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August 18, 2025

TO: The Honorable Anna Caballero, Chair
Members, Senate Appropriations Committee

SUBJECT: **AB 1064 (Bauer-Kahan) Leading Ethical AI Development (LEAD) for Kids
OPPOSE**

Dear Chair Caballero and Members of the Senate Appropriations Committee:

The undersigned organizations write to respectfully oppose the amended **AB 1064** in advance of the Senate Appropriations Committee hearing.

At the outset, the undersigned organizations appreciate the amendments that have been adopted. The amendments generally improve the pre-existing language. However, many of our concerns with AB 1064 remain unresolved and the undersigned organizations remain **opposed to AB 1064, the “Leading Ethical AI Development (LEAD) for Kids Act.”**

The bill’s vague and ambiguous definitions, unreasonable knowledge standards, and unclear compliance burdens would thwart innovation and put Californians’ privacy at risk—especially children.

Flawed Definitions

The definitions used in this bill are unclear and overly broad. As a result, it sweeps in many chatbots that are likely not intended to be within its scope, but fall within it as a result of the breadth of the definitions. It might, in practice, sweep in effectively all chatbots.

To qualify as a “companion chatbot” a system must:

1. Provide adaptive, human-like responses to user inputs; and
2. Be intended to, or foreseeably will:
 - a. Meet a user’s social needs,
 - b. Exhibit anthropomorphic features, and
 - c. Sustain a relationship with a user across multiple interactions.

Any chatbot will meet the first prong—it is almost inherent to the definition of a chatbot that it would. But as to the second prong, imagine a customer service chatbot. It will exhibit anthropomorphic features—even non-AI chat programs typically present a name and do their best to act as if they were a helpful human. And because the chatbot will be better at its task if it has access to prior interactions—for example, a tech support chatbot might access the prior conversation describing the problem when a user comes back for additional assistance—it will sustain its relationship across multiple interactions. Finally, it must “meet a user’s social needs.” But social needs are not defined in this bill and there is no consensus on what constitutes a social need. As an example, one theory identifies human social needs as “affection”, “behavioral confirmation”, and “status.”¹ But a chatbot could easily be argued to provide at least two of these, if not all three; affection via polite interaction and behavioral confirmation via telling the user that they had done the correct steps in troubleshooting. Nearly any generative text AI tool could arguably meet this definition, effectively prohibiting minors from any use of AI tools.

This definition is so vague as to be unadministrable and so wide as to sweep in substantial amounts of behavior that is neither intended to be nor desirable to be targeted. Combined with the barriers to access to information that this bill would put in place on children, violating their First Amendment rights to receive information, this bill is likely unconstitutional under the First Amendment vagueness and overbreadth doctrines.

The above example illustrates how the current language is likely to sweep in task-specific chatbots, such as tech support chatbots, and other customer service chatbots. While the premise of this bill remains flawed, at a minimum the bill should be amended to include a specific exclusion for chatbots that are used solely for customer service purposes or task-specific interactions.

Unworkable Data Processing Restrictions

Section 22757.22(c) mandates that developers and deployers “shall not knowingly or recklessly process, or enable the processing of, a child’s personal information to train or fine-tune a covered product.” This provision is also unworkable and likely to result in significant limitations of functionality.

For example, a chatbot that is trained on patterns of Internet activity for purposes of its own cybersecurity will train on the network activity information of users, almost certainly including minor users. This is covered as personal information under California Civil Code 1798.140(v). As a result, training such an AI tool would almost certainly train on the personal information of a child. It is highly likely that this would be viewed as reckless processing of a child’s personal information, or else that the developer would be required to engage in complex and privacy-destroying age-verification and filtration processes in order to train the system.

Fine-tuning presents further issues. A prompt such as “write a birthday poem for my 10 year old son, incorporating his birth date of 10/10/2015” contains the personal information of a child. Again, given that any 10 year old will qualify as a child, it is likely that at least some would treat processing this as knowing or reckless processing of a child’s personal information. And while many AI systems do not fine-tune based on prompted information used for

¹ <https://core.ac.uk/download/pdf/148165347.pdf>

inference, some do. Developers would either be required to not fine-tune using prompted information, potentially reducing the accuracy or value of AI systems, or else to create fine-grained tools to comb through prompt data to try to remove any personal information that might be associated with a child.

Overbroad Scope of Coverage

As noted above, the bill is written in such overly broad terms that it is likely to cover a variety of uses that are not intended to be within scope. While the limitation to various forms of interaction that are “intended to be used” by or on a child, this risks sweeping in use-agnostic chatbots. Taking again as an example a tech support chatbot, children—especially teenagers—are likely to need such a service. But if a developer didn’t explicitly exclude them from using the bot, they would “intend” their bot to be used by a child simply because they intend it to be usable by anyone.

And again, the bill’s restrictions with respect to older teens rear their heads here. AB 1064 would not allow a “developer” (definition includes “deployer”) to “design, code, substantially modify, or otherwise produce a covered product that is intended to be used by or on a child,” including 16- and 17-year-old individuals. (22757.22(c)(1)). AB 1064 would not allow a “deployer” (definition includes “developer”) to “use a covered product for a commercial or public purpose if the covered product is intended to be used by or on a child in the state,” again including 16- and 17-year-old individuals. (22757.22(c)(2)). And AB 1064 would require “developers” or “deployers” of “covered products” to “implement reasonable steps” to ensure that a covered product is not “used by or on” a child, including 16- and 17-year-old individuals. (22757.22(d)). All children “are entitled to a significant measure of First Amendment protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected materials to them.”² Those rights are even stronger in the case of older teens. California violated the First Amendment when it attempted to ban the sale of violent video games to minors³; attempting to ban them from accessing a wide array of speech via AI technology is no more permissible.

Foreseeability presents similar concerns—it is foreseeable that at least some users will try to escape the bounds of any restrictions imposed by the chatbot developer, and that some children will misidentify themselves as adults to obtain access. The mere foreseeability of such possibilities would result in developers choosing not to release the chatbot in question in California without intrusive and privacy-violating age verification processes.⁴

Private Right of Action

Any private right of action will likely create unintended consequences of the bill by incentivizing the plaintiff’s bar to stretch the letter of the law (and its intent). As discussed above, the language is already susceptible to aggressive interpretations, and the possibility of scope creep for a bill like this is heightened given this is an area of emerging technology, industry, and law.

² *Erznoznik v. Jacksonville*, 422 US 205, 213 (1975).

³ *Brown v. Entertainment Merchants Ass’n*, 564 U.S. 786 (2011).

⁴ Cf. Kyle Chayka, *The Internet Wants to Check Your I.D.*, The New Yorker (Aug. 6, 2025), <https://www.newyorker.com/culture/infinite-scroll/the-internet-wants-to-check-your-id> (describing the privacy harms to minors and adults created by age-verification.)

Increased risk of litigation could have broad consequences on the technology industry and chill innovation.

Fiscal Impacts to California

AB 1064 risks significant negative fiscal impacts to California. Major forecasts of AI technology's expected impact to GDP range from 1% increase (a low outlier from Daron Acemoglu) to about 15% (e.g., Goldman Sachs), with most forecasts closer to 15%. Assuming that state tax revenue is proportional to state GDP, and estimating 2024 California total tax revenue at about [\\$266 billion](#), this suggests that worst case scenarios would cost state coffers between **\$2.7 billion to \$40 billion per year** in tax receipts by the end of the decade. These harms could be realized in scenarios in which California misses out on the main GDP impacts of AI because most practical AI tool use cases are effectively banned in California, or restricted to a tiny subset of the user base they would have but-for AB 1064.

Even much more limited impact scenarios would be costly for the state. For example, if AI firms relocate just a small fraction of their AI jobs (2,000 FTE jobs) outside California, even assuming cash compensation in the low \$200,000s/year per job (below industry standard) with an effective state income tax rate of about 7.25%, the fiscal cost in income tax alone would be about \$29 million per year. As these roles typically receive a significant share of their compensation in stock or stock options, it is likely that the lost capital gains tax revenues for the state would be up to \$15 million per year, bringing the employee-side tax revenue losses up to about \$44 million per year. As shifting roles outside California could also shift other tax payments besides employee income tax and capital gains, the **\$44 million per year** fiscal cost is a floor for the conservative scenario.

The limited impact scenario costs can scale up quickly if more jobs are relocated outside of California. For example, if a significant fraction of AI-related jobs are relocated outside of California (20,000 FTE jobs), the fiscal impact to the state of California is at least **\$440 million per year**, before accounting for any lost tax revenue from sources other than employee personal income and capital gains.

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The undersigned organizations encourage Senate Judiciary members to resist advancing legislation that is not adequately tailored to the goal of protecting children and that will create serious First Amendment harms in the process. We appreciate the Committee's consideration of these comments and stand ready to provide additional information as the California Legislature considers proposals related to technology policy.

Sincerely,



Aodhan Downey
State Policy Manager, West

Computer & Communications Industry Association

On behalf of:

CalBroadband, Amanda Gualderama

California Chamber of Commerce, Ronak Daylami

Civil Justice Association of California, Chris Micheli

Computer and Communications Industry Association, Aodhan Downey

TechNet, Robert Boykin