

AMENDED IN ASSEMBLY APRIL 7, 2022  
AMENDED IN ASSEMBLY MARCH 28, 2022  
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2571**

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**Introduced by Assembly Members Bauer-Kahan and Gipson**

February 18, 2022

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An act to add Chapter 39 (commencing with Section 22949.80) to Division 8 of the Business and Professions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2571, as amended, Bauer-Kahan. Firearms: advertising to minors.

Existing law generally regulates manufacturers and dealers of firearms. Under existing law, commercial speech or advertising is generally protected under the First Amendment to the Constitution of the United States. Existing laws and regulations, however, restrict the content and placement of advertising and promotional marketing of alcohol, cannabis, and tobacco to protect minors.

~~This bill would express the intent of the Legislature to enact legislation to further restrict the marketing and advertising of firearms to minors. The bill would prohibit a person or entity that publishes materials directed to minors in this state in any medium, or publishes advertising or marketing communications, from marketing or advertising firearms to minors, as specified: *medium from marketing or advertising firearms in that material, as specified, and would prohibit a person or entity that publishes a marketing or advertising communication from publishing or disseminating marketing or advertising for firearms that is attractive to minors, as specified.*~~ The bill would also prohibit the use, disclosure, or compilation of a minor's personal information if it is intended to

market or advertise a firearm to that minor, as specified. The bill would impose a civil penalty of up to \$25,000 for each violation of these provisions. *The bill would make each copy or republication of marketing or advertising prohibited by these provisions a separate violation. The bill would declare that its provisions are severable, as specified.*

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. (a) The Legislature hereby finds and declares  
2 that the proliferation of firearms to and among minors poses a  
3 threat to the health, safety, and security of all residents of, and  
4 visitors to, this state. These weapons are especially dangerous in  
5 the hands of minors ~~and, in~~ *because current research and scientific*  
6 *evidence shows that minors are more impulsive, more likely to*  
7 *engage in risky and reckless behavior, unduly influenced by peer*  
8 *pressure, motivated more by rewards than costs or negative*  
9 *consequences, less likely to consider the future consequences of*  
10 *their actions and decisions, and less able to control themselves in*  
11 *emotionally arousing situations. In recognition of ~~this fact,~~ these*  
12 *facts,* the Legislature has already prohibited minors from possessing  
13 firearms, except in certain limited circumstances. Nonetheless,  
14 firearms manufacturers and retailers continue to market firearms  
15 to minors, often identifying particular weapons as starter guns,  
16 especially good for children. As reflected in numerous laws  
17 regulating marketing of dangerous products to minors, children  
18 are especially susceptible to marketing appeals, as well as more  
19 prone to impulsive, risky, thrill-seeking, and violent behavior than  
20 other age groups. Firearms marketing contributes to the unlawful  
21 sale of firearms to minors, as well as the unlawful transfer of  
22 firearms to minors by adults who may possess those weapons  
23 lawfully. This state has a compelling interest in ensuring that  
24 minors do not possess these dangerous weapons and in protecting  
25 its citizens, especially minors, from gun violence and from  
26 intimidation by persons brandishing these weapons.

27 (b) It is the intent of the Legislature in enacting this act to further  
28 restrict the marketing and advertising of firearms to minors.  
29 Nothing in this chapter shall be construed to limit in any way the

1 enforceability of existing law concerning firearms and marketing  
2 thereof.

3 SEC. 2. Chapter 39 (commencing with Section 22949.80) is  
4 added to Division 8 of the Business and Professions Code, to read:

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CHAPTER 39. MARKETING FIREARMS TO MINORS

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22949.80. (a) A person, firm, corporation, partnership, or other  
organization publishing material directed to minors in any medium,  
including, but not limited to, print or broadcast media,  
internet-based media, or video games, shall not market or advertise  
in that material any firearm, ~~handgun~~, ammunition, or reloaded  
ammunition, as referenced in Sections 16150, 16520, 16640,  
27505, and 30300 of the Penal Code.

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(b) (1) A person, firm, corporation, partnership, or other  
organization publishing ~~an advertising or marketing~~ *a marketing*  
*or advertising* communication, or arranging for placement of an  
advertising or marketing communication, shall not ~~market or~~  
~~advertise to minors~~ *publish or disseminate marketing or advertising*  
*for* any firearm, ~~handgun~~, ammunition, or reloaded ammunition,  
as referenced in Sections 16150, 16520, 16640, 27505, and 30300  
of the Penal ~~Code~~. *Code, that is attractive to minors.*

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(2) In determining whether marketing or advertising of firearms,  
~~handguns~~, ammunition, or reloaded ammunition is ~~directed~~  
*attractive* to minors, as described in paragraph (1), a court shall  
consider the totality of the circumstances, including, but not limited  
to, whether the marketing or advertising:

(A) Uses cartoon characters to promote firearms or firearms  
products.

(B) Offers firearm brand name merchandise, such as hats,  
t-shirts, or stuffed animals, for minors.

(C) Offers firearms or firearms accessories with colors or  
designs that are specifically designed to appeal to minors.

(D) Is part of a marketing or advertising campaign designed  
with the ~~specific~~ intent to appeal to minors.

(c) A person, firm, corporation, partnership, or other  
organization publishing material directed to minors in this state or  
who has actual knowledge that a minor in this state is using or  
receiving its material, shall not knowingly use, disclose, compile,  
or allow a third party to use, disclose, or compile, the personal

1 information of that minor with actual knowledge that the use,  
2 disclosure, or compilation is for the purpose of marketing or  
3 advertising to that minor any firearm, ~~handgun~~, ammunition, or  
4 reloaded ammunition, as referenced in Sections 16150, 16520,  
5 16640, 27505, and 30300 of the Penal Code.

6 (d) As used in this chapter:

7 (1) “Internet-based media” directed to minors means an internet  
8 website, online service, online application, or mobile application,  
9 or a portion thereof, that is created for the purpose of reaching an  
10 audience that is predominately comprised of minors, and is not  
11 intended for a more general audience comprised of adults. An  
12 internet website, online service, online application, or mobile  
13 application, or a portion thereof, shall not be deemed to be directed  
14 to minors solely because it refers to or links to an internet website,  
15 online service, online application, or mobile application directed  
16 to minors by using information location tools, including a directory,  
17 index, reference, pointer, or hypertext link.

18 (2) “Marketing or advertising” means, in exchange for monetary  
19 compensation, to make a communication to one or more  
20 individuals, or to arrange for the dissemination to the public of a  
21 communication, about a product or service the primary purpose  
22 of which is to encourage recipients of the communication to  
23 purchase or use the product or service.

24 (3) “Minor” means a natural person under 18 years of age who  
25 resides in this state.

26 (e) This section shall not be construed to require a person, firm,  
27 corporation, partnership, or other organization to collect or retain  
28 age information about users or subscribers of products or services  
29 offered.

30 (f) (1) Any person who violates any provision of this chapter  
31 shall be liable for a civil penalty not to exceed twenty-five thousand  
32 dollars (\$25,000) for each violation, which shall be assessed and  
33 recovered in a civil action brought in the name of the people of  
34 the State of California by the Attorney General or by any district  
35 attorney, county counsel, or city attorney in any court of competent  
36 jurisdiction. *Each copy or republication of marketing or advertising*  
37 *prohibited by this section shall be deemed a separate violation.*

38 (2) The court shall impose a civil penalty for each violation of  
39 this chapter. In assessing the amount of the civil penalty, the court  
40 shall consider any one or more of the relevant circumstances

1 presented by any of the parties to the case, including, but not  
2 limited to, the nature and seriousness of the misconduct, the number  
3 of violations, the persistence of the misconduct, the length of time  
4 over which the misconduct occurred, the willfulness of the  
5 defendant's misconduct, and the defendant's assets, liabilities, and  
6 net worth.

7 *(g) The provisions of this section are severable. If any portion,*  
8 *subdivision, paragraph, clause, sentence, phrase, word, or*  
9 *application of this section is for any reason held to be invalid by*  
10 *any court of competent jurisdiction, that decision shall not affect*  
11 *the validity of the remaining portions of this chapter. The*  
12 *Legislature hereby declares that it would have adopted this section*  
13 *and each and every portion, subdivision, paragraph, clause,*  
14 *sentence, phrase, word, and application not declared invalid or*  
15 *unconstitutional without regard to whether any other portion of*  
16 *this section or application thereof would be subsequently declared*  
17 *invalid.*