

The NetChoice Coalition

Promoting Convenience, Choice, and Commerce on The Net

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May 10, 2011

The Honorable Noreen Evans
Chair, Senate Judiciary Committee
1303 10th Street
Sacramento, CA 95814

RE: Opposition to SB 242, Social Networking Internet Web Sites: Privacy

Dear Senator Evans:

We write to oppose SB 242, a bill that potentially applies to thousands of Internet website, chilling free speech, and threatening school run websites.

NetChoice is a national coalition of Internet-based businesses who share the goal of promoting online commerce, convenience, and choice. We are heavily involved in a number of state, federal, and international efforts to address online safety and privacy issues.

SB 242's greatest faults are: (1) its overly broad application, (2) its chilling effect on free speech, (3) its discouraging websites from being responsible corporate citizens, and (4) its disregard for the sharing of this information for decades in other mediums.

First, because of SB 242's broad definition of "social networking websites," it applies even to sites run by schools and universities. So, even closed social networks, like those created by high schools to allow students, teachers, and coaches to better communicate, are affected. This means that, under SB 242, schools and universities must either risk civil damages of ten thousand dollars per violation, or take the less risky alternative and discontinue these aspects of their education programs.

Second, the openness of social networking sites allows users to freely share opinions that might be politically dangerous. We have seen how such uses in Egypt and Libya can lead to social reform. However, SB 242 requires websites to remove any statements about an individual that include their picture, video, or place of employment (regardless of age) upon the request of a registered user. So Kadafi could force social networking sites to remove any videos denouncing his regime. This move would eliminate social networks' newfound power to generate positive social change and open public debate.

Third, we believe that SB 242 would discourage websites from being responsible corporate citizens to minors. The "willful and knowing" standard for children under 18 will impact only those sites that attempt to learn the age of their users so that they can take steps to protect them. Other sites that don't require date of birth – and thus offer no additional protections for minors – could never be found to having willfully and knowingly displayed a minor's contact information, because they do not want to know which users are minors.

As a result, technology features that apply to children will not be triggered. For example, many sites use a “safe search” filter for age-inappropriate search results. Others restrict how adults and minors communicate or what advertisements display alongside a minor’s profile page. The result could be a “race to the bottom;” an abandonment of protection measures for websites unable to take on legal risk. This would be the wrong thing to do, but the bill creates liability for doing the right thing.

Finally, other mediums have been sharing this information for decades. For example, every year schools produce facebook for students containing their classmates’ home addresses and phone numbers. The sharing between friends of phone numbers and addresses online is no different. SB 242 attempts to achieve good outcomes, but, as history has shown, the sharing of this information is nothing new.

There are ways for policymakers to impact online safety. California has been a leader in new laws to enhance child safety and privacy, and lawmakers should continue to pursue policies that empower parents, educate kids, give law enforcement more resources, and update the criminal code where needed. NetChoice and our members are ready to be a resource for future online safety efforts.

In conclusion, we respectfully urge you to oppose SB 242. Opposing this bill is not a vote *against* online safety and privacy. Instead, it’s a vote for preserving free speech and providing incentives for websites to *promote* child safety.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve DelBianco". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Steve DelBianco
Executive Director, NetChoice

cc: Members of the Committee

NetChoice is a coalition of trade associations and e-Commerce businesses who share the goal of promoting convenience, choice and commerce on the Net. More information about NetChoice can be found at www.netchoice.org