University of San Diego SCHOOL OF LAW

CHILDREN'S ADVOCACY INSTITUTE
5998 Alcalá Park | San Diego, CA 92110-2492
P: (619) 260-4806 | F: (619) 260-4753
Sacramento Office: (916) 844-5646
Washington, DC Office: (917) 371-5191
www.sandiego.edu/cai | info@caichildlaw.org

August 27, 2026

The Honorable Gavin Newsom
Governor of the State of California
State Capitol, Suite 1173
Sacramento, CA 95814

RE: SUPPORT FOR AND CO-SPONSORSHIP AB 2076 (LOWENTHAL)

Dear Governor Newsom:

The Children's Advocacy Institute at the University of San Diego School of Law (CAI), which has sought to advance the well-being of California's children through legal education, advocacy, and litigation for over 30 years, is honored to co-sponsor AB 2076 (Lowenthal) with the San Diego District Attorney and respectfully urges your signature in favor of the measure.

SUMMARY: AGE-RESTRICTED PRODUCTS AND AMAZON'S VIOLATIONS OF CHILD PROTECTION LAWS

- Various California laws have long prohibited certain products, such as spray paint, tanning devices, firearms, and tobacco products, from being sold to minors in brick-and-mortar stores. In 2018 an investigative news report in Sacramento revealed that a competitor of these brick-and-mortar stores – Amazon – was selling several of these age-restricted products with no age verification effort at all.[1]



[1] https://www.kcra.com/article/amazon-selling-bb-guns-other-forbidden-items-to-children-1/18761872 https://www.kcra.com/article/teen-buys-bb-gun/18918089

- In order to ensure children could not circumvent these important safety measures and gain access to these products online, California enacted legislation in 2018 (Cal. Civ. Code. §1798.99.1 ("§1798.99.1")) [2] to require Internet retailers to take "reasonable steps" to verify the age of anyone attempting to purchase these products.

- That law didn't work. Studies have documented that Amazon is not taking any reasonable steps to verify the age of a purchaser before selling dangerous age-restricted products. Not only does this law-breaking endanger children, Amazon through this lawbreaking also enjoys an unfair competitive advantage over brick-and-mortar retailers.

- Additionally, Amazon continues to sell nitrous oxide, a medical and culinary tool that is famously abused as a recreational drug, without adequate verification that the purchaser is above the age of 18, despite California law prohibiting minors from purchasing the product.

AMAZON IS VIOLATING THE LAW

A 2025 report released by CAI titled *Amazon: Breaking the Law and Placing Children at Risk?*[3] documented that Amazon is apparently not complying with almost any facet of §1798.99.1 or otherwise ensuring reasonable, age-verified child safety.

When researchers attempted to purchase spray paint, etching cream, ultraviolet tanning devices and body branding equipment -- all products prohibited from being sold to minors and covered by §1798.99.1 -- Amazon did not require the purchaser to input, scan, provide or display a government-issued identification. Further, Amazon allowed the products to be purchased using prepaid credit cards and gift cards, exactly the problem that lead to the law being enacted.

For most of the more dangerous items covered by §1798.99.1, such as firearms, ammunition, and tobacco products, Amazon does not sell them online. However, Amazon does sell BB guns and items used to prepare tobacco for smoking. For these items, Amazon is also not complying with the law. Researchers attempted to purchase a BB gun from Amazon. When selecting the BB weapon and placing it in the cart, Amazon does require purchasers to input ID information and a birthdate. When researchers entered a birthdate placing them under the age of 18, Amazon's systems rightly prevented the transaction from being completed.

However researchers were able to bypass this purported safety check by entering incorrect ID information accompanied by a made-up birthdate that placed them over the age of 18. **The**

[2] AB 2511 (Chau, 2018 Chapter 872, Statutes of 2018)
[3] https://catcher.sandiego.edu/items/usdlaw/04032025__REPORT_FINAL_AMAZON.pdf

age verification is performative; it checks the ability to do basic math not age. There was no attempt by Amazon to verify that the information submitted was correct.

Even more alarming, researchers discovered that after only one transaction whereby the purchaser is prompted to enter a birthdate and they enter a made-up birthdate placing them over the age of 18, **Amazon never again asks for age verification when purchasing subsequent age-restricted items**. This remained true after the researcher had signed out of the account and signed back in later.

Researchers completed the purchase of BB weapons. The researcher was never informed by Amazon that an adult needed to be present at the point of delivery to show identification and receive the items. The purchaser received a notification that Amazon had combined the BB weapon and diet pills into the same delivery package. The package was delivered to the address and was left in a common area with no alert to the purchaser that the package had been delivered.[4]

BACKGROUND: NITROUS OXIDE

Nitrous oxide, or dinitrogen monoxide, commonly known as "laughing gas," is a gaseous chemical compound. Nitrous oxide is a can be used as a recreational drug. It is a dissociative drug, which are similar to psychedelics.[5] The gas is inhaled, usually by releasing nitrous gas cartridges (bulbs or whippets) into another object, such as a balloon, or directly into the mouth. Regular use of nitrous oxide can result in memory loss, loss of muscle control, and depression, among others. [6]

Penal Code section 381c prohibits any person from selling or furnishing any device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide, to a person under 18 years of age, classifying the crime as a misdemeanor.[7]

NITROUS OXIDE AMAZON PURCHASE EXPERIMENT VERIFIED 6/8/26

Until a recent lawsuit against Amazon seeking damages for harm caused by the sale of nitrous oxide on its platform,[8] nitrous oxide tanks available on Amazon were colorfully packaged and flavored, including lemonade, strawberry, mint, blueberry and watermelon. While those have been removed, dangerous nitrous oxide is still available.

---

[4] Researchers also purchased aa second BB. Weapon and had it delivered to an Amazon Pick-up location rather than a home address. Amazon rightly restricted the choice of pick-up locations to only those where the purchaser would need to go to a counter and speak to an employee. It did not allow the product to be delivered to self-serve locations. Information provided by amazon at the point of purchase explaining this restriction did not include the need for a legal adult to pick up the items. The researcher elected to pick up the BB weapon at the Amazon Counter in Whole Foods. No notification was provided by Amazon at any point during the order or deliver confirmation process that a legal adult needed to pick up the items. The researcher showed the pick-up barcode to the employee and was able to receive the item without being asked to show ID.

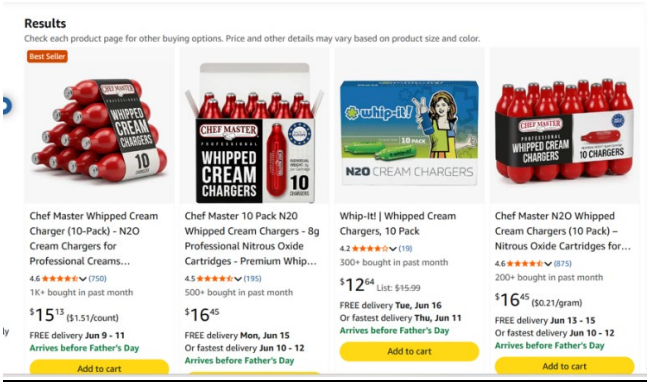
[5] Li L, & Vlisides, P. Ketamine: 50 Years of Modulating the Mind. Frontiers in Human Neuroscience [Internet]. 2016 [08.05.2024]; 10:[1-15 pp.].

[6] https://adf.org.au/drug-facts/nitrous-oxide/

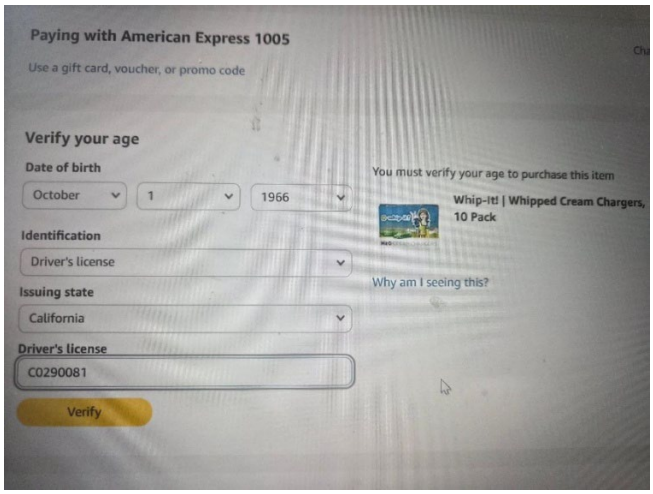
[7] Pen. Code, § 381c, subd. (a)

[8] The complaint is here: https://www.aboutlawsuits.com/wp-content/uploads/2026-1-23-nitrousoxide-todd-complaint.pdf

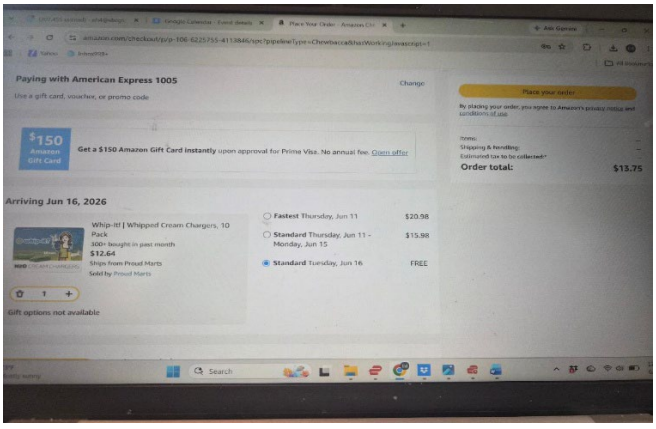
"Whipped Cream Chargers" With Nitrous Oxide Still Available for Sale on Amazon 6/8/26



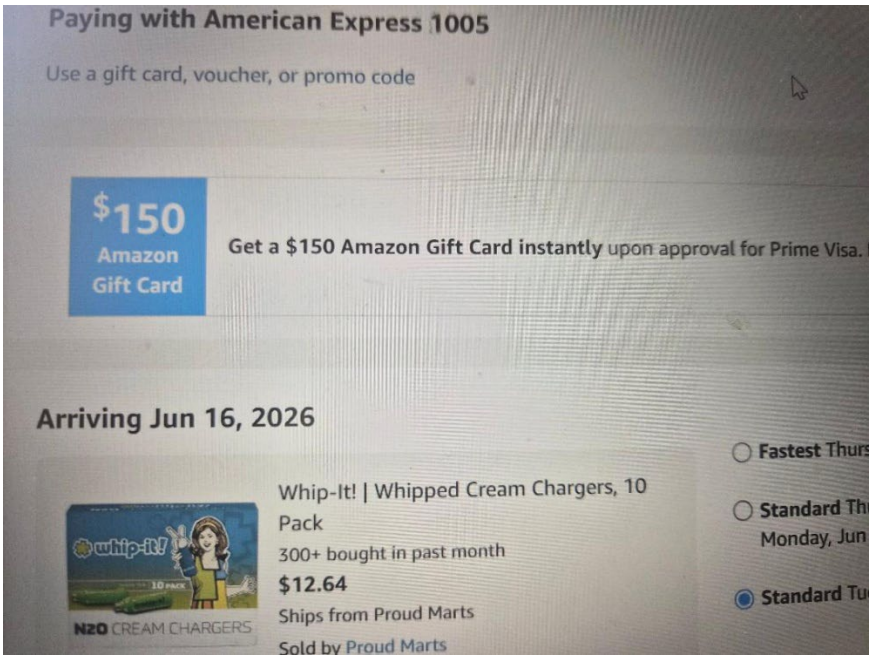
To Buy One of the Items Above, The Undersigned Entered An Entirely Made-up Birthday and DL Number 6/8/26



Entirely Made-up Birthday and DL Number Worked – Allowed to Buy 6/8/26



Nitrous oxide chargers can be purchased with Amazon gift cards, further increasing the likelihood that a child might access them 6/8/26 (see upper left)



AB 2076 (LOWENTHAL)

This bill would modify current law in several ways:

First, the bill would include nitrous oxide in the list of products covered by The Parent's Accountability and Child Protection Act, §1798.99.1. All retailers would be required to take reasonable steps to verify the age of a purchaser.

Second, the bill prohibits online sellers from permitting gift cards to be used for the most dangerous items, including nitrous oxide.

Third, it is actually quite easy to quantify why Amazon has not complied with current law. Consider: the maximum financial penalty for littering in California is $1,000, 1.6% of an average Californian's income.[9] In feckless contrast, current law's penalty of up to $7,500 for violating a far more serious law protecting children is .00000125% of $600 billion, Amazon's 2024 income from sales. To have a penalty for Amazon violating a child-protection law roughly match the penalty for an average Californian for littering, the maximum penalty for Amazon would have to be 1.6% of $600 billion, *or about $9 billion dollars*.

[9] Cal.Veh. Code § 42001.7: "(a) Every person convicted of a violation of Section … 23112 … shall be punished by a mandatory fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars ($750) nor more than one thousand dollars ($1,000) upon a third or subsequent conviction."
The average annual salary of a Californian is $61,026. (https://www.ziprecruiter.com/Salaries/--in-California)

AB 2076 does not go that far. But, in light of Amazon's brazen failure to take any reasonable steps to comply with §1798.99.1 despite the law being in effect for over 6 years, the bill changes the current civil penalty available to public prosecutors from *up to* $7,500 to a flat civil penalty of $7,500 per violation. This is still less than the maximum jurisdiction for small claims court. In important addition, in order to motivate compliance of very large corporations like Amazon, the bill grants courts discretion in a public prosecutor case to increase the civil penalty to up to $250,000 per violation if the defendant's revenues in the prior year were over $25,000,000 and the court finds that increasing the penalty is necessary to deter future violations.

Lastly, the bill authorizes public prosecutors to seek injunctive relief and attorneys' fees if they prevail.

CONCLUSION

Amazon in 2024 earned almost twice the entire budget for the State of California. Ensuring that such a company actually complies with California law is no small task. This widely supported, bi-partisan bill is a step in the right direction in protecting children and ensuring that small mom-and-pop retailers and Amazon compete on a more level playing field.

Please sign this common-sense measure.



Ed Howard
Senior Counsel, Children's Advocacy Institute
University of San Diego School of Law