

Introduced by Senator SteinbergFebruary 20, 2014

An act to add Chapter 22.2 (commencing with Section 22584) to Division 8 of the Business and Professions Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1177, as introduced, Steinberg. Privacy: students.

Existing law, on and after January 1, 2015, prohibits an operator of an Internet Web site or online service from knowingly using, disclosing, compiling, or allowing a 3rd party to use, disclose, or compile the personal information of a minor for the purpose of marketing or advertising specified types of products or services. Existing law also makes this prohibition applicable to an advertising service that is notified by an operator of an Internet Web site, online service, online application, or mobile application that the site, service, or application is directed to a minor.

This bill would prohibit an operator of an Internet Web site, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for K–12 school purposes and was designed and marketed for K–12 school purposes from using, sharing, disclosing, or compiling personal information about a K–12 student for commercial purposes. This bill would require an operator of an Internet Web site, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for K–12 school purposes and was designed and marketed for K–12 school purposes to ensure that specified encryption processes are used, to provide a notice to the operator of a secondary site, service, or application that is accessible through the noticing operator's site, service, or application that their secondary site, service, or application is used

for K–12 school purposes on a site, service, or application designed and marketed for K–12 school purposes, and to delete a student’s personal information under specified circumstances.

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

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

1 SECTION 1. Chapter 22.2 (commencing with Section 22584)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

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5 CHAPTER 22.2. STUDENT ONLINE PERSONAL INFORMATION
6 PROTECTION ACT
7

8 22584. (a) An operator of an Internet Web site, online service,
9 online application, or mobile application with actual knowledge
10 that the site, service, or application is used for K–12 school
11 purposes and was designed and marketed for K–12 school purposes
12 shall comply with all of the following requirements:

13 (1) It shall not use, share, disclose, or compile personal
14 information about a K–12 student for any purpose other than the
15 K–12 school purpose and for maintaining the integrity of the site,
16 service, or application.

17 (2) It shall not use, share, disclose, or compile a student’s
18 personal information for any commercial purpose, including, but
19 not limited to, advertising or profiling.

20 (3) It shall not allow, facilitate, or aid in the marketing or
21 advertising of a product or service to a K–12 student on the site,
22 service, or application.

23 (4) It shall take all reasonable steps to protect the data at rest
24 and in motion in a manner that meets or exceeds commercial best
25 practices. An operator shall be deemed to be in compliance with
26 this paragraph if the operator ensures the following:

27 (A) Valid encryption processes for data at rest are consistent
28 with NIST Special Publication 800-111, Guide to Storage
29 Encryption Technologies for End User Devices.

30 (B) Valid encryption processes for data in motion are those that
31 comply, as appropriate, with NIST Special Publications 800-52,
32 Guidelines for the Selection and Use of Transport Layer Security

1 (TLS) Implementations; 800-77, Guide to IPsec VPNs; or 800-113,
2 Guide to SSL VPNs, or others that are Federal Information
3 Processing Standards (FIPS) 140-2 validated.

4 (b) (1) An operator of an Internet Web site, online service,
5 online application, or mobile application with actual knowledge
6 that the site, service, or application is used for K–12 school
7 purposes and the site, service, or application was designed and
8 marketed for K–12 school purposes shall provide a notice to the
9 operator of a secondary site, service, or application that is
10 accessible through the noticing operator’s site, service, or
11 application that the secondary site, service, or application is used
12 for K–12 school purposes on a site, service, or application designed
13 and marketed for K–12 school purposes.

14 (2) An operator of a site, service, or application designed and
15 marketed for K–12 school purposes shall comply with this section
16 upon either receiving notice under paragraph (1) that the site,
17 service, or application is used for K–12 school purposes or if the
18 operator otherwise has actual knowledge that the site, service, or
19 application is used for K–12 school purposes.

20 (3) An operator that fails to provide the notice required by
21 paragraph (1) to a secondary site, service, or application shall be
22 liable for the secondary site, service, or application’s compliance
23 with this section, unless that secondary site, service, or application
24 had actual knowledge it was being used for K–12 purposes and
25 was designed and marketed for K–12 school purposes.

26 (c) An operator of an Internet Web site, online service, online
27 application, or mobile application with actual knowledge that the
28 site, service, or application is used for K–12 school purposes and
29 that it was designed and marketed for K–12 school purposes shall
30 delete a student’s personal information if any of the following
31 occurs:

32 (1) The site, service or application is no longer used for the
33 original K–12 school purpose.

34 (2) The student requests deletion, unless it is being used at the
35 direction of a school or district for legitimate educational purposes
36 and is under the control of the school or district.

37 (3) The student ceases to be a student at the institution and the
38 operator becomes aware the student is no longer a student, unless
39 it is being used at the direction of a school or district for legitimate

1 educational purposes and is under the control of the school or
2 district.

3 (d) Notwithstanding subdivision (a), an operator of an Internet
4 Web site, online service, online application, or mobile application
5 may disclose personal information of a student if other provisions
6 of federal or state law require the operator to disclose the
7 information, and the operator complies with the requirements of
8 federal and state law in disclosing that information.

9 (e) An “online service” includes cloud computing services.

10 (f) Notwithstanding subdivision (a), an operator of an Internet
11 Web site, online service, online application, or mobile application
12 may disclose personal information of a student for legitimate
13 research purposes as required by state and federal law and subject
14 to the restrictions under state and federal law.

15 (g) For purposes of this section, “personal information” shall
16 mean any information or materials in any media or format created
17 or provided by a student, or the student’s parent or legal guardian,
18 in the course of the student’s, or parent’s or legal guardian’s, use
19 of the site, service, or application or an employee or agent of the
20 educational institution, or gathered by the site, service, or
21 application, that is related to a student and shall include, but not
22 be limited to, information in the student’s educational record, the
23 student’s email address, first and last name, home address,
24 telephone number, other information that permits physical or online
25 contact of a specific individual, discipline records, test results,
26 special education data, juvenile delinquency records, grades,
27 evaluations, criminal records, medical records, health records,
28 social security number, biometric information, disabilities,
29 socioeconomic information, food purchases, political affiliations,
30 religious information, email messages, documents, unique
31 identifiers, profile, search activity, location information, Internet
32 Protocol (IP) address, metadata, any aggregation or derivative
33 thereof, or any information gained through tracking, including
34 login and logoff information, searches, typing, photos, voice
35 recordings, and geolocation information.

36 (h) This section shall not be construed to limit the authority of
37 a law enforcement agency to obtain any content or information
38 from an operator as authorized by law or pursuant to an order of
39 a court of competent jurisdiction.

1 (i) It is not the intent of the Legislature for this chapter to apply
2 to general audience Internet Web sites.
3 SEC. 2. The provisions of this act are severable. If any
4 provision of this act or its application is held invalid, that invalidity
5 shall not affect other provisions or applications that can be given
6 effect without the invalid provision or application.

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