



March 11, 2026

House Judiciary Committee  
Attn: Jessika Shipley  
Colorado Capitol Building  
200 E Colfax Ave  
Denver, CO 80203

## Re: HB26-1148 – “Concerning Protections For Minors Who Access Certain Social Media.” (Oppose)

Dear Chair Mabrey, Vice Chair Carter and Members of the House Judiciary Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB26-1148. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.<sup>1</sup> Proposed regulations on the intrastate provision of digital services therefore can have a significant, nationwide impact on CCIA members.

CCIA firmly believes that children are entitled to security and privacy online. Our members have designed and developed parental tools to individually tailor younger users’ online use to their developmental needs. For example, various services allow parents to set time limits, provide enhanced privacy protections by default for known child users, and other tools allow parents to block specific sites entirely.<sup>2</sup> This is also why CCIA supports implementing digital citizenship curricula in schools, to not only educate children on proper social media use but also help teach parents how they can use existing mechanisms and tools to protect their children as they see fit.

However, while CCIA shares the goal of increasing online safety for minors, HB26-1148 introduces significant constitutional, operational, and privacy concerns that would negatively impact Colorado residents and businesses.

### **HB26-1148’s scope as written is far broader than just video games, and must be amended to align with legislative intent.**

While the bill references “online gaming” throughout, which indicates an intent to focus solely on video games, the current definition of “covered businesses” including “makes available online gaming services, products, or features that are reasonably likely to be accessed by a covered minor” is too broad and scopes in most online services. It is not clear if “online gaming” only modifies “services,” meaning that “products or features” are not similarly confined to online gaming.

<sup>1</sup> For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

<sup>2</sup> Competitive Enterprise Institute, *Children Online Safety Tools*, <https://cei.org/children-online-safety-tools/> (last updated June 10, 2025).

## HB26-1148's method of designating covered services violates the First and Fourteenth Amendments.

HB26-1148 regulates online services based on whether they are “reasonably likely to be accessed by a minor.” Multiple federal courts have found regulating online services on this basis to be unconstitutional. Last year a federal court found that a California law regulating providers on this basis was “content-based on its face”<sup>3</sup> and “likely to fail strict scrutiny.”<sup>4</sup> Months later, an Ohio court found such language to be unconstitutionally vague in violation of the Fourteenth Amendment, noting that “this expansive language would leave many operators unsure as to whether it applies to their website.”<sup>5</sup>

## HB26-1148 contains vague standards for processing minors' data.

HB26-1148's scope is not well-defined, applying when “based on competent and reliable evidence regarding audience composition, to be routinely accessed by an audience that is composed of at least two percent minors who are two through seventeen years old.” Since approximately 21.5% of the U.S. population is under 18,<sup>6</sup> the bill could easily apply to nearly any online businesses, even those that do not cater specifically to minors (e.g. furniture stores with online websites). Moreover, the bill does not make clear when a business “should have known” that a user is a minor, and such inquiries are necessarily fact-intensive, limiting courts' ability to set broadly applicable precedents. Without objective criteria to make such determinations, companies would be incentivized to collect more data about younger users (such as via age verification) to ensure compliance, even if the bill does not require it.

This incentive structure carries several downsides: First, this increased data collection would undermine privacy for both adults and minors by creating centralized repositories of their sensitive data. Second, small businesses would face competitive disadvantages: A recent Digital Trust & Safety Partnership (DTSP) report, *Age Assurance: Guiding Principles and Best Practices*, found that “smaller companies may not be able to sustain their business” if forced to implement costly age verification or assurance methods.<sup>7</sup> Third, the standard's subjective language risks inconsistent enforcement, leaving companies unable to know whether the law applies to them. Without meaningful guidance to determine compliance through voluntary consensus standards or certification programs, for example, HB26-1148 will be impossible to comply with. The net effect will be forced over-collection of data and restrictions on lawful expression, harming vulnerable communities.

## HB26-1148 assigns covered businesses vaguely defined responsibilities.

Even if a covered business could determine whether HB26-1148 applies to it, there would still be much ambiguity regarding its responsibilities. The bill assigns covered businesses a

<sup>3</sup> *NetChoice v. Bonta*, 770 F. Supp. 3d 1164, 1186 (N.D. Cal. 2025).

<sup>4</sup> *Id.* at 1195.

<sup>5</sup> *NetChoice v. Yost*, 778 F. Supp. 3d 923, 957 (S.D. Ohio 2025).

<sup>6</sup> *QuickFacts: United States*, U.S. Census Bureau (last updated July 1, 2025), <https://www.census.gov/quickfacts/fact/table/US/PST045225>.

<sup>7</sup> *Age Assurance: Guiding Principles and Best Practices*, Dig. Tr. & Safety P'ship 10 (Sept. 2023), [https://dtspartnership.org/wp-content/uploads/2023/09/DTSP\\_Age-Assurance-Best-Practices.pdf](https://dtspartnership.org/wp-content/uploads/2023/09/DTSP_Age-Assurance-Best-Practices.pdf).



“minimum duty of care” to minors with no explanation of what obligations this provision confers in practice. Courts have not opined on what a duty of care to protect children online means for operators of digital services. Moreover, since each business is unique, courts and regulators will be unable to develop broadly applicable principles regarding when this duty has been fulfilled. Covered businesses will thus be left without an effective compliance roadmap, rendering them unable to know whether they are violating the law.

A covered business has no certain way of ascertaining what constitutes “reasonably foreseeable emotional distress,” or when it can be linked to a given product, service, or design feature. The same is true of the term “compulsive usage,” defined as “the repetitive use of a covered online gaming service, product, or feature” that materially disrupts one or more major life activities of a minor, including sleeping, eating, learning, reading, concentrating, communicating, or working” or “subverts or impairs a covered minor's autonomy, decision-making, or choice”. The bill does not specify what constitutes repetitive use, material disruption of the above activities, or a link between the two. Likewise, it provides no standards for assessing when autonomy and choice have been “impair[ed]” or “subvert[ed.]” Consequently, covered entities will have no way of knowing what measures they need to institute, or how they are to know whether they are succeeding. Defining covered services’ obligations using such vague and subjective terms risks arbitrary and inconsistent application of the law.

**The bill incentivizes overcollection of minors’ data.**

HB26-1148 also requires that covered businesses not “[s]end push notifications to a covered minor between 12 midnight and 6:00 a.m.” Such requirements inevitably require that covered operators track when it is nighttime in a given device’s location. This requirement therefore effectively mandates location-based tracking of minors’ devices, thus undermining the privacy of the very population the bill is designed to protect. Requiring covered operators to track their users serves no benefit, particularly since covered operators regularly offer users the option to turn off notifications themselves.

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While we share the concerns of the sponsor and the Committee regarding the safety of young people online, we encourage Committee members to pause advancing legislation that is not adequately tailored to this objective. We appreciate the Committee’s consideration of these comments and stand ready to provide additional information as the Legislature considers proposals related to technology policy.

Sincerely,

Aodhan Downey  
State Policy Manager, West Region  
Computer & Communications Industry Association

March 11, 2026

House Judiciary Committee  
Colorado State Capitol  
200 East Colfax Avenue  
Denver, CO 80203

**RE: HB26-1148: Protections for Youth on Social Media**

Dear Members of the House Judiciary Committee:

We write to share information about the video game industry that may be helpful for legislators and express concerns with House Bill 1148. As the innovators, creators, publishers, and business leaders who are transforming the video game industry, members of the Entertainment Software Association (ESA), understand that online safety is critically important, and we thank you for taking our perspective into consideration. For three decades, members of ESA, the trade association representing video game publishers and console makers, have invested and developed leading-edge player safety tools, as well as parental and user controls, to successfully make games safer for kids and teens online. As an industry, we believe in protecting children and teens online and appreciate your leadership to ensure online platforms frequented by children and teens in Colorado are safe.

ESA strongly supports online safety for young Coloradans and believes that HB 1148 is well-intentioned but, as drafted, it does not account for the unique attributes of video games or the existing approach to safety that the video game industry has taken. HB 1148 may also be subject to constitutional challenge under the First Amendment. Additionally, Colorado lawmakers have already enacted sweeping privacy laws, both generally and targeted specifically to children, and another bill being considered in the House, SB 51, would enact further protections for young Coloradans.

**Background**

The bill under consideration draws heavily from California and Maryland's Age-Appropriate Design Code law, the former of which was enjoined last year and, more recently, enjoined for a second time by the Northern District of California<sup>1</sup>. In the California case, the court found that mandated enforcement of terms of service, age estimation, and its vague terms and definitions, which provided covered businesses with inadequate notice as to how to comply with the law, were all grounds to find the law unconstitutional. Ultimately, the law forced every covered entity to choose between intruding into user privacy, thereby chilling publication of and access to protected speech, or publishing only child-appropriate content, thereby restricting access to protected speech for users of all ages.

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<sup>1</sup> *NetChoice v. Bonta*; No. 5:22-cv-08861-BLF, (N. D. Ca. 03/13/25).

Accordingly, to continue to encourage ESA member companies' long track record of investment and innovative approach to providing a safe online environment for its users, ESA continues to urge Colorado legislators not to advance this bill and allow the recently enacted privacy laws to fully implement before enacting legislation that could undermine or conflict with these laws.

## **Concerns**

HB 1148 is likely to conflict with the First Amendment because it strongly encourages online platforms to over-censor content to avoid penalties tied to the law's vague definition of what could be harmful to minors. Facing the risk of substantial fines for inaccurately assessing what might be emotionally distressing to children, many platforms are likely to take down all content related to certain topics. This approach could result in the removal of valuable, constitutionally protected material alongside any content that is actually harmful.

Applied to the unique medium of video games, HB 1148's duty of care requirements are likely to chill creativity. The duty of care lists several broad categories of harm that are vague and necessarily tied to content. For example, the bill requires mitigating against "discrimination" and "foreseeable emotional distress." As written, the bill would therefore impose liability on a video game publisher for developing a game featuring a character that tells an off-color joke or that presents themes dealing with difficult political topics. Indeed, many popular video games are based on real-world experiences, including historical periods, times of war, and other depictions of violence or social struggles. Companies might need to strip games of this vibrancy to steer clear of liability.

ESA is concerned that the age assurance requirement raises significant privacy concerns due to the collection of sensitive user information. To avoid steep penalties and ensure compliance with the law, many companies would likely need to adopt privacy-invasive methods, such as collecting government-issued identifications (e.g., driver's license, state identification cards), payment data (since many card issuers have age restrictions), or biometric information, all of which are categorized as "sensitive personal data" under HB 1148. ESA companies would not collect such data to estimate or verify the age of individuals if not for the requirements in this bill. Additionally, the bill prohibits using personal data for any purpose other than age assurance. While well-intentioned, this presents compliance issues because any prohibition on secondary use without exemptions for business purposes is too restrictive and will be burdensome on the consumer experience. For example, if collecting date of birth is part of the age assurance process, then, as written, this bill would prohibit the use of that information to put the minor in an age-appropriate experience. The business would have to re-collect the date of birth to use it for that beneficial purpose, but unrelated to the age assurance purpose.

HB 1148, as currently drafted, contains several vague and unenforceable standards that do not align with how video games operate and companies will have a very difficult time complying with. The safety provisions outlined in the bill, with mentions of "likes" and "comments, hiding posts, and certain push notifications, are more akin to a traditional social media platform than a video game experience. For instance, while avatars and usernames are publicly available, video games provide settings that restrict who can interact with that

account. We are also concerned that HB 1148 penalizes groups like the video game industry who already empower parents when it comes to their kids' user experience. For example, the video game industry already provides parents with the ability to block in-game purchases, limit screen time, and turn off live chat. It has also adopted a ratings system and advertising guidelines set forth by the Entertainment Software Ratings Board (ESRB). We believe that it is unnecessary and counterproductive to impose prescriptive safety requirements on an industry that already has a proven track record of strong safety standards. A flexible approach is what has allowed for safety innovations to flourish in the video game space.

Finally, HB 1148 would enact a 5-percent “fee” levied specifically on minor transactions. While the fee may not sound like a substantial amount, it is still an added burden on consumers that we do not want to see imposed. As our members deal with the uncertainties around the global economy, we are doing everything we can to keep prices stable and this bill directly undermines those efforts. Additionally, imposing the fee only on minor transactions creates a compliance nightmare, which forces users to verify their age and their locations, and will inevitably lead to over-collecting of monies to ensure compliance.

ESA urges the committee not to advance this bill and to allow the existing privacy laws to be fully implemented before adding additional data collection and privacy standards for companies. Additionally, the Colorado House will be considering an age attestation bill, which will also add compliance burdens for companies. For over thirty years, the video game industry has made unique efforts to enhance and bolster online safety through a variety of controls for users and parents to customize the gaming experience. For example, 74 percent of parents who have children that play video games use the industry’s rating system to select age-appropriate games, which was developed and is enforced by the Entertainment Software Rating Board (ESRB). In addition, ESA member companies continuously invest in the development of in-game features to empower parents and protect children, such as tools to restrict communications and block purchasing capabilities to create a safe environment for video game play.

The video game Industry continues to make a positive difference in people's lives, and we welcome the opportunity to continue working with the committee. ESA and its members recognize the importance of online safety for young Coloradans and want to be a resource to the committee as you try to navigate this complicated and evolving landscape. Please reach out to the undersigned with any questions.

Sincerely,

Andrew O'Connor  
Director, State Government Relations  
Entertainment Software Association

**House Judiciary**

**03/18/2026 01:30 PM**

**HB26-1148 Protections for Youth on Social Media**

**Typed Text of Testimony Submitted**

<b>Name, Position, Representing</b>	<b>Typed Text of Testimony</b>
Bennett Rutledge Against themselves	This is a very expensive and complex burden on a covered business, and because the threat to the minor of the monitoring requirements of HB26-1148 - Protections for Youth on Social Media, could well do more harm to the privacy of the minor than it does good. Vote no.
Dana Wald For Students Demand Action	I, Dana Wald, am in support of bill HB26 1144 because I have been part of a community impacted by gun violence and this is a personal matter to my safety and my family.