
**Consumer Protection & Business
Committee**

HB 1834

Brief Description: Protecting Washington children online.

Sponsors: Representatives Callan, Paul, Berry, Leavitt, Parshley, Barnard, Hunt, Taylor, Doglio, Gregerson, Ramel, Thai, Shavers, Macri, Zahn, Eslick, Fosse, Bernbaum, Scott, Pollet, Nance and Cortes; by request of Attorney General.

Brief Summary of Bill

- Establishes requirements that businesses providing online services, products, or features likely to be accessed by minors must adhere to regarding age estimation, collection and use of minors' personal information and precise location information, profiling, and privacy.
- Prohibits operators of an addictive internet-based service or application from providing an addictive feed to a minor.
- Establishes specific timeframes for when businesses providing online services, products, or features likely to be accessed by minors are prohibited from sending notifications to minors.
- Requires operators of an addictive internet-based service or application to provide certain mechanisms for all users.
- Provides for enforcement through the Consumer Protection Act.

Hearing Date: 2/18/25

Staff: Megan Mulvihill (786-7304).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Federal Legislation Concerning Minors and Online Services.

The federal Children's Online Privacy Protection Act of 1998 (COPPA) applies to the online collection of personal information of children under 13 years of age. It required the Federal Trade Commission (FTC) to issue and enforce regulations concerning children's online privacy. In 2000, the FTC adopted the Children's Online Privacy Protection Rule (Rule), which was subsequently revised in 2013. Under the Rule, websites and online services covered by COPPA must post privacy policies, provide parents with direct notice of their information practices, and get verifiable consent from a parent or guardian before collecting personal information from children.

The Rule applies to operators of commercial websites and online services directed to children under the age of 13 that collect personal information. It applies to operators of sites and online services geared toward general audiences when they have actual knowledge they are collecting information from children under 13. Under the 2013 revisions, COPPA also applies to operators when they have actual knowledge they are collecting personal information from users of another site or online service directed to children under 13. In certain circumstances, COPPA applies to advertising networks, plug-ins, and other third parties.

Relevant California Legislation.

California enacted Assembly Bill 2273, entitled The California Age-Appropriate Design Code Act (AB 2273), in 2022. AB 2273 required businesses providing online services, products, or features likely to be accessed by children to:

- estimate the child's age with a reasonable level of certainty;
- specify default privacy settings provided to children;
- specify requirements and restrictions on the use of personal information; and
- restrict the use of dark patterns to lead or encourage children to provide certain personal information.

In September 2024, California enacted Senate Bill 976, entitled Protecting Our Kids from Social Media Addiction Act (SB 976). SB 976 requires:

- restrictions on a website's display of addictive feeds to minors;
- sending notifications to known or potential minors during specified time periods without parental consent; and
- general requirements covering addictive Internet-based services.

Both AB 2273 and SB 976 have been challenged as violating the First and Fourteenth amendments of the United States Constitution and are pending litigation. The Ninth Circuit Court of Appeals affirmed part of the injunction relating to a data protection impact assessment requirement in AB 2273, but vacated the remainder of the injunction. However, the Northern California District Court heard revised oral arguments on a second preliminary injunction motion for AB 2273. In regards to SB 976, the Ninth Circuit Court of Appeals granted a full injunction against the enforcement of the entirety of SB 976 while the appeal is pending.

Summary of Bill:

Defined Terms.

The following terms are defined: "addictive feed," "addictive internet-based service or application," "dark pattern," "likely to be accessed by minors," "media," "minor," "online service, product, or feature," "operator," "parent," "personal information," "precise location information," and "profiling."

Required Age Estimation for Businesses Providing an Online Service, Product, or Feature.

A business that provides an online service, product, or feature likely to be accessed by minors (business) must either: (1) estimate the age of minor users with a reasonable level of certainty appropriate to the risks that arise from the data management practices of the business; or (2) apply the privacy and data protections afforded to minors to all consumers or users of the online service, product, or feature.

Restrictions on the Collection and Use of Personal Information of Minors.

A business may not use any personal information collected to estimate age or age range for any other purpose or retain that personal information longer than necessary to estimate age. Age assurance must be proportionate to the risks and data practice of an online service, product, or feature.

A business may not collect, sell, share, or retain personal information from minors under the age of 13, except to comply with the age estimation requirement.

A business may not:

- use the personal information of any minor in a way that the business knows, or has reason to know, is materially detrimental to the physical health, mental health, or well-being of a minor;
- profile a minor by default unless the business can demonstrate it has appropriate safeguards in place to protect minors and at least one of the following is true:
 - profiling is necessary to provide the online service, product, or feature requested and only with respect to the aspects of the online service, product, or feature with which the minor is actively and knowingly engaged; or
 - the business can demonstrate a compelling reason that profiling is in minors' best interest;
- collect, sell, share, or retain any personal information that is not necessary to provide an online service, product, or feature with which a minor is actively and knowingly engaged;
- use a minor's personal information for any reason other than a reason for which that personal information was collected, unless the business can demonstrate a compelling reason that use of the personal information is in the minors' best interest;
- collect, sell, or share minors' precise location information by default unless collection of that precise location information is strictly necessary for the business to provide the service, product, or feature requested, and then only for the limited time that the collection is necessary to provide the service, product, or feature;
- collect any precise location information of a minor without providing an obvious sign to the minor for the duration of that collection that precise location information is being

collected; and

- use dark patterns to lead or encourage minors to provide personal information beyond what is reasonably expected to provide that online service, product, or feature to forego privacy protections, or to take any action that the business knows, or has reason to know, is materially detrimental to the minor's physical health, mental health, or well-being.

Requirements for Businesses Providing Online Services, Products, or Features Likely Accessed by Minors.

A business must take the following actions:

- configure all default privacy settings provided to minors to settings that offer a high level of privacy, unless the business can demonstrate a compelling reason that a different setting is in the best interest of minors;
- provide any privacy information, terms of service, policies, and community standards concisely, prominently, and using clear language suited to the age of minors likely to access the online service, product, or feature;
- provide an obvious signal to the minor when the minor is being monitored or tracked, if the online service, product, or feature allows the minor's parent, guardian, other individual, or entity to monitor the minor's online activity or track the minor's location;
- enforce published terms, policies, and community standards established by the business; and
- provide prominent, accessible, and responsive tools to help minors, or parents and guardians, exercise their privacy rights and report concerns.

Prohibition on Providing Addictive Feeds to Minors.

An operator of an addictive internet-based service or application is prohibited from providing an addictive feed to a user unless:

- prior to January 1, 2026, the operator does not have actual knowledge that the user is a minor; or
- commencing January 1, 2026, the operator has reasonably determined that the user is not a minor.

Time Restricted Notifications to Minors.

Prior to January 1, 2026, a business is prohibited from sending notifications to a user that the business knows is a minor, unless the operator has obtained verifiable parental consent to send notifications, as follows:

- between 12:00 a.m. and 6:00 a.m.; and
- between 8:00 a.m. and 3:00 p.m., Monday through Friday from September through May.

Beginning January 1, 2026, a business is prohibited from sending notifications during these timeframes to a user whom the business has not reasonably determined is not a minor, unless the operator has obtained verifiable parental consent.

Required Options for Users of an Addictive Internet-Based Service or Application.

Operators of an addictive internet-based service or application must provide a mechanism

through which any user may:

- limit their access to any addictive feed to a length of time per day specified by the user;
- limit their ability to view the number of likes or other forms of feedback to pieces of media within an addictive feed;
- require that the default feed provided to the user be one in which pieces of media are not recommend, selected, or prioritized for display based on information provided by the user, or otherwise associated with the user or user's device, other than the user's age or status as a minor; and
- set their account to private mode so only users to which the user is connected may view or respond to content posted by the user.

An operator of an addictive internet-based service or application is not required to give a parent any additional or special access to, or control over, the data or accounts of their minor child.

Compliance with the regulations established does not serve as a defense to any claim that a minor might have against the operator of an addictive internet-based service or application regarding any harm to the minor's mental health or well-being.

Enforcement Provided Under the Consumer Protection Act.

A violation of a regulation established is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Requested on February 10, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.