

AMENDED IN ASSEMBLY JUNE 10, 2014

AMENDED IN ASSEMBLY JUNE 5, 2014

AMENDED IN SENATE APRIL 21, 2014

**SENATE BILL**

**No. 1177**

---

---

**Introduced by Senator Steinberg**

February 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 amended, 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, as defined, and was designed and marketed for K–12 school purposes from using, sharing, disclosing, or compiling ~~personal~~ *covered* information, *as defined*, about a K–12 student for any purpose other than the K–12 school purpose and for maintaining, developing, and improving the integrity and effectiveness of the site, service, or

application, as specified. The bill would prohibit these operators of Internet Web sites, online services, online applications, or mobile applications from selling the ~~personal covered~~ information of a student. The bill would require these operators of Internet Web sites, online services, online applications, or mobile applications to ensure that ~~specified encryption processes are used~~ *covered information is protected in a manner that meets or exceeds reasonable and appropriate commercial best practices* and to delete a student’s ~~personal covered~~ information ~~under specified circumstances if the school or district requests deletion~~. The bill’s provisions would become operative January 1, 2016.

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:

4  
 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 *primarily* for K–12  
 11 school purposes and was designed and marketed for K–12 school  
 12 purposes shall comply with all of the following requirements:

13 (1) It shall not use, share, disclose, or compile ~~personal covered~~  
 14 information about a K–12 student for any purpose other than the  
 15 K–12 school purpose and for maintaining, developing, and  
 16 improving the integrity and effectiveness of the site, service, or  
 17 application, as long as no personal information is used for any  
 18 purpose in furtherance of *targeted* advertising or to amass a profile  
 19 on the student for purposes other than K–12 school purposes.

20 (2) It shall not sell *or disclose* a student’s ~~personal covered~~  
 21 information.

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

1     ~~(4)~~

2     ~~(3) It shall take reasonable steps to protect the personal covered~~  
3 ~~information data at rest and in motion transmission in a manner~~  
4 ~~that meets or exceeds reasonable and appropriate commercial best~~  
5 ~~practices. An operator shall be deemed to be in compliance with~~  
6 ~~this paragraph if the operator ensures the following:~~

7     ~~(A) Valid encryption processes for data at rest in the operator's~~  
8 ~~own data storage systems are consistent with NIST Special~~  
9 ~~Publication 800-111, Guide to Storage Encryption Technologies~~  
10 ~~for End User Devices.~~

11     ~~(B) Valid encryption processes for data in motion on public~~  
12 ~~networks are those that comply, as appropriate, with NIST Special~~  
13 ~~Publications 800-52, Guidelines for the Selection and Use of~~  
14 ~~Transport Layer Security (TLS) Implementations; NIST Special~~  
15 ~~Publication 800-77, Guide to IPsec VPNs; or NIST Special~~  
16 ~~Publication 800-113, Guide to SSL VPNs, or others that are Federal~~  
17 ~~Information Processing Standards (FIPS) Publication 140-2~~  
18 ~~validated.~~

19     ~~(b) An operator of an Internet Web site, online service, online~~  
20 ~~application, or mobile application with actual knowledge that the~~  
21 ~~site, service, or application is used primarily for K-12 school~~  
22 ~~purposes and that it was designed and marketed for K-12 school~~  
23 ~~purposes shall delete a student's personal covered information if~~  
24 ~~any of the following occurs: the school or district requests deletion.~~

25     ~~(1) The site, service, or application has actual knowledge that~~  
26 ~~it is no longer used for K-12 school purposes. This paragraph shall~~  
27 ~~not apply to information that is being used or maintained at the~~  
28 ~~direction of a school or school district and is under the direct~~  
29 ~~control of the school or district, or information that is being used~~  
30 ~~by a student and is under the direct control of the student.~~

31     ~~(2) The student requests deletion of information being used at~~  
32 ~~the direction of the student or that is under the direct control of~~  
33 ~~the student.~~

34     ~~(3) The school or school district requests deletion of information~~  
35 ~~being used at the direction of a school or district and that is under~~  
36 ~~the control of the school or school district.~~

37     ~~(c) Notwithstanding subdivision (a), an operator of an Internet~~  
38 ~~Web site, online service, online application, or mobile application~~  
39 ~~may disclose personal covered information of a student if other~~  
40 ~~provisions of federal or state law require the operator to disclose~~

1 the information, and the operator complies with the requirements  
2 of federal and state law in protecting and disclosing that  
3 information.

4 (d) An “online service” includes cloud computing services.

5 (e) Notwithstanding subdivision (a), an operator of an Internet  
6 Web site, online service, online application, or mobile application  
7 may disclose ~~personal~~ *covered* information of a student for  
8 legitimate research purposes as required by state and federal law  
9 and subject to the restrictions under state and federal law or as  
10 allowed by state and federal law and under the direction of a school,  
11 school district, or state department of education, as long as no  
12 ~~personal~~ *covered* information is used for any purpose in furtherance  
13 of advertising or to amass a profile on the student for purposes  
14 other than K–12 school purposes.

15 ~~(f) 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 e-mail 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, e-mail 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 (f) *“Covered information” means information or materials in*  
37 *any media or format that meets any of the following:*

38 (1) *Are created or provided by a student, or the student’s parent*  
39 *or legal guardian, in the course of the student’s, parent’s, legal*

1 guardian’s, use of the site, service, or application for K–12 school  
2 purposes.

3 (2) Are created or provided by an employee or agent of the  
4 educational institution.

5 (3) Are gathered by the site, service, or application, that is  
6 descriptive of a student or otherwise identified a student, including,  
7 but not limited to, information in the student’s educational record  
8 or email, first and last name, home address, telephone number,  
9 email address, or other information that allows physical or online  
10 contact, discipline records, test results, special education data,  
11 juvenile dependency records, grades, evaluations, criminal records,  
12 medical records, health records, social security number, biometric  
13 information, disabilities, socioeconomic information, food  
14 purchases, political affiliations, religious information, text  
15 messages, documents, persistent unique identifiers, search activity,  
16 photos, voice recordings, or geolocation information.

17 (g) ~~For purposes of this section, “K–12 school purposes” shall~~  
18 ~~mean~~ means purposes that customarily take place at the direction  
19 of the school, teacher, or school district or aid in the administration  
20 of school activities, including, but not limited to, instruction in the  
21 classroom or at home, administrative activities, and collaboration  
22 between students, school personnel, or parents, or are for the use  
23 and benefit of the school.

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

28 (i) ~~It is not the intent of the Legislature for this chapter to~~  
29 ~~chapter does not~~ apply to general audience Internet Web sites,  
30 general audience online services, general audience online  
31 applications, or general audience mobile applications.

32 (j) ~~It is not the intent of the Legislature for this section to~~  
33 ~~section does not~~ limit Internet service providers from providing  
34 Internet connectivity to schools or students and their families.

35 (k) (1) An operator of an Internet Web site, online service,  
36 online application, or mobile application may use deidentified  
37 student ~~personal covered~~ information, including aggregated  
38 deidentified student ~~personal covered~~ information, within the  
39 operator’s site, service, or application or other sites, services, or  
40 applications owned by the operator to improve educational

1 products, for adaptive learning purposes, and for customizing  
2 student learning.

3 (2) An operator of an Internet Web site, online service, online  
4 application, or mobile application may use deidentified student  
5 ~~personal covered~~ information, including aggregated deidentified  
6 student ~~personal covered~~ information, to demonstrate the  
7 effectiveness of the operator's products, including in their  
8 marketing.

9 (3) An operator of an Internet Web site, online service, online  
10 application, or mobile application may share aggregated  
11 deidentified student ~~personal covered~~ information for the  
12 development and improvement of educational sites, services, or  
13 applications.

14 (l) This section shall not be construed to prohibit an operator  
15 of an Internet Web site, online service, online application, or  
16 mobile application from marketing educational products directly  
17 to parents so long as the marketing was not the result of student  
18 ~~personal covered~~ information provided to the operator of the  
19 Internet Web site, online service, online application, or mobile  
20 application.

21 22585. This chapter shall become operative on January 1, 2016.

22 SEC. 2. The provisions of this act are severable. If any  
23 provision of this act or its application is held invalid, that invalidity  
24 shall not affect other provisions or applications that can be given  
25 effect without the invalid provision or application.