and ensuring age-appropriate protections for minors.

(p) It is the intent of the Legislature to align digital platform practices with established public health principles and to ensure that technological innovation does not come at the expense of the mental health, development, and well-being of California's youth.

SEC. 2.

Chapter ~~22.9~~24 ~~(commencing with Section 22682) is added to~~of ~~Division 8 of~~ the ~~Business and Professions~~Health and Safety Code~~,~~ is amended to read:

Chapter ~~22.9~~24. ~~Covered Platform Age Restriction~~Protecting Our Kids from Social Media Addiction Act

~~22682.~~

~~For purposes of this chapter:~~

~~(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 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, an internet website, online service, online application, or mobile application, including, but not limited to, a social media platform, as defined in Section 22675, that offers users or provides users with an addictive feed as a significant part of the service provided by that internet website, online service, online application, or mobile application.

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

22683

(a) A covered platform shall not permit a user who is under 16 years of age to create or maintain an account on the covered platform.

~~(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.~~

~~22684~~

~~(a) 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.~~

~~(b) 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.~~

~~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.~~

27000.

This chapter shall be known, and may be cited, as the Protecting Our Kids from Social Media Addiction Act.

27000.5.

For purposes of this chapter, the following terms have the following meanings:

(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.

~~(a)~~*(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, alone or in combination with one another:

(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 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.

(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, in the case of audio or video content, is not automatically played.

(7) The recommendation, selection, or prioritization of the media is necessary to comply with this chapter or any regulations promulgated pursuant to this chapter.

~~(b)~~*(c)*.

(1) "Addictive internet-based service or application" means an internet website, online service, online application, or mobile application, including, but not limited to, a "social media platform" as defined in Section 22675 of the Business and Professions Code, that offers users or provides users with an addictive feed ***or any other addictive feature that the Attorney General has prohibited for minors pursuant to Section 27005.5,*** as a ~~significant~~ part of the service provided by that internet website, online service, online application, or mobile application.

(2) "Addictive internet-based service or application" does not apply to 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.

~~(c)~~*(d)* "Media" means text, audio, an image, or a video.

~~(d)~~*(e)* "Minor" means an individual under 18 years of age who is located in the State of California.

~~(e)~~*(f)* "Operator" means a person who operates or provides an internet website, an online service, an online application, or a mobile application.

~~(f)~~*(g)* "Parent" means a parent or guardian, including as defined in regulations promulgated pursuant to this chapter.

~~(g)~~*(h)* "User" means a person who uses an internet website, online service, online application, or mobile application. "User" does not include the operator or a person acting as an agent of the operator.

27001.

(a) ***Commencing January 1, 2027, i***~~I~~t shall be unlawful for the operator of an addictive internet-based service or application to provide an addictive feed***, or any other addictive feature that the Attorney General has prohibited for minors pursuant to Section 27005.5,*** to a user unless ~~**either of the following is**~~ ***both of the following conditions are*** met:

(1) ***The user expressly and unambiguously requests the addictive feed or specific addictive feature.***

~~**(A) Except as provided in subparagraph (B), the operator does not have actual knowledge that the user is a minor.**~~

~~(B) Commencing January 1, 2027, the operator has reasonably determined that the user is not a minor, including pursuant to regulations promulgated by the Attorney General.~~

(2) The operator has ~~obtained verifiable parental consent to provide an addictive feed to the user who is a minor~~ *reasonably determined that the user is not a minor, including pursuant to regulations promulgated by the Attorney General*.

(b) Information collected for the purpose of determining a user's age ~~or verifying~~ *a* ~~parental consent~~ *relationship* pursuant to this chapter shall not be used for any purpose other than compliance with this chapter or with another applicable law. The information collected shall be deleted immediately after it is used to determine a user's age ~~or to verify parental consent~~, except as necessary to comply with state or federal law.

(c) The operator of an addictive internet-based service or application shall not:

(1) Prompt or nudge a user to request an addictive feed, notifications, or any other addictive feature that the Attorney General has prohibited for minors pursuant to Section 27005.5, unless strictly necessary to provide the user with the online product, service, or feature with which they are actively or knowingly engaged; or

(2) Provide a single setting to turn on more than one addictive feed or other addictive feature that the Attorney General has prohibited for minors pursuant to Section 27005.5.

27002.

(a)

~~(1) Except as provided in paragraph (2), it shall be unlawful for the operator of an addictive internet-based service or application, between the hours of 12 a.m. and 6 a.m., in the user's local time zone, and between the hours of 8 a.m. and 3 p.m., from Monday through Friday from September through May in the user's local time zone, to send notifications to a user if the operator has actual knowledge that the user is a minor unless the operator has obtained verifiable parental consent to send those notifications.~~

~~(2)~~ Commencing January 1, 2027, it shall be unlawful for the operator of an addictive internet-based service or application, between the hours of 12 a.m. and 6 a.m., in the user's local time zone, and between the hours of 8 a.m. and 3 p.m., from Monday through Friday from September through May in the user's local time zone, to send notifications to a user ~~whom the operator has not reasonably determined is not a minor, including pursuant to regulations promulgated by the Attorney General,~~ unless ~~the operator has obtained verifiable parental consent to send those notifications.~~ ***both of the following conditions are met:***

(1) The user expressly and unambiguously requests to receive such notifications during these hours.

(2) The operator has reasonably determined that the user is not a minor, including pursuant to regulations promulgated by the Attorney General.

(b) The operator of an addictive internet-based service or application shall provide a mechanism through which the verified parent of a user who ***an operator has reasonably determined*** is a minor***, including pursuant to regulations promulgated by the Attorney General,*** may do any of the following:

(1) Prevent their child from accessing or receiving notifications from the addictive internet-based service or application between specific hours chosen by the parent. ~~This setting shall be set by the operator as on by default, in a manner in which the child's access is limited between the hours of 12 a.m. and 6 a.m., in the user's local time zone.~~

~~(2) Limit their child's access to any addictive feed from the addictive internet-based service or application to a length of time per day specified by the verified parent. This setting shall be set by the operator as on by default, in a manner in which the child's access is limited to one hour per day unless modified by the verified parent.~~

~~(3) Limit their child's ability to view the number of likes or other forms of feedback to pieces of media within an addictive feed. This setting shall be set by the operator as on by default.~~

~~(4)~~***(2)*** Require that the default feed provided to the child when entering the internet-based service or application be one in which pieces of media are not recommended, selected, or

prioritized for display based on information provided by the user, or otherwise associated with the user or the user's device, other than the user's age or status as a minor.

~~(5)~~*(3)* Set their child's account to private mode, in a manner in which only users to whom the child is connected on the addictive internet-based service or application may view or respond to content posted by the child. This setting shall be set by the operator as on by default.

(c) ***The operator of an addictive internet-based service or application shall provide a mechanism through which a user may limit their ability to view the number of likes or other forms of feedback to pieces of media on the service or application. This setting shall be set by the operator as on by default for a user who an operator has reasonably determined is a minor, including pursuant to regulations promulgated by the Attorney General.***

27003.

(a) This chapter shall not be construed as requiring the operator of an addictive internet-based service or application to give a parent any additional or special access to, or control over, the data or accounts of their child.

(b) This chapter shall not be construed as preventing any action taken in good faith to restrict access to, or availability of, media.

27004.

(a) An operator may choose not to provide services to minors. However, the operator of an addictive internet-based service or application shall not withhold, degrade, lower the quality of, or increase the price of, any product, service, or feature, other than as required by this chapter, due to a user or parent availing themselves of the rights provided by this chapter, or due to the protections required by this chapter.

(b) ~~**A parent's provision of consent as described in Section 27001 or 27002, or t**~~***T***he use by a parent of a mechanism as described in Section 27002, does not waive, release, otherwise limit, or serve as a defense to, any claim that the parent, or that the user who is a minor or was a minor at the time of using the internet-based service or application, might have against the

operator of an addictive internet-based service or application regarding any harm to the mental health or well-being of the user.

(c) The protections provided by this chapter are in addition to those provided by any other applicable law, including, but not limited to, the California Age-Appropriate Design Code Act (Title 1.81.47 (commencing with Section 1798.99.28) of Part 4 of Division 3 of the Civil Code).

27005.

An operator of an addictive internet-based service or application shall publicly disclose, on an annual basis, the number of minor users of its addictive internet-based service or application~~,~~ ~~**and of that total the number for whom the operator has received verifiable parental consent to provide an addictive feed, and the number of minor users as to whom the controls set forth in Section 27002 are or are not enabled**~~.

27005.5.

(a) The Attorney General may, in consultation with the e-Safety Advisory Commission, adopt regulations classifying addictive features beyond addictive feeds as prohibited for minors, if the Attorney General determines that doing so is necessary to protect minors online.

27006.

(a) This chapter may only be enforced in a civil action brought in the name of the people of the State of California by the Attorney General.

(b) The Attorney General shall adopt regulations to further the purposes of this chapter, including regulations regarding age assurance ~~**and parental consent**~~ by January 1, 2027. The Attorney General may adopt regulations that provide for exceptions to this chapter, but only if those exceptions further the purpose of protecting minors.

(c) In promulgating the regulations described in subdivision (b), the Attorney General shall solicit public comment regarding the impact that any regulation might have based on the nondiscrimination characteristics set forth in Section 51 of the Civil Code or in any other applicable law.

27007.

(a) If any provision of this chapter, or application thereof, to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

SEC. 3.

Chapter 5.4 (commencing with Section 11530) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

Chapter 5.4. e-Safety Advisory Commission

11530

As used in this chapter:

(a) "Commission" means the e-Safety Advisory Commission established pursuant to this chapter.

(b) "Covered entity" means a person that provides online services subject to age verification requirements under state or federal law.

(c) "Minimum age" means ~~16~~ 18 years of age.

11530.1

(a) The e-Safety Advisory Commission is hereby established within the Department of Justice.

(b) A member of the commission shall meet all of the following criteria:

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

(2) The member shall not take an action or engage in an occupation, whether gainful or not, that is incompatible with the member's duties.

(3) The member shall not, either at the time of the member's appointment or during the member's term, have a financial interest in an entity that is subject to regulation by the commission.

(4) The member shall serve at the pleasure of the appointing authority for a maximum of eight consecutive years.

11530.2

(a) The commission shall advise the Attorney General on all of the following:

(1) The implementation and enforcement of Chapter ~~22.9~~24 (commencing with Section ~~2268~~27000) of Division 2~~0~~8 of the ~~Business and Professions~~Health and Safety Code.

(2) The state of age assurance and age verification technologies, including their effectiveness, privacy implications, accuracy, and feasibility for implementation by covered entities.

(3) Covered entity compliance with the state's online safety laws.

(4) Feedback from social media users, parents of minors, and online safety and children's safety organizations regarding the implementation of the state's online safety laws.

(5) The differential impact of online age restrictions on various groups, including youth of different ages, backgrounds, and identities.

(6) Proposed and enacted online safety laws in other jurisdictions.

(7) Harmful design features in covered entities and their impacts on youth health and well-being.

(8) Safety practices of covered entities to protect children.

(b) On or before January 1 of each year, the commission shall report to the Legislature, pursuant to Section 9795, and the Governor on all of the following:

(1) The commission's activities under this chapter.

(2) Compliance rates among covered entities.

(3) Enforcement actions taken and proposed statutory changes.

(4) Recommendations for legislative changes to enhance the protection of minors online.

SEC. 4.

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.