



May 11, 2026

The Honorable Buffy Wicks  
Chair, Assembly Privacy and Consumer Protection Committee  
1020 N Street, Room 162  
Sacramento, CA 95814

**Re: A.B. 1856 – Oppose**

Dear Chair Wicks:

I write today on behalf of the Electronic Frontier Foundation, a San Francisco-based, non-profit organization that works to protect civil liberties in the digital age. EFF represents more than 32,000 active donors and members, including thousands of supporters in California.

We respectfully oppose A.B. 1856, a bill that expands the sweeping age-gating regime created by last year's A.B. 1043; deepens the privacy and free speech harms A.B. 1043 creates for all internet users; and imposes especially severe burdens on the open source software community. Expanding A.B. 1043's constitutionally suspect framework now, before the law has taken effect, been enforced, or been tested in court, is premature, risky, and wasteful. Instead of mandating the expansion of an overly broad and deeply problematic surveillance regime, lawmakers should support constitutional measures to help young people use the internet safely.

**A.B. 1856 Expands A.B. 1043's Problematic Age-Gating Regime Instead of Fixing Its Flaws**

A.B. 1043 creates a blanket mechanism that would impose age gates on all app store users, for every application they download. This creates unnecessary barriers for all users who may not want or need to verify their age simply to access apps—like dictionary apps, map apps, or school resource platforms—with no harmful content or functions.

Under A.B. 1043, manufacturers will be required to track and manage users' ages, leading to the collection and storage of even more sensitive personal data. Although A.B. 1043 limits the use and disclosure of this personal information, it is an unfortunate reality that it [could easily be misused or inadvertently exposed](#). It also forces all apps into rigid age brackets that do not reflect the diversity and flexibility of all users' needs. This bracketed approach disregards the many nuanced and context-dependent ways in which digital tools are used, and disproportionately impacts vulnerable communities, such as low-income households where a single device may be used by multiple people of different ages.

A.B. 1856 does not fix these flaws. Instead, it *extends* the age-gating regime to browsers and websites, dramatically broadening its scope and pulling more services, developers,

and users into an anonymity- and privacy-destroying data collection framework that has not yet been implemented or evaluated.

Like all age-gating mandates, A.B. 1043 is rife with serious constitutional and technical problems that will only become clear as the technology rolls out. Expanding this untested regime so dramatically, with the expressive and privacy rights of millions of Californians on the line, makes little sense at this stage.

### **AB1043’s Framework Is Unconstitutional and Harmful to Users of All Ages**

By requiring users to disclose their age before accessing content, A.B. 1043—and A.B. 1856 even more so—raises significant free speech and privacy concerns. Age gates function as a form of censorship: restricting access to information and content based solely on arbitrary age-based brackets, or subjective definitions of what is “age-appropriate.” Age-gating regimes have a strong chilling effect on all users’ exercise of their rights to access information and community, engage with diverse ideas, and communicate freely. And although A.B. 1043 and A.B. 1856 do not mandate age verification, the potential liability associated with them is likely to push services to verify users’ ages in ways that exacerbate the harm to internet users’ speech.

First, there is [no “kid exception”](#) to the First Amendment. Young people, like adults, enjoy the constitutional right to speak and to access speech online. Courts across the country have [struck down](#) laws banning or broadly restricting young people’s access to digital platforms because such laws burden both young people’s and adults’ free speech rights. And the Supreme Court has repeatedly invalidated laws that impose parental-permission requirements or restrict minors’ access to non-sexual content.

The [privacy harms](#) of this age-gating regime are equally serious. Should services deploy age verification to comply, [multiple studies](#) have [shown](#) that no method is both privacy-protective and entirely accurate. ID-based systems can lock people out if they lack acceptable documentation. Biometric scans and AI-based age estimation are invasive, [discriminatory](#), and prone to error. [All methods](#) are rather easy to circumvent and will expose consumers to [real data breach risk](#). And importantly, requiring users to identify themselves before speaking [chills anonymous speech](#)—protected by the First Amendment, and essential for those who fear retaliation.

A.B. 1043’s age-gating system represents a profound structural shift in how information—both public discourse and private user data—flows across the once-open internet. Instead of reducing its harms, A.B. 1856 entrenches them even deeper by increasing the number of contexts in which millions of Californians will be forced to disclose highly sensitive personal information before accessing lawful expression.

### **A.B. 1856 Is an Existential Threat to Open Source Developers**

The open source community was [loud and clear](#) about [how much](#) of an [existential threat](#) A.B. 1043’s age-gating mandate would pose. But instead of amending A.B. 1043 to

mitigate those unique and serious harms, A.B. 1856 expands its scope, pulling even *more* small developers into its censorious regime.

Open source software is not structured like the big tech platforms (e.g. Apple’s iOS, Google’s Android, or Microsoft’s Windows) that lawmakers had in mind when they wrote this bill. Open source projects are generally created and maintained by volunteers and small nonprofit teams of collaborators working together for this singular ad-hoc purpose, often with little to no revenue and no in-house legal counsel. Unlike the bigger companies, open source projects cannot afford the legal and engineering costs required to interpret and implement expensive age-signaling requirements, nor can they afford to risk the hefty punitive fines associated with this regime. Moreover, some open source projects design their operating systems and other services to avoid collecting any personal information because they endeavor to avoid engaging in corporate surveillance similar to large firms.

Crucially, most open source operating systems also have [no centralized user account system](#). That means that users often download open source software directly without the use of logins, accounts, or personal data being collected. The very premise of A.B. 1043—that an operating system can simply ask every user for their age and then send that information on to app developers—is therefore fundamentally incompatible with how open source systems are built and used.

This age-gating regime puts community projects in an impossible position: either they engineer complex age-tracking surveillance infrastructure with no legal or financial support, completely rebuilding their existing software in the process; or they risk being subject to enforcement and fines that could cripple them entirely. Indeed, we’ve already seen major open source operating [systems scrambling to make plans](#) around the law, with one open source project responding by [blocking all California users entirely](#), simply because there was no feasible way to comply.

A.B. 1856 could have reduced these harms. It could have narrowed the scope of A.B. 1043, or even exempted non-commercial and open source developers. Instead, it intensifies A.B. 1043’s harms by extending the age-signal requirement to browsers and websites on top of operating systems—reaching even more layers of [critical infrastructure](#) held up by open source communities. A.B. 1856 fails to address the mismatch between A.B. 1043’s blunt, one-size-fits-all regulatory approach and the decentralized, privacy-first ethos of open source developers. Instead, it heightens the risk that valuable open source projects will be pushed out of the California market entirely—or forced to compromise on their principles (and constitutional rights) to stay afloat.

## Conclusion

A.B. 1856 doubles down on an untested, constitutionally suspect, and technologically shaky framework. It expands a sweeping age-signaling regime before we know whether it will withstand judicial scrutiny or even function as intended. It dramatically increases the

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speech and privacy burdens on users of all ages. And it imposes disproportionate costs on the open source ecosystem that underpins much of the modern web.

For these reasons, we must respectfully oppose A.B. 1856 and respectfully urge your "no" vote. Thank you.

Sincerely,



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Electronic Frontier Foundation  
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cc: Honorable Members and Committee Staff, Assembly Privacy and Consumer Protection Committee