

**ASSEMBLY BILL**

**No. 319**

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**Introduced by Assembly Member Campos**

February 12, 2013

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An act to add Chapter 22.1 (commencing with Section 22580) to Division 8 of the Business and Professions Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 319, as introduced, Campos. Internet Web sites and online services: minors.

Existing law requires an operator of a commercial Web site or online service that collects personally identifiable information through the Internet about individual consumers residing in California who use or visit its commercial Web site or online service to make its privacy policy available to the consumers, as specified.

This bill would require an operator of an Internet Web site or online service directed to minors and the operator of an Internet Web site or online service that has actual knowledge that it is collecting personal information from a minor to provide notice on the Internet Web site of what information is collected from minors by the operator and how the operator uses the information. The bill would require the operator to provide specified information to the parent of a minor that has provided personal information to the Internet Web site or online service and to provide the parent with the opportunity to refuse to permit the operator's further use or future collection of personal information from the minor. The bill would prohibit an operator from conditioning a minor's participation in specified activities upon disclosure of more information than is reasonably necessary. The bill would require the operator of an Internet Web site or online service directed to minors to establish and

maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from minors.

Existing law specifies penalties for unfair competition, which includes an unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising. A civil action for enforcement of the prohibition on unfair competition may be brought in the name of the people of the state by the Attorney General, by any district attorney, by any county counsel authorized in actions involving violation of a county ordinance, by any city attorney of a city having a population in excess of 750,000, by any city attorney of any city and county, or, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, in any court of competent jurisdiction, or by a person who has suffered injury in fact and has lost money or property as a result of the unfair competition.

This bill would make a violation of its provisions regulating operators of Internet Web sites and online services subject to enforcement under these provisions prohibiting unfair competition.

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 22.1 (commencing with Section 22580)  
2 is added to Division 8 of the Business and Professions Code, to  
3 read:

4  
5 CHAPTER 22.1. CHILDREN’S ONLINE PRIVACY PROTECTION

6  
7 22580. For purposes of this chapter, the following definitions  
8 apply:

9 (a) “Minor” means a person under 18 years of age.

10 (b) “Operator” means a person that operates an online service  
11 or a Web site located on the Internet and that collects or maintains  
12 personal information from or about the users of, or visitors to, the  
13 Internet Web site or online service or on whose behalf the  
14 information is collected or maintained.

15 (c) “Disclosure” means both of the following:

16 (1) The release of personal information collected from a minor  
17 in identifiable form by an operator for any purpose, except where  
18 the information is provided to a person other than the operator that

1 provides support for the internal operations of the Internet Web  
2 site and does not disclose or use that information for any other  
3 purpose.

4 (2) Making personal information collected from a minor by an  
5 Internet Web site or online service directed to minors or with actual  
6 knowledge that such information was collected from a minor  
7 publicly available in identifiable form by any means, including by  
8 a public posting, through the Internet, or through a homepage of  
9 an Internet Web site, a pen pal service, an email service, a message  
10 board, or a chat room.

11 (d) “Personal information” means individually identifiable  
12 information about an individual collected online, including a first  
13 and last name, a home or other physical address including street  
14 name and name of a city or town, an email address, a telephone  
15 number, a social security number, any other identifier that the  
16 department determines permits the physical or online contacting  
17 of a specific individual, or information concerning the minor or  
18 the parents of that minor that the Internet Web site collects online  
19 from the minor and combines with an identifier described in this  
20 paragraph.

21 (e) “Internet Web site or online service directed to minors”  
22 means an Internet Web site or online service that is targeted to  
23 minors or that portion of an Internet Web site or online service  
24 that is targeted to minors. An Internet Web site or online service,  
25 or a portion of an Internet Web site or online service, shall not be  
26 deemed directed to minors solely for referring to or linking to a  
27 commercial Internet Web site or online service directed to minors  
28 by using information location tools, including a directory, index,  
29 reference, pointer, or hypertext link.

30 (f) “Person” means any individual, partnership, corporation,  
31 trust, estate, cooperative, association, or other entity.

32 (g) “Online contact information” means an email address or  
33 another substantially similar identifier that permits direct contact  
34 with a person online.

35 22581. (a) It is unlawful for an operator of an Internet Web  
36 site or online service directed to minors or an operator that has  
37 actual knowledge that it is collecting personal information from a  
38 minor to collect personal information from a minor in a manner  
39 that violates any of the following:

- 1 (1) An operator of an Internet Web site or online service directed  
2 to minors that collects personal information from minors and the  
3 operator of an Internet Web site or online service that has actual  
4 knowledge that it is collecting personal information from a minor  
5 shall provide notice on the Internet Web site of what information  
6 is collected from minors by the operator and how the operator uses  
7 the information.
- 8 (2) An operator shall provide to a parent whose minor dependent  
9 has provided personal information to an Internet Web site or online  
10 service, upon request of the parent and proper identification, a  
11 description of the specific types of personal information collected  
12 from the minor by the operator, the opportunity at any time to  
13 refuse to permit the operator's further use or maintenance in  
14 retrievable form, or future online collection, of personal  
15 information from the minor, and a means that is reasonable under  
16 the circumstances for the parent to obtain personal information  
17 collected from the minor.
- 18 (3) A minor's participation in a game, the offering of a prize,  
19 or another activity shall not be conditioned on the minor disclosing  
20 more personal information than is reasonably necessary to  
21 participate in the activity.
- 22 (4) An operator of an Internet Web site or online service directed  
23 to minors shall establish and maintain reasonable procedures to  
24 protect the confidentiality, security, and integrity of personal  
25 information collected from minors.
- 26 (b) A violation of this section shall be treated as unfair  
27 competition and subject to the penalties imposed under Chapter 5  
28 (commencing with Section 17200) of Part 2 of Division 7 of the  
29 Business and Professions Code.

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