

AMAZON: BREAKING THE LAW AND PLACING CHILDREN AT RISK?



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In the Autumn of 2024, the Children’s Advocacy Institute at the University of San Diego School of Law examined whether Amazon.com (“Amazon”) is complying with the requirements of Cal. Civ. Code. §1798.99.1 (“§1798.99.1”), a statute named “The Parent’s Accountability and Child Protection Act,” enacted by AB 2511 (Chau) in 2018. The aim of the law is to prevent children from buying products online that they may not lawfully buy in brick-and-mortar stores. The law was enacted after several investigative news reports documented how a minor was able to buy dangerous weapons on the marketplace.¹

The examination found that Amazon is currently not complying with §1798.99.1. When it comes to many products that are illegal to sell to minors – some of which are potentially dangerous to children -- Amazon is not engaging in any of the required steps to ensure children cannot buy certain products.

From a child safety perspective, it is appropriate to focus on Amazon. It is by a vast margin the dominant online seller of products. No other company comes close.²

BACKGROUND

Section 1798.99.1 was inspired by a Sacramento-area father discovering that his child had bought weapons on Amazon that are unlawful to sell to minors. As one policy committee explained:

The impetus for the further regulation of the unlawful selling of products to minors was a recent news story in which a Sacramento-area minor bought a BB gun, which is illegal to sell to minors in California, on Amazon.com. (Oliver, KCRA 3, Sacramento dad: Amazon sold BB gun, other forbidden items to son (Feb. 28, 2018) <http://www.kcra.com/article/amazon-selling-bb-guns-other-forbidden-items-to-children-1/18761872>> [as of Apr. 25, 2018].) Common Sense Kids Action, in support, describes the need for this bill that, “Amazon’s fine-print, boilerplate terms and conditions and makes no effort comparable to their brick-and-mortar competitors to obtain age verification or parental consent to prevent the purchase by children and teens of items they are not allowed to buy. The only effort Amazon makes is to insert this language in its fine print, boilerplate, terms and conditions: ‘If you are under 18, you may use the Amazon Services only with involvement of a parent or guardian.’”³

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>

² See Exhibit A at the end of the memo.

³ Assembly Privacy and Consumer Protection Committee analysis, April 27, 2018, found at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB2511



Section 1798.99.1

Section 1798.99.1 broadly requires Amazon, “notwithstanding” whatever might be in its “terms and conditions,” to “take reasonable steps to ensure the purchaser” of certain enumerated products “is of legal age at the time” of either “purchase or delivery:”

(a) (1) A person or business that conducts business in California, and that seeks to sell any product or service in or into California that is illegal under state law to sell to a minor, as described in subdivisions (b) and (c), shall, notwithstanding any general term or condition, take reasonable steps to ensure that the purchaser is of legal age at the time of purchase or delivery, including, but not limited to, verifying the age of the purchaser.

While the bill does not define “reasonable steps,” it does offer illustrative “safe harbor” examples of such steps. One example of such a “reasonable step” is listed above; namely, to “verify the age of the purchaser.” But the law more specifically goes on to identify additional “reasonable steps,” depending upon the kind of item being sold.

With emphasis supplied, the law reads:

(2) Reasonable steps as used in paragraph (1) for the purchase of items described in subdivision (b) include, but are not limited to, any of the following:

(A) Requiring the purchaser or recipient to input, scan, provide, or display a government-issued identification, provided that the person or

business complies with all laws governing the retention, use, and disclosure of personally identifiable information, including, but not limited to, subdivision (a) of Section 1749.65, paragraphs (3) to (7), inclusive, of subdivision (b) of, and subdivisions (c) to (f), inclusive, of, Section 1798.90, paragraph (1) of subdivision (a) of Section 1798.90.1, Sections 1798.29, 1798.81.5, and 1798.82, and Sections 22575 to 22579, inclusive, of the Business and Professions Code.

(B) Requiring the purchaser **to use a nonprepaid credit card** for an online purchase.

(C) Implementing a system **that restricts individuals with accounts designated as minor accounts from purchasing the products** listed in subdivision (b).

(D) **Shipping** the product or service to an individual who is of **legal age**.

The products for which these are the illustrative “reasonable steps” – the products in the referenced subdivision (b) -- are as follows (emphases supplied):

(b) Products or services that are illegal to sell to a minor under state law that are subject to subdivision (a) include all of the following:

(1) **An aerosol container of paint** that is capable of defacing property, as referenced in Section 594.1 of the Penal Code.

(2) **Etching cream** that is capable of defacing property, as referenced in Section 594.1 of the Penal Code.

(3) **Dangerous fireworks**, as referenced in Sections 12505 and 12689 of the Health and Safety Code.

(4) **Tanning in an ultraviolet tanning device**, as referenced in Sections 22702 and 22706 of the Business and Professions Code.

(5) **Dietary supplement products** containing ephedrine group alkaloids, as referenced in Section 110423.2 of the Health and Safety Code.

(6) **Body branding**, as referenced in Sections 119301 and 119302 of the Health and Safety Code.

Observe the products listed in the subsequent subdivision (c) are more inherently dangerous to children and others than those in subdivision (b). Again, with emphasis supplied, they are:

(c) Products or services that are illegal to sell to a minor under state law that are subject to subdivision (a) include all of the following:

(1) **Firearms or handguns**, as referenced in Sections 16520, 16640, and 27505 of the Penal Code.

(2) **A BB device**, as referenced in Sections 16250 and 19910 of the Penal Code.

(3) **Ammunition or reloaded ammunition**, as referenced in Sections 16150 and 30300 of the Penal Code.

(4) **Any tobacco, cigarette, cigarette papers, blunt wraps**, any other preparation of tobacco, any **other instrument or paraphernalia** that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, as referenced in Division 8.5 (commencing with Section 22950) of the Business and Professions Code, and Sections 308, 308.1, 308.2, and 308.3 of the Penal Code.

(5) **Electronic cigarettes**, as referenced in Section 119406 of the Health and Safety Code.

(6) **A less lethal weapon**, as referenced in Sections 16780 and 19405 of the Penal Code.

The law establishes different illustrative, safe harbor “reasonable steps” for these, more inherently dangerous kinds of products listed in subdivision (c) than those offered for the products listed in subdivision (b). With emphases supplied, the steps are:

(3) Reasonable steps as used in paragraph (1) **for the purchase of items described in subdivision (c)** include, but are not limited to, any of the following:

(A) Requiring the purchaser or **recipient to input, scan, provide, or display a government-issued identification**, provided that the person or business complies with all laws governing the retention, use, and disclosure of personally identifiable information, including, but not limited to, subdivision (a) of Section 1749.65, paragraphs (3) to (7), inclusive, of subdivision (b) of, and subdivisions (c) to (f), inclusive, of, Section 1798.90, paragraph (1) of subdivision (a) of Section 1798.90.1, Sections 1798.29, 1798.81.5, and 1798.82, and Sections 22575 to 22579, inclusive, of the Business and Professions Code.

(B) **Shipping** the product or service to an individual who **is of legal age**.

Conspicuously missing from the “safe harbor” options for the more dangerous products in subdivision (c) are (i) purchase with a credit card and (ii) implementing a minor accounts system. From these absences, it may be reasonably inferred that these are not “reasonable steps” for the purchase of these more dangerous items. (*Lopez v. Sony Elecs., Inc.* (2018) 5 Cal. 5th 627, 636; *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal. 4th 1215, 1230).

Likewise, one kind of possible “reasonable step” is expressly prohibited at §1798.99.1(a)(4), and the prohibition is applicable to both lists of products:

Reasonable steps as used in paragraph (1) shall not include consent obtained through the minor.⁴

The law also contains some other provisions:

- Sellers can use good faith reliance on bona fide evidence of age as an affirmative defense (§1798.99.1(a)(5))
- Businesses must not retain, use, or disclose age verification information except for compliance purposes (§1798.99.1(a)(6))
- Violations are subject to civil penalties of up to \$7,500 per incident in actions brought by public prosecutors (§1798.99.1(d))
- The law does not apply to businesses already regulated by stricter state or federal age verification laws (§1798.99.1(e))
- Acceptable government-issued IDs include driver's licenses, passports, military IDs, consular documents, and tribal IDs (§1798.99.1(f))

AMAZON APPEARS TO BE BRAZENLY VIOLATING SECTION 1798.99.1

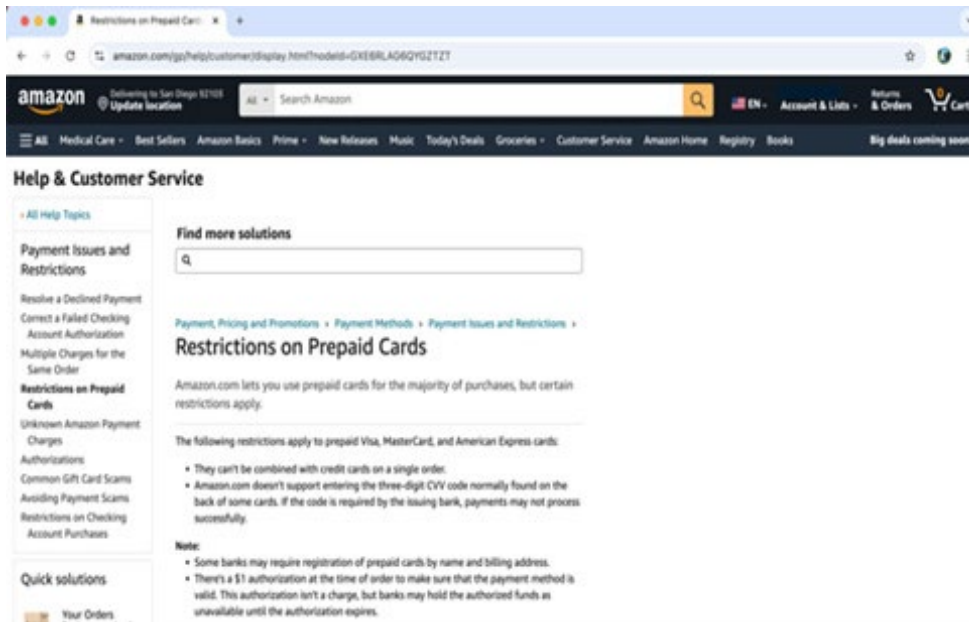
Amazon is Apparently Violating Section 1798.99.1 Regarding the Purchase of Spray Paint, Etching Cream, Ultraviolet Tanning Devices, and Body Branding Equipment

It is not apparent that Amazon is taking any steps at all, let alone “reasonable” ones, to implement §1798.99.1 as applied to spray paint, etching cream, ultraviolet tanning devices, and body branding equipment; the products listed in subdivision (b).

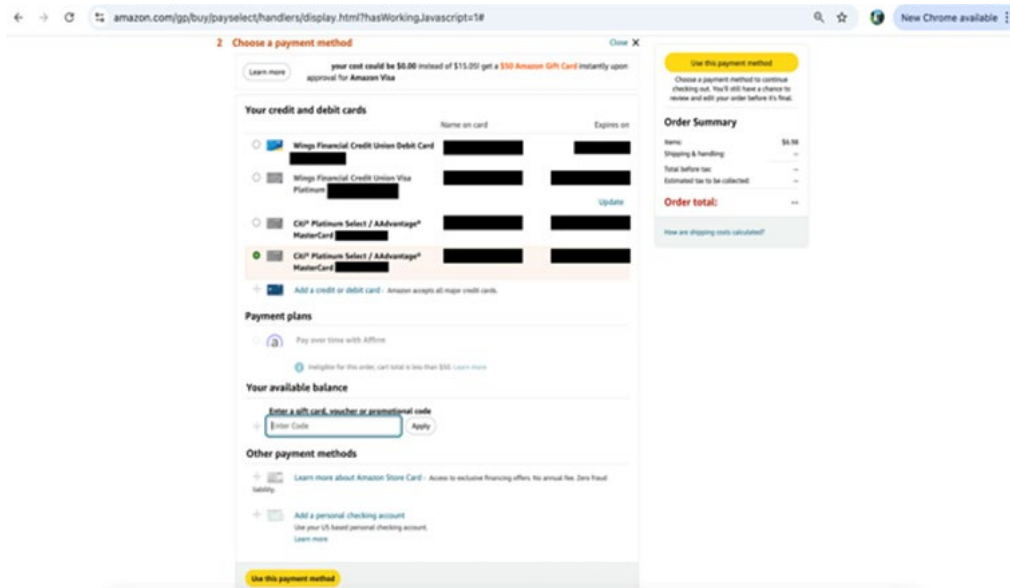
⁴ Requiring parental consent to be obtained from parents and not through a minor is a requirement reiterated in at least one other state statute. California Civil Code. Cal. Civ. Code §1568.5 provides, “a representation by a minor that the minor’s parent or legal guardian has consented shall not be considered to be consent for purposes of this chapter.”

Spray Paint, Etching Cream, Ultraviolet Tanning Devices, and Body Branding Equipment Can All Be Bought with a Prepaid Credit Card and Without Otherwise “Verifying the Age of the Purchaser”

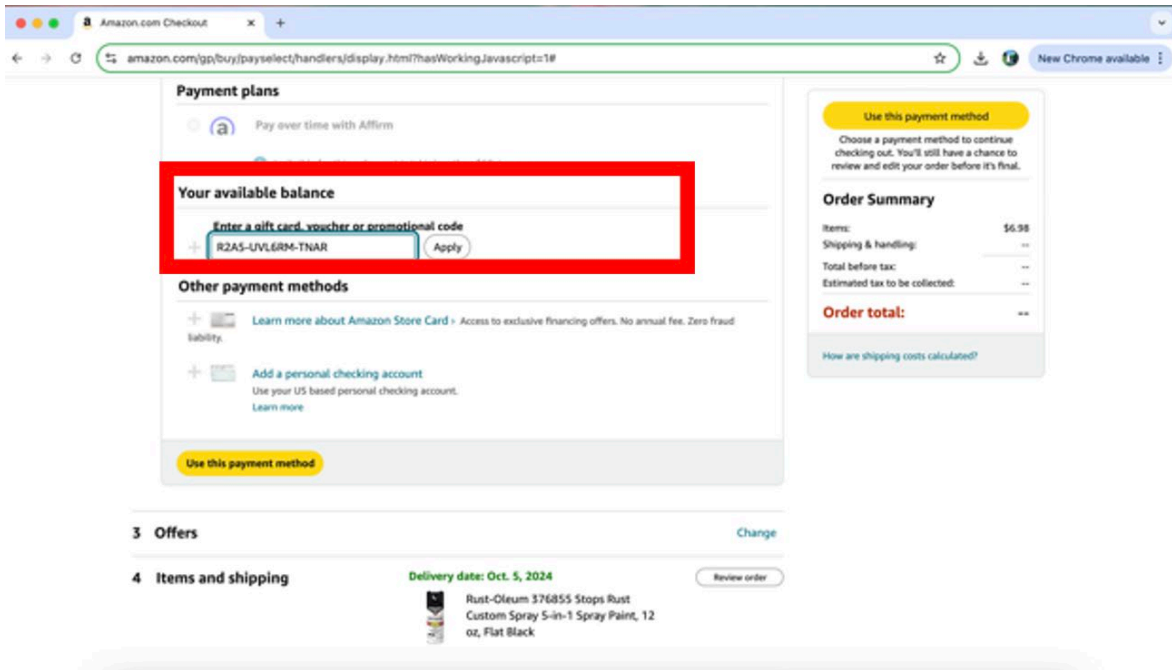
Notwithstanding subdivision (a)(2)(3), all the products listed in subdivision (b) may be bought with a prepaid credit or gift card. Amazon’s policies regarding the use of prepaid credit or gift cards mention no age-based exclusions.



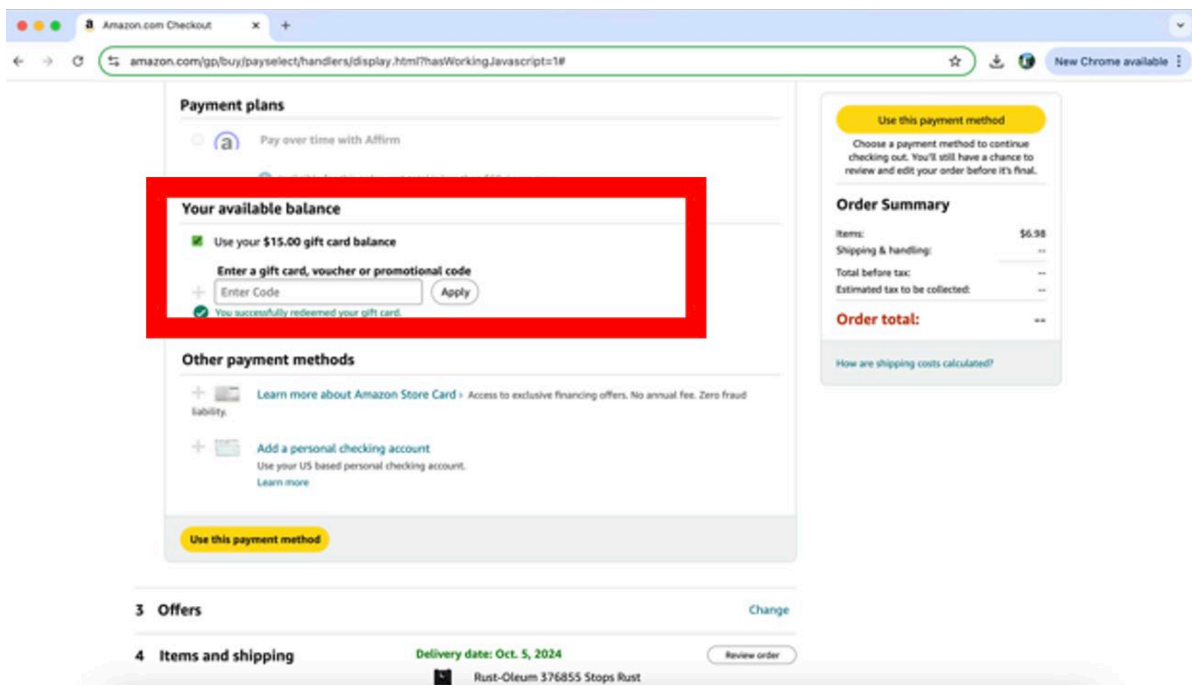
Taking a can of aerosol paint as an example, when purchasing a can of spray paint, available under “Purchase Information” are the options to enter credit card information, use a payment plan connected to a credit card, input a gift card or voucher, use an Amazon store card, or connect to a personal checking account.



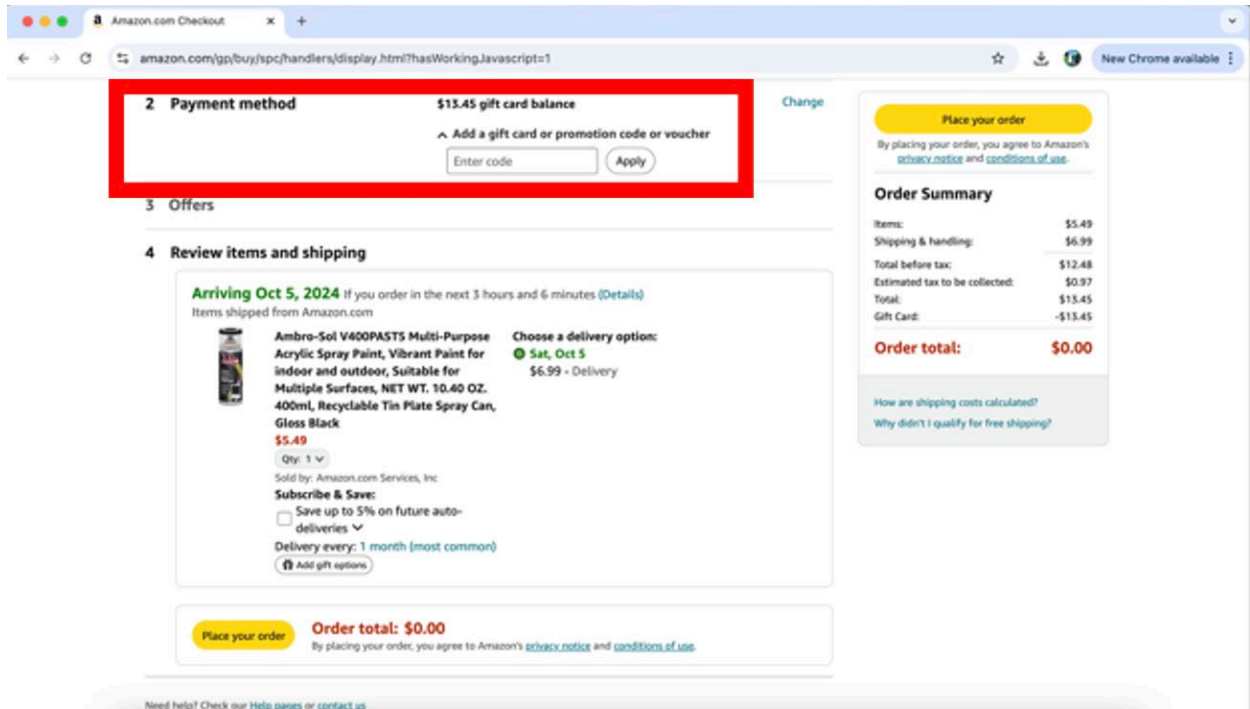
You are then able to select a gift card option and input the gift card code.



Once you have input the gift card information Amazon allows you to select the pre-paid gift card as your payment option.



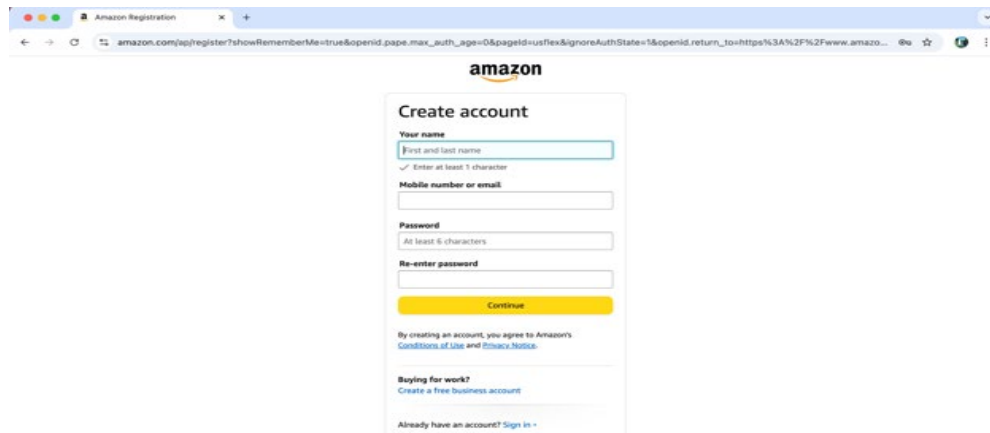
Amazon then allows spray paint to be purchased entirely with prepaid gift card.



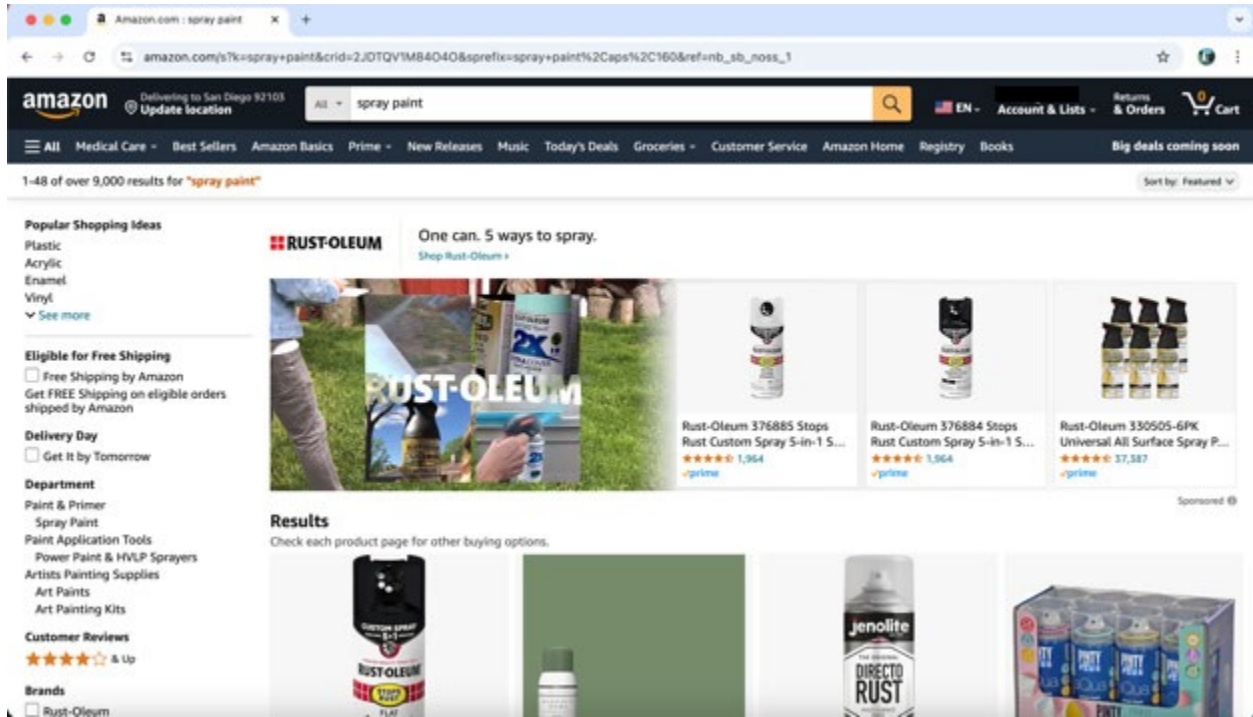
No Apparent “Steps” are Taken to Ensure Minors Cannot Otherwise Buy Spray Paint, Etching Cream, Ultraviolet Tanning Devices, and Body Branding Equipment

Amazon takes no apparent “reasonable steps,” including “verifying the age of the purchaser,” to ensure minors cannot otherwise buy spray paint, etching cream, ultraviolet tanning devices, and body branding equipment by verification age when creating an account.

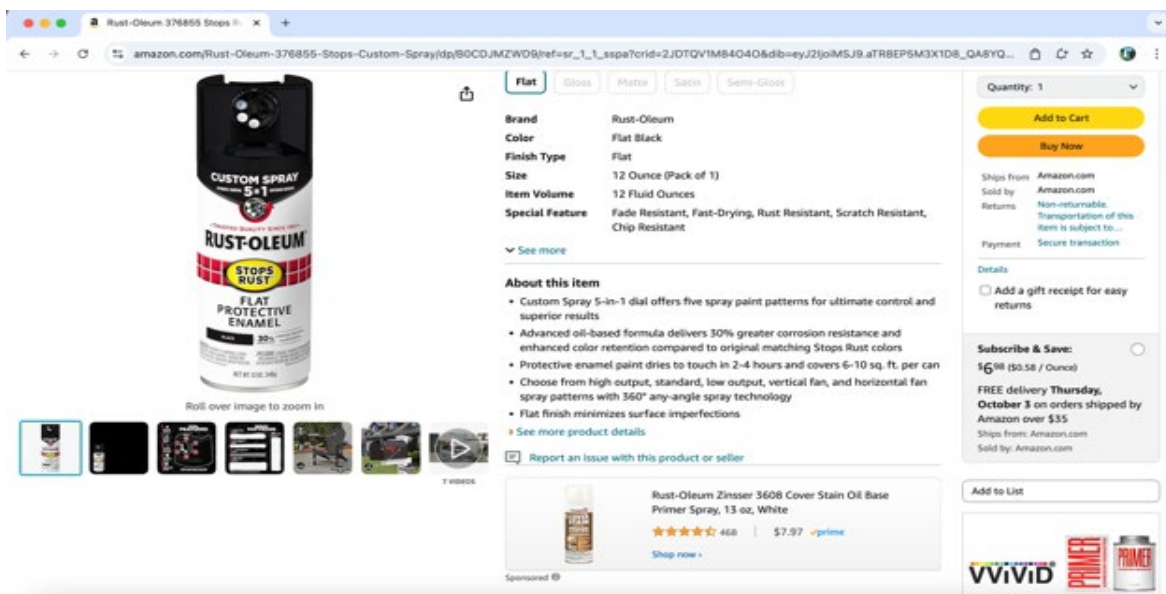
First, we will look at creating an Amazon account in the first instance to see if any screening is done for age. To create an account, an individual needs only to input a name and an email address or phone number. No age information is requested no warnings about age are offered. Once logged into the account, an individual is taken to the Amazon Home page and can browse the entire Amazon.com catalog.



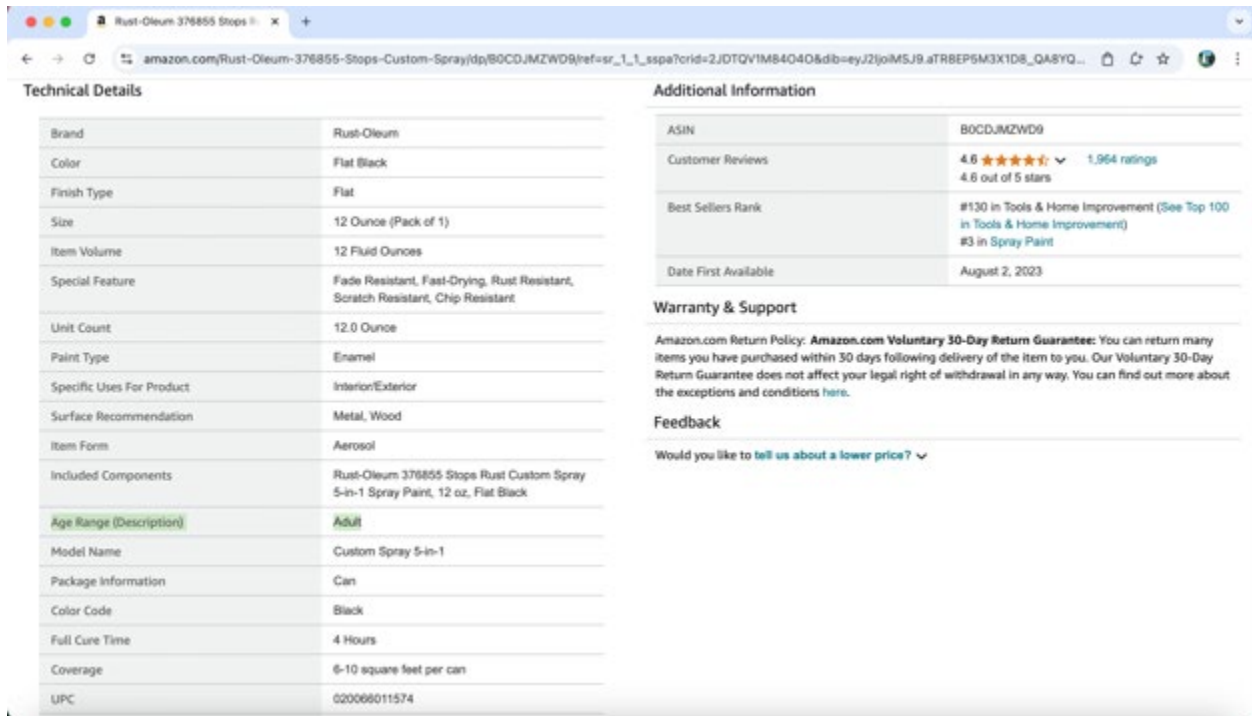
Upon executing an Amazon search for “spray paint” with a California address selected, potential purchasers are not even presented with a pop-up notification that this may be an age-restricted item, nor are any steps taken by Amazon at this point to verify the customer's age. **It is important to note that the moment a California address is entered, Amazon is on notice that California’s laws – including those restricting the sale of some items to minors – are implicated.**



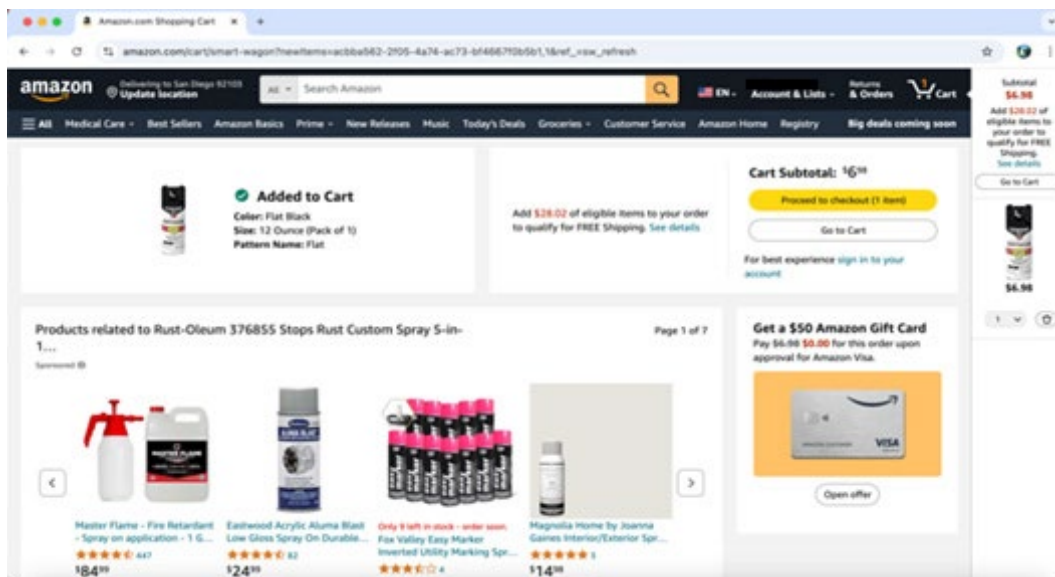
On the sales page for a spray paint product, there is no reference to any legal age restriction for purchasing nor any request for age verification.

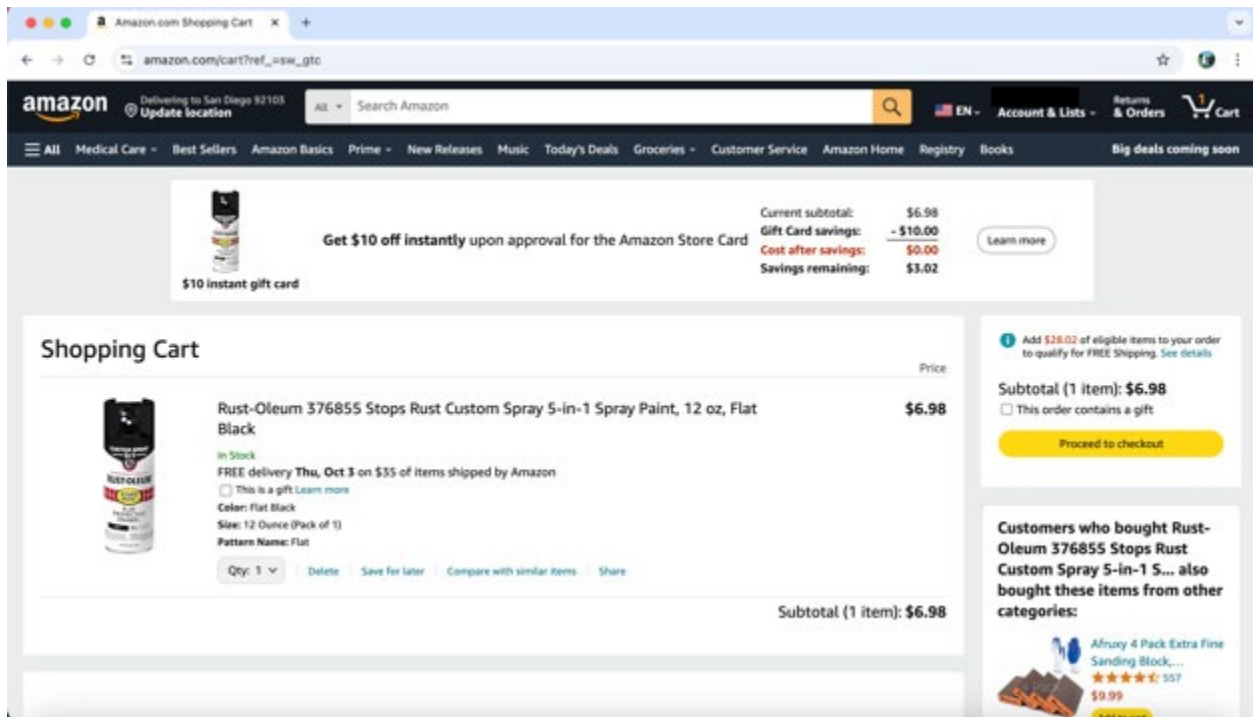


If a customer chooses to scroll all the way to the bottom of the product page, they can see under the heading section “Technical Details” the age range of a can of spray paint is identified as “Adult,” but this is the only reference to age and does not convey any legal restriction in purchasing ability. Additionally, there is no requirement that a customer reads the technical details of a product; it is up to the customer to seek these details out if they are interested.

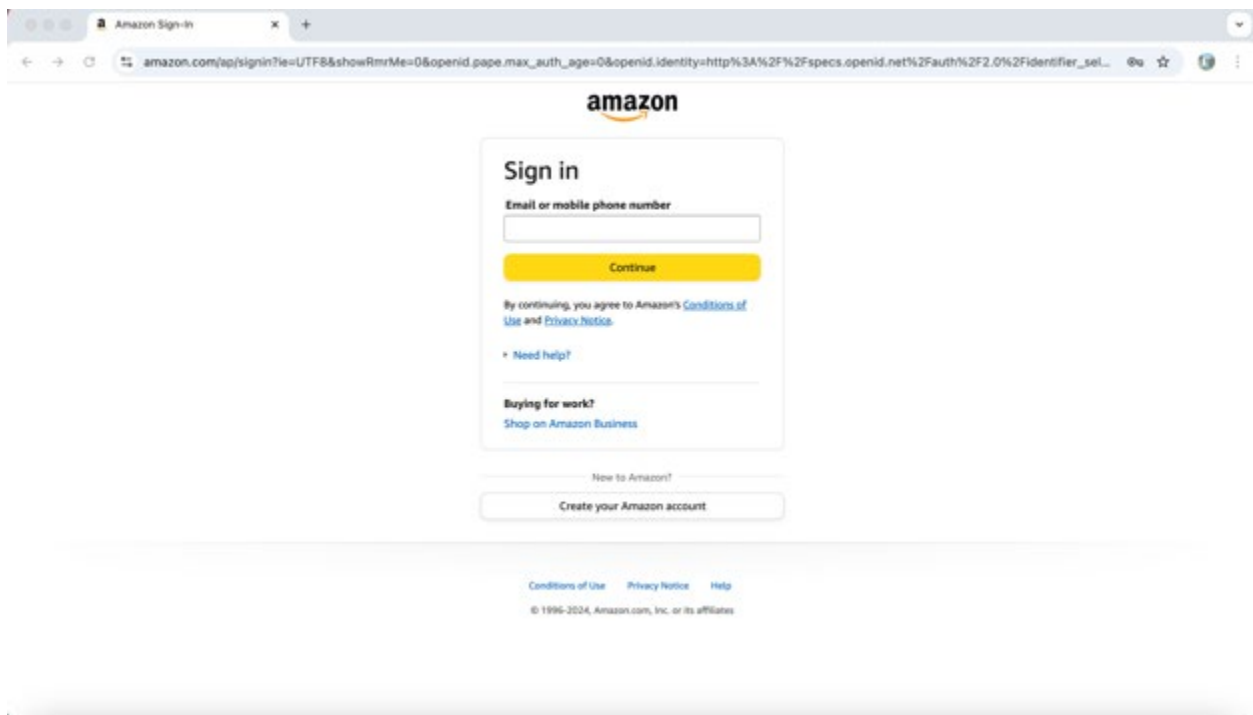


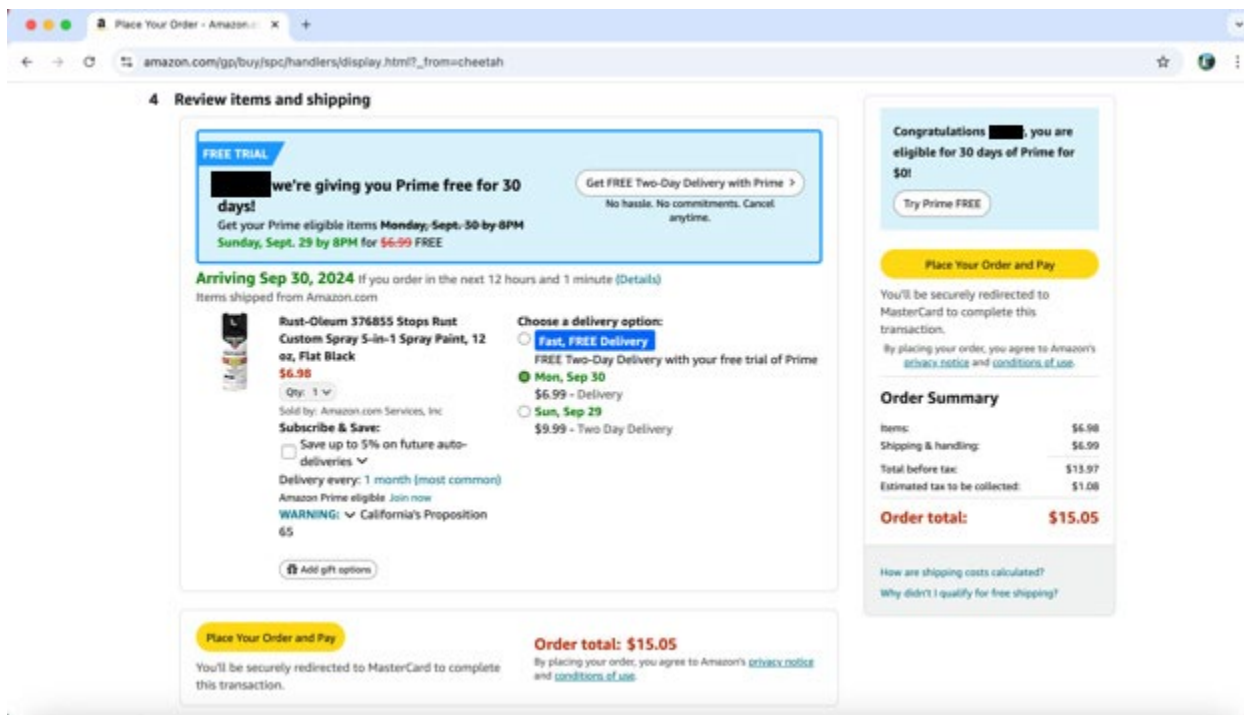
Selecting “Add to cart” does not trigger any pop-up notifications or interventions, and the item is added to a customer’s basket without any request for age verification or warning that it is a legally age-restricted item.





Then, when a customer selects the “Place Order” button, customers are prompted to sign in if they have not already done so. If they are already signed in, they are taken to the final checkout screen, where they are prompted to input their address and payment information. Once again, there is no request for age verification or a warning about the item.



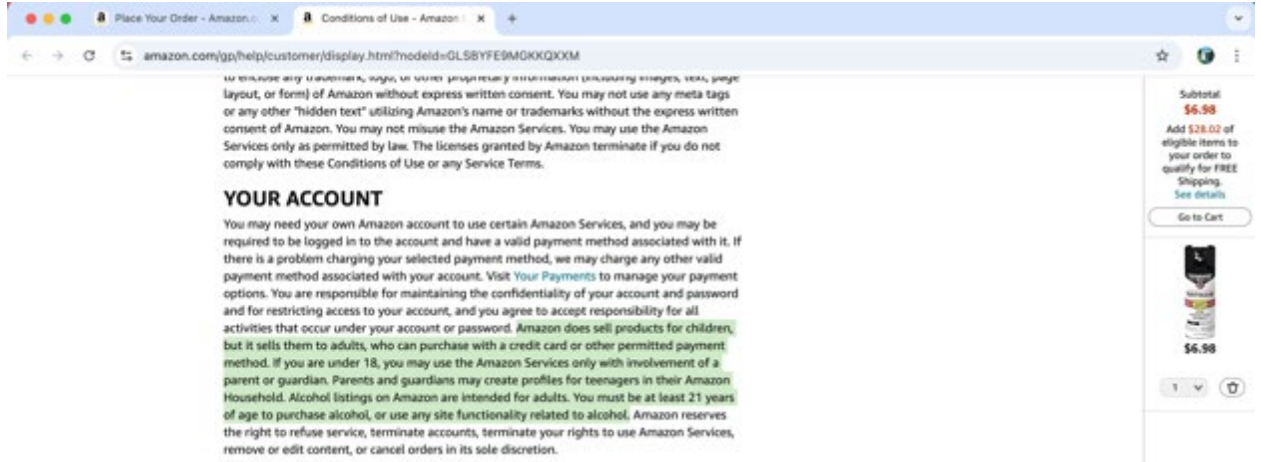


On the final screen, customers are told that, by placing their order, they are subject to Amazon’s conditions of use.

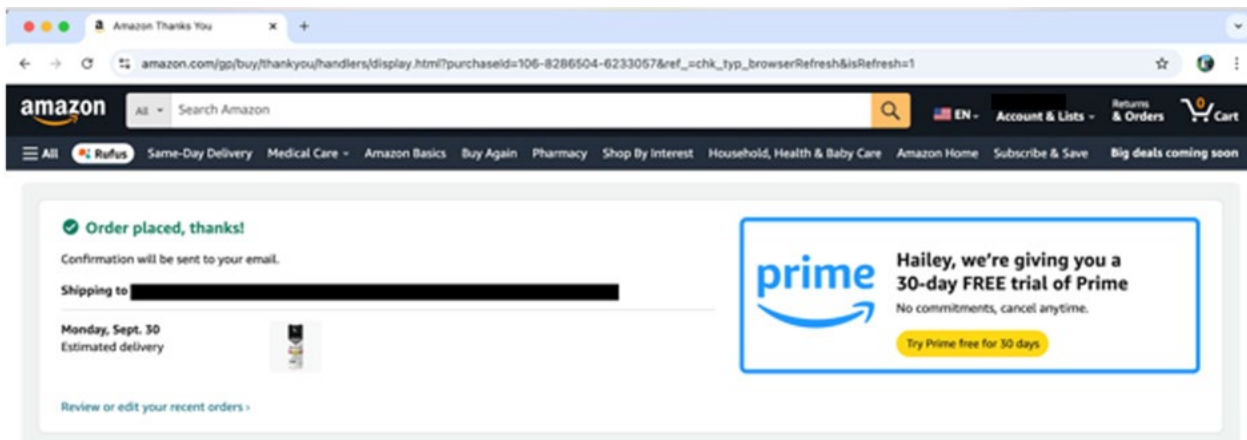


Customers are not required to indicate they have read the conditions of use before placing their order and may complete the transaction without doing so. However, in any event, the conditions of use again do not mention the legal age restriction on purchasing items aside from a restriction on the purchase of alcohol.

Moreover, the conditions of use twice over expressly violate state law. With emphasis supplied, they state, “Amazon does sell products for children, but it sells them to adults, who can purchase with a credit card or other permitted payment method. *If you are under 18, you may use Amazon Services only with the involvement of a parent or guardian.*” This language, which is directed at a minor and prompts a minor to obtain parental consent (“If you are under 18”), appears to violate both §1798.99.1(a)(4) (“Reasonable steps as used in paragraph (1) shall not include consent obtained through the minor”) and Cal. Civ. Code §1568.5 (“A representation by a minor that the minor’s parent or legal guardian has consented shall not be considered to be consent for purposes of this chapter.”), which require parental consent be obtained from the parent and not through addressing the minor.



Once payment information is entered and the customer selects “Place Order and Pay,” the transaction is completed, and they receive a confirmation notice. There is no request for verification that an adult will be on the receiving end at delivery, nor any notice that an adult needs to be the one to receive the item.



In sum, nowhere in the entire process, from creating an account to purchasing a legally restricted product such as spray paint, are generally applicable “reasonable steps” taken to ensure minors cannot buy spray paint.

Amazon Does Not Apparently Adopt Any of the Illustrative “Reasonable Steps” for Spray Paint, Etching Cream, Ultraviolet Tanning Devices, and Body Branding Equipment

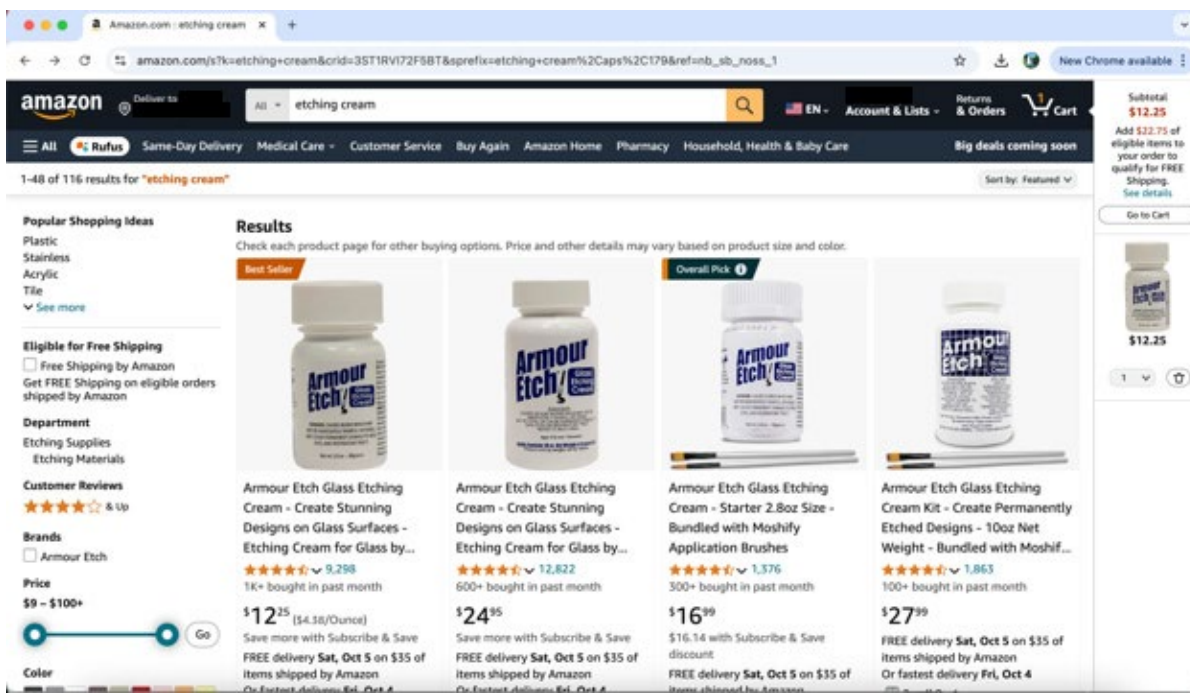
So, Amazon appears to permit age-restricted items to be bought with a prepaid gift card, notwithstanding subdivision §1798.99.1 (a)(2)(3). There is no apparent age verification at account set-up, as just discussed, that might address the overall requirement of “reasonable steps.” The other illustrative “reasonable steps” set out in §1798.99.1(a)(2) for spray paint, etching cream,

ultraviolet tanning devices, and body branding equipment are (i) requiring a purchaser to input, scan, provide, or display government-issued identification; (ii) requiring the use of a non-prepaid credit card and (iii) implementing a system that restricts individuals with accounts designated for minors from purchasing certain products, or shipping to an individual who is of legal age.

All of the items listed in §1798.99.1(b) or their unsafe or unlawful functional equivalents appear to be available for purchase on Amazon except fireworks.⁵ Respectively, the searches “etching cream,” “ultraviolet tanning device,” “ephedrine group alkaloids,” and “body branding” yielded the results described below.

Etching Cream, As Referenced in Section 594.1 of the Penal Code

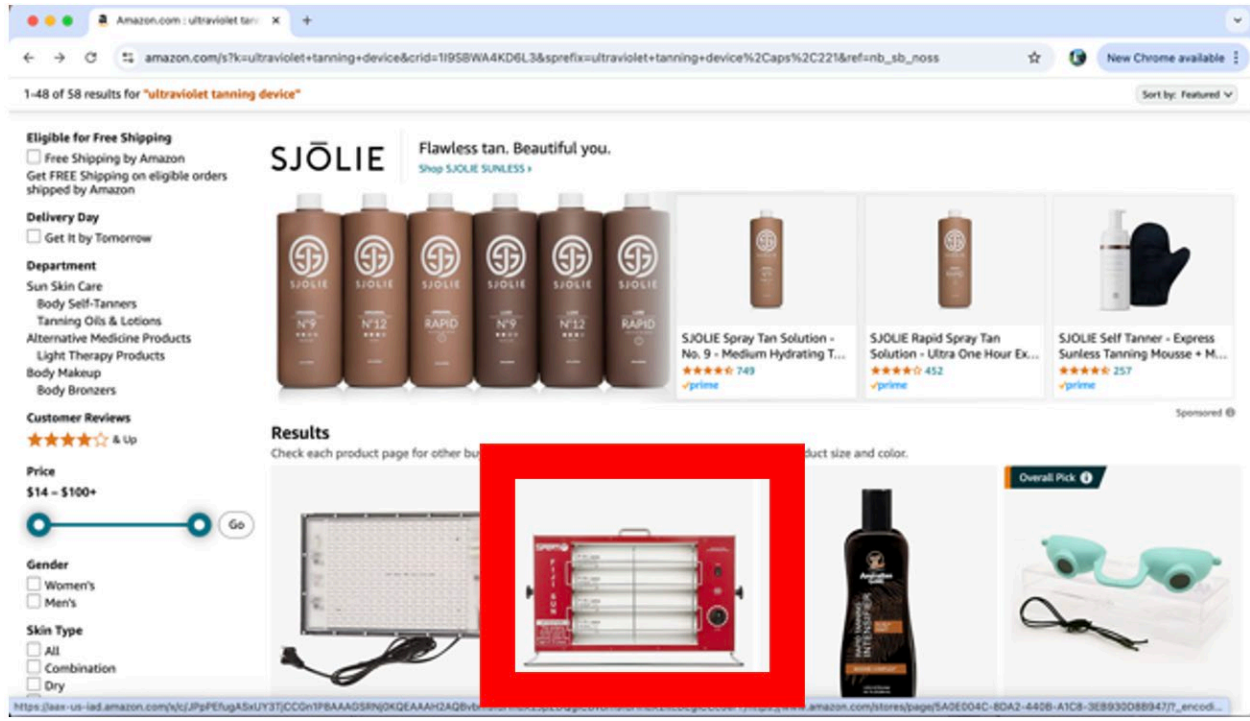
California Penal Code §594.1 defines “etching cream” as “any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid.” Products matching this description appear when searching for “etching cream” on Amazon.

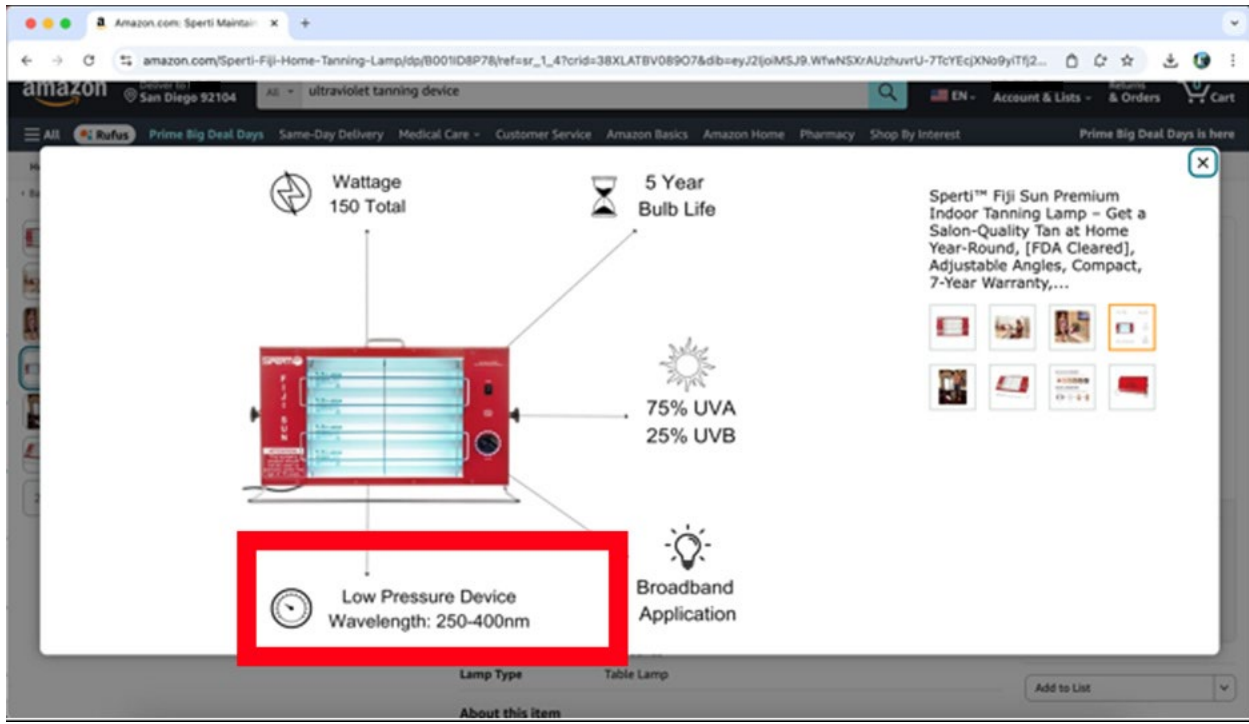


⁵ Cal. Health & Safety Code §12505 defines “dangerous fireworks,” but a search for fireworks generally yields results only for flags/banners or items with the word “fireworks” in the name (Cal. Health & Safety Code §12689 makes it unlawful to sell, give, or transfer in anyway fireworks to a minor). A search specifically for “firecrackers” yields results for items with “firecrackers” in the name but no firecrackers themselves.

Ultraviolet Tanning Equipment, as Referenced in Sections 22702 and 22706 of the Business and Professions Code

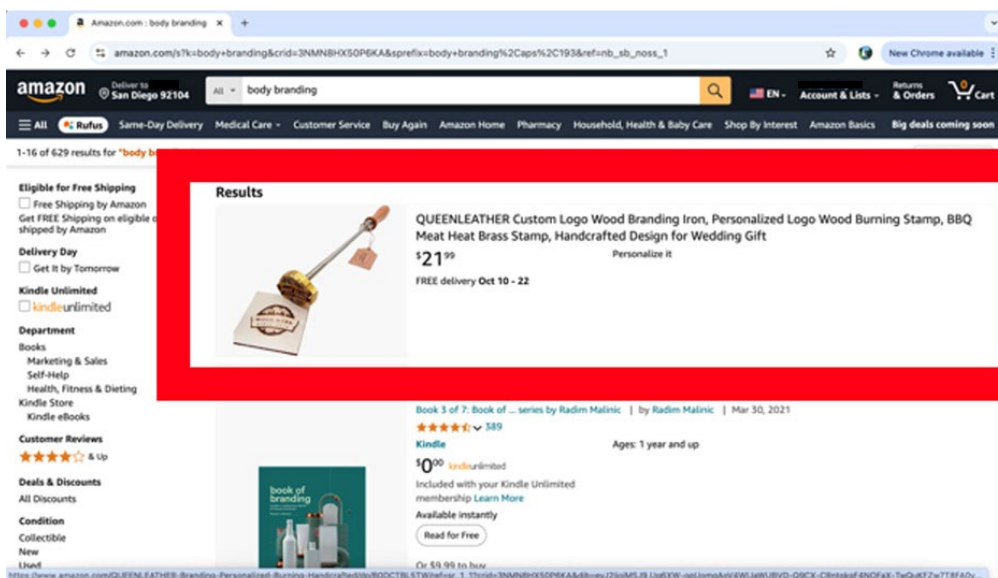
California Business & Professions Code §22702 defines an ultraviolet tanning device as “equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including, but not limited to, a sunlamp, tanning booth, or tanning bed” (Cal. Bus. & Prof. Code §22706 prohibits minors from using ultraviolet tanning devices.) Upon executing a search for “ultraviolet tanning device” Amazon shows results that meet the definition because the product emits electromagnetic radiation with wavelengths between 200 and 400 nanometers.





Body Branding, as Referenced in Sections 119301 and 119302 of the Health and Safety Code

California Health & Safety Code §119301 defines branding as “the process in which a mark or marks are burned into human skin tissue with a hot iron or other instrument, with the intention of leaving a permanent scar.” (Cal. Health & Safety Code §119302 prohibits performing such procedures on anyone under the age of 18.) While a search for “body branding” on Amazon yields no results marketed as “body branding instruments,” they do yield results for iron branding rods that could be used unsafely for this purpose.



For etching cream, ultraviolet tanning devices, and the item that can be used for body branding, the same purchasing steps were taken as for spray paint, yielding the same unsafe and apparently unlawful results: no age verification.

Summary Regarding Spray Paint, Etching Cream, Ultraviolet Tanning Devices, and Body Branding Equipment

In sum, notwithstanding that Amazon is obligated by law to take generally applicable “reasonable steps” to ensure all the products listed above sold on its platform are not bought by minors, Amazon apparently fails to take any such “steps,” let alone “reasonable” ones. Nor does Amazon take any of the illustrative “reasonable steps” in §1798.99.1(a)(2)(A):

- Amazon does not require “the purchaser or recipient to input, scan, provide, or display a government-issued identification.”
- Amazon allows the use of prepaid credit cards and gift cards, rather than only credit cards, as permitted.
- Amazon does not “ship[] the product or service to an individual who is of legal age.”

Regarding §1798.99.1(a)(2)(C), which allows “reasonable steps” to include the creation of age-specific accounts for these products that restrict the purchasing ability of minors to buy the listed items, the applicable code section, emphases added, reads:

(C) Implementing a system **that restricts individuals with accounts designated as minor accounts from purchasing the products** listed in subdivision (b).

Amazon Kids or Teens “accounts” do exist in Amazon but are *not accounts with restricted purchasing abilities*; they are **user profiles** within a regular Amazon account exclusively for watching videos and playing games available online through Amazon’s digital services.⁶

Amazon has two sides: its online marketplace catalog, where you can purchase physical items, and its digital services, where a minor is offered shows movies and online games. Amazon Kids and Teens accounts are exclusively for the digital services side of Amazon and have no connection to the online marketplace catalog. It is more like having a kid’s Netflix profile. There must be an already existing Amazon account to set up these profiles, with the idea that parents may set up profiles for their kids and teens within a parent’s own accounts.

However, as demonstrated above, a minor could still create a separate Amazon account to buy products. No age verification measures are taken at the time of account creation. A minor would need to input only their name and email or phone number.

⁶ <https://www.aboutamazon.com/news/devices/what-is-amazon-kids-plus-subscription>

Amazon is Apparently Violating the Law Regarding the Purchase of BB Guns and Tobacco Paraphernalia

For most of the more dangerous items listed in §1798.99.1(c) (firearms, ammunition, cigarettes, and products containing tobacco, electronic cigarettes, and less lethal weapons), Amazon does not sell them online, at least in California. However, regarding BB weapons, items meant to prepare tobacco for smoking, and items marketed and sold as “bidis,” Amazon is not complying with the illustrative “reasonable steps” for age verification under §1798.99.1(a)(3) nor any other age verifying part of the statute.

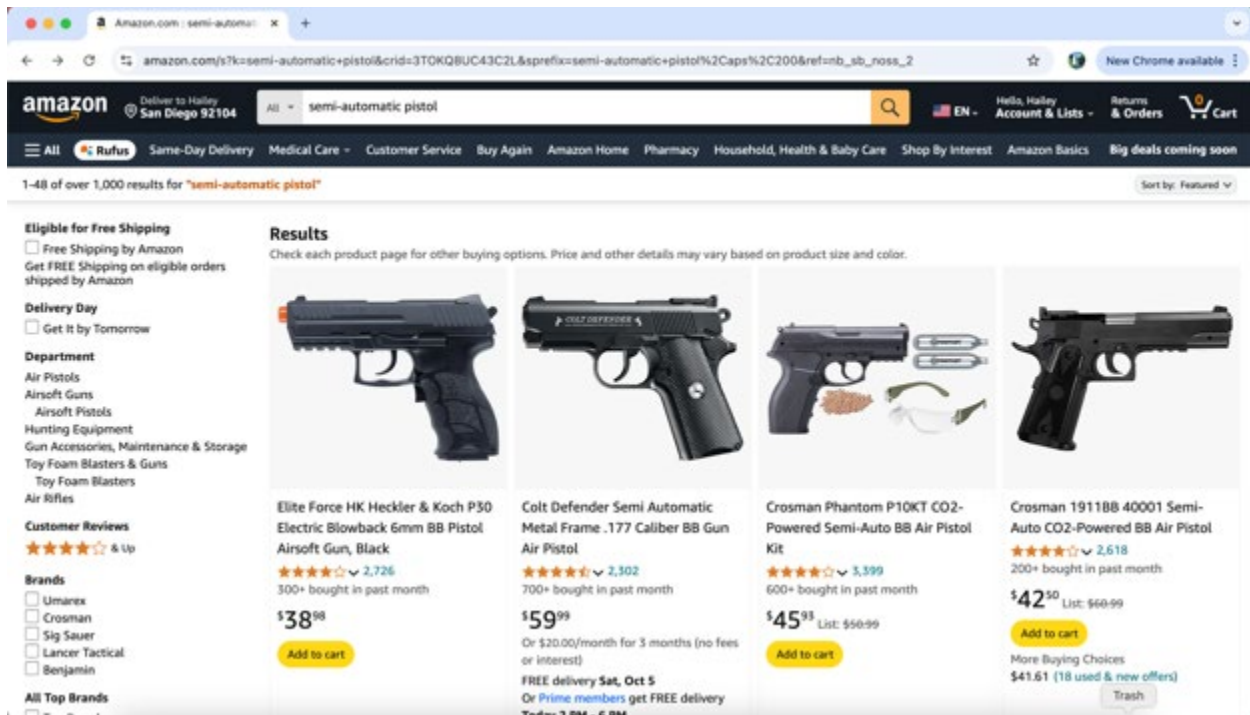
As already discussed, Amazon has no generally applicable age restrictions. Thus, Amazon’s compliance regarding the more dangerous products should be reviewed by reference to the illustrative reasonable steps embraced by the law.

The Illustrative “Reasonable Steps” for Items listed in Section 1798.99.1(c)

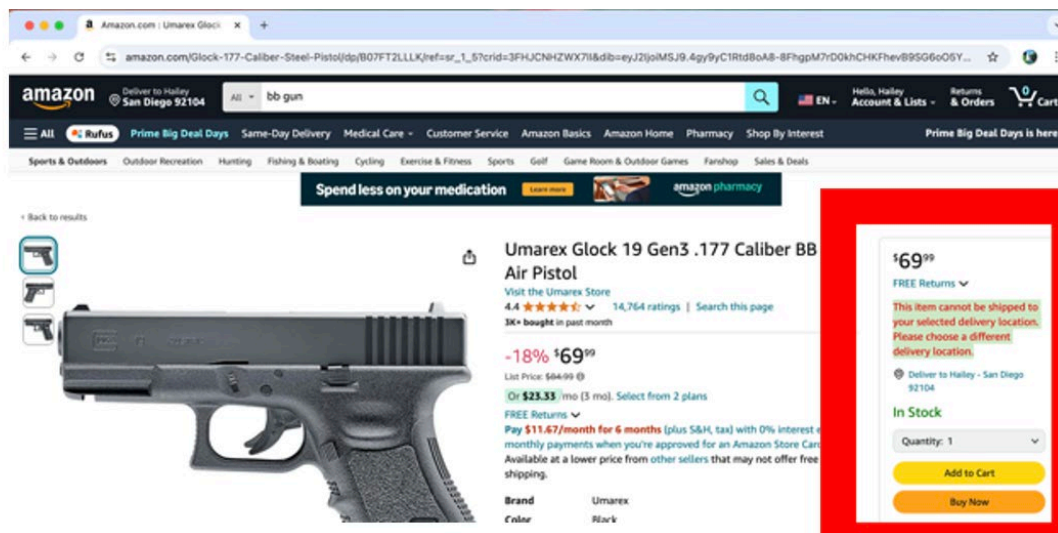
The illustrative “reasonable steps” set out in §1798.99.1(a)(3) for ensuring the more dangerous items are not sold to children are either (i) requiring the purchaser to input, scan, or display their government ID information or (ii) shipping the product to someone of legal age to receive it.

A BB Device, as Referenced in Sections 16250 and 19910 of the Penal Code

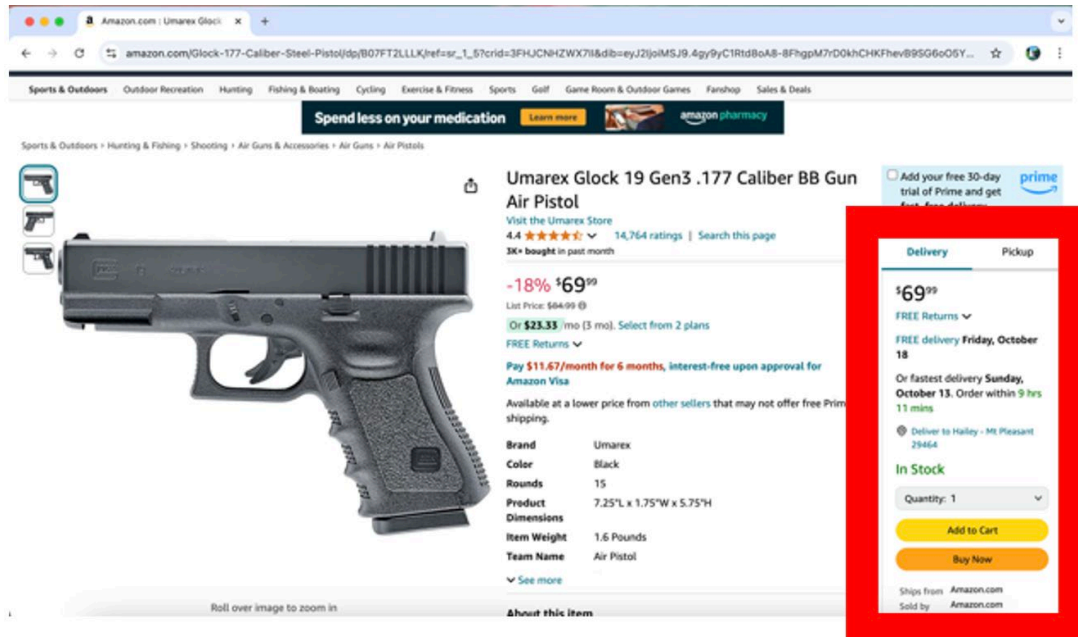
BB devices, as defined in Cal. Penal Code §16250(a) (Cal. Penal Code §19910 makes the sale of items meeting the definition of §16250 to a minor a misdemeanor) as “any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action, or any spot marker gun,” are available for purchase on Amazon.



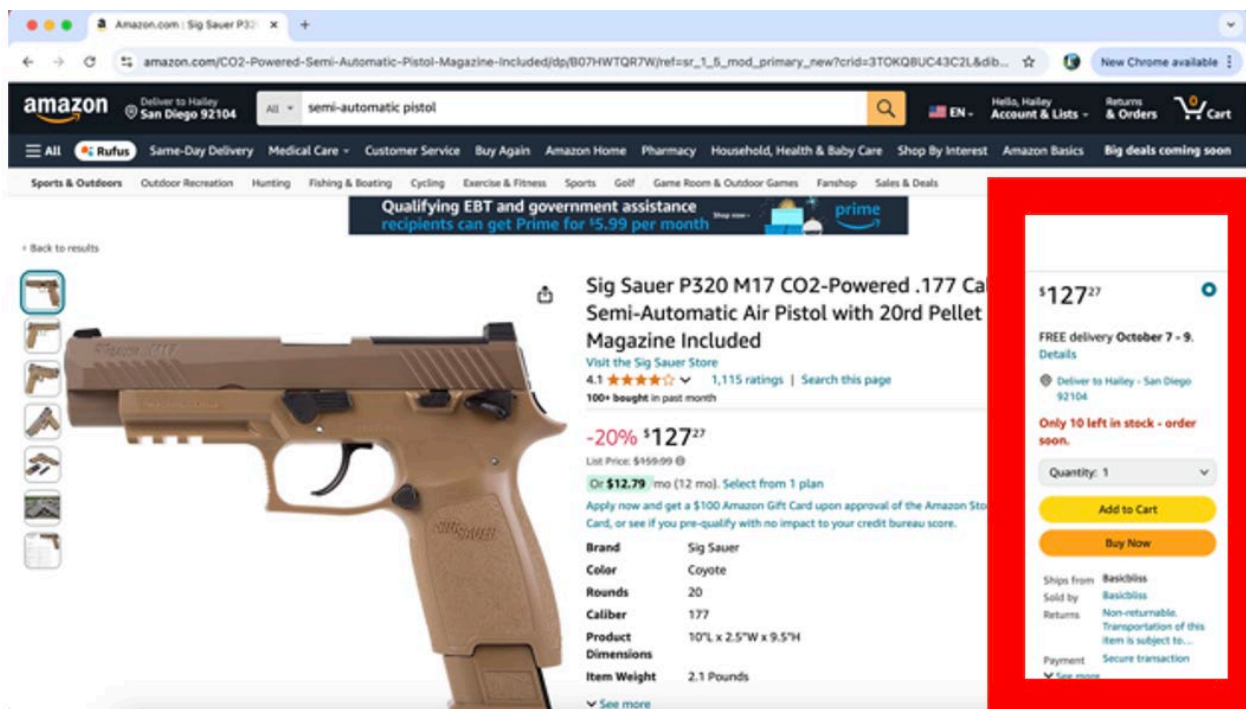
Some BB weapons are not, however, allowed to be delivered in California, but, confusingly, some others are. Both types appear to meet the Cal. Penal Code §16250(a) definition: they expel a projectile, such as a BB or a pellet, primarily through the force of air pressure. What differentiates one kind of BB weapon from another, such that some kinds can be delivered in California but others cannot, is unclear, but it does not come from Cal. Penal Code §16250(a). Upon selecting a BB weapon that is *not* deliverable in California, customers will see a warning in red on the right-hand side of their screen, where they would typically be able to add an item to their cart. This warning reads, “This item cannot be shipped to your selected delivery location. Please choose a different delivery location.”



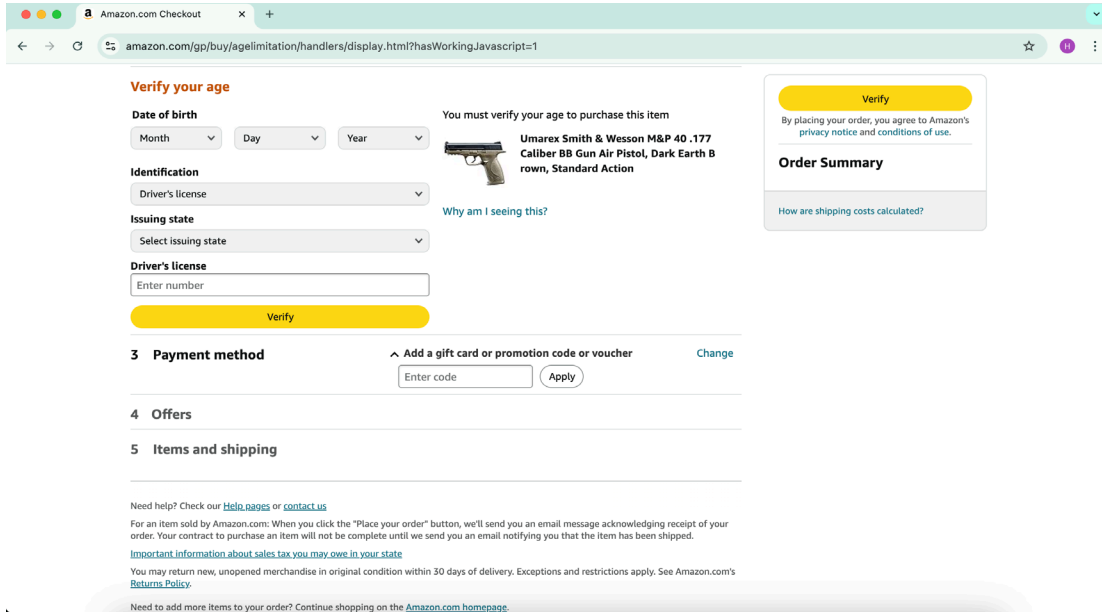
Upon inputting an address in a different state with different state law restrictions (in this example, South Carolina), this warning message disappears, and customers can continue with their purchase.



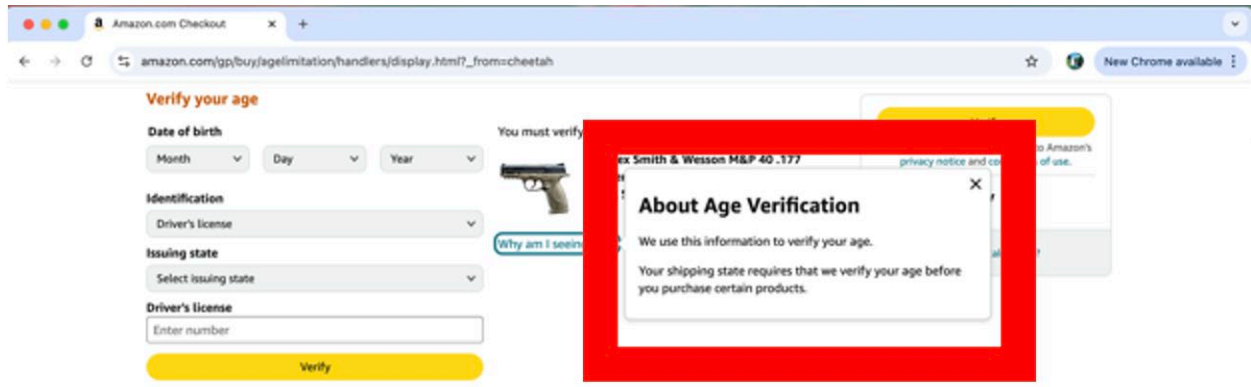
Amazon does permit other kinds of BB weapons to be purchased and delivered to California, however. Using a BB gun that is deliverable in California as an example, we will walk through the purchasing process step-by-step to see if Amazon takes any “reasonable steps” for age verification.



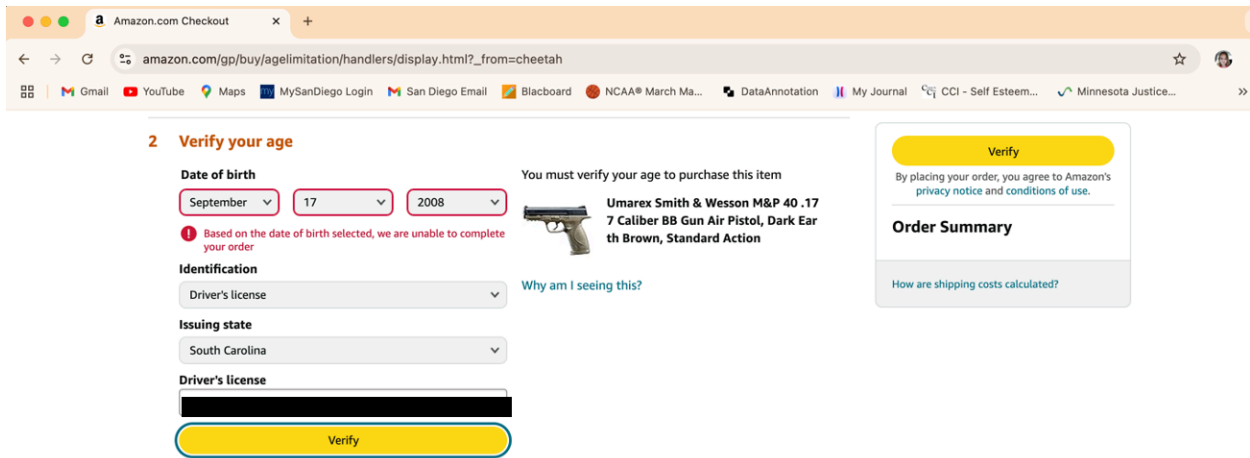
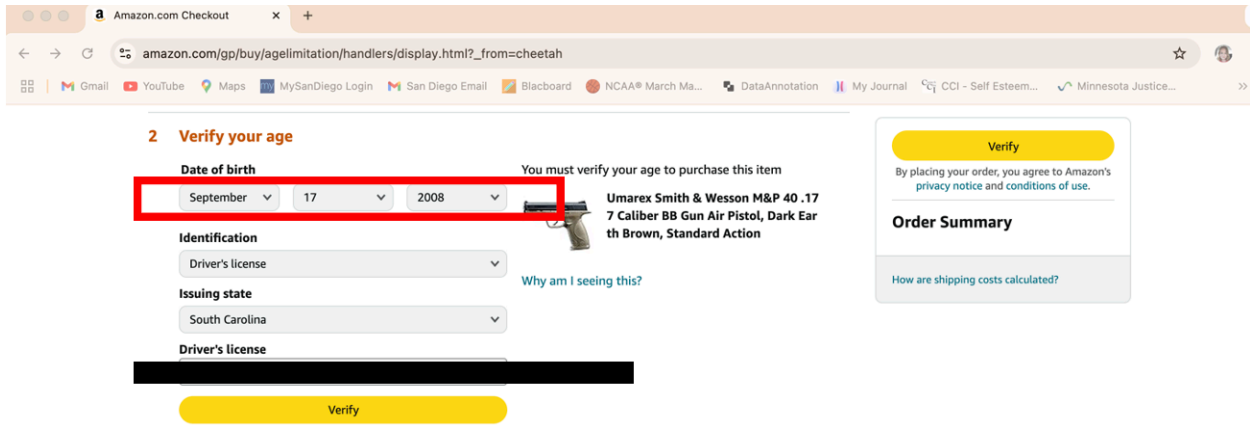
Upon selecting a BB weapon that is deliverable in California and adding it to their cart, customers are prompted to verify their age by entering their date of birth and government-issued identification information (driver’s license, State ID, Military ID, or passport), when they select “proceed to check out.”



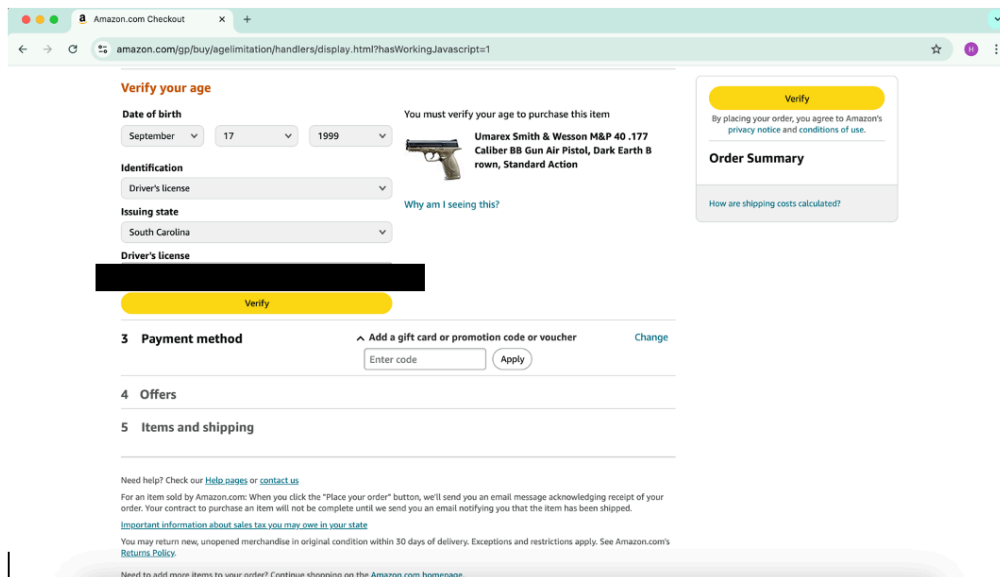
Upon selecting “Why am I seeing this?” a pop-up appears notifying customers, “We use this information to verify your age. Your shipping state requires that we verify your age before you purchase certain products.”

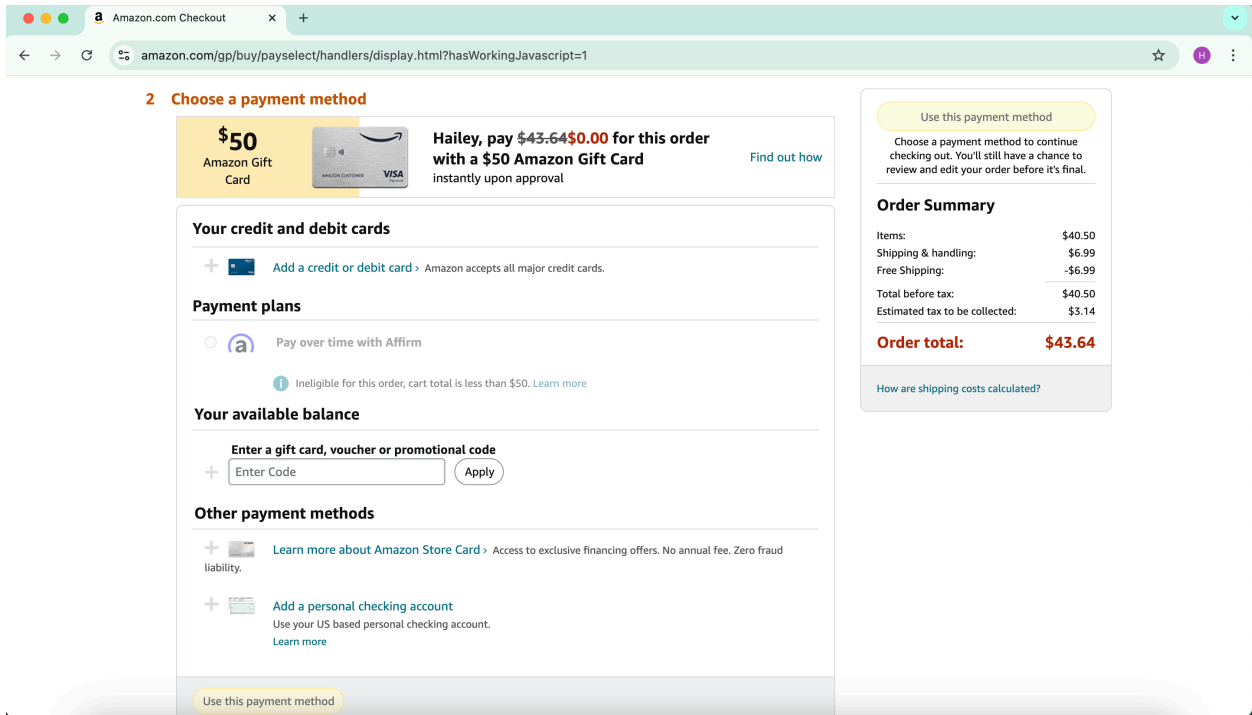


Inputting a legally valid driver’s license number belonging to an adult over the age of 18 but selecting an incorrect date of birth that places the customer under the age of 18 prompts an error message stating, “Based on the date of birth selected, we are unable to complete your order.”

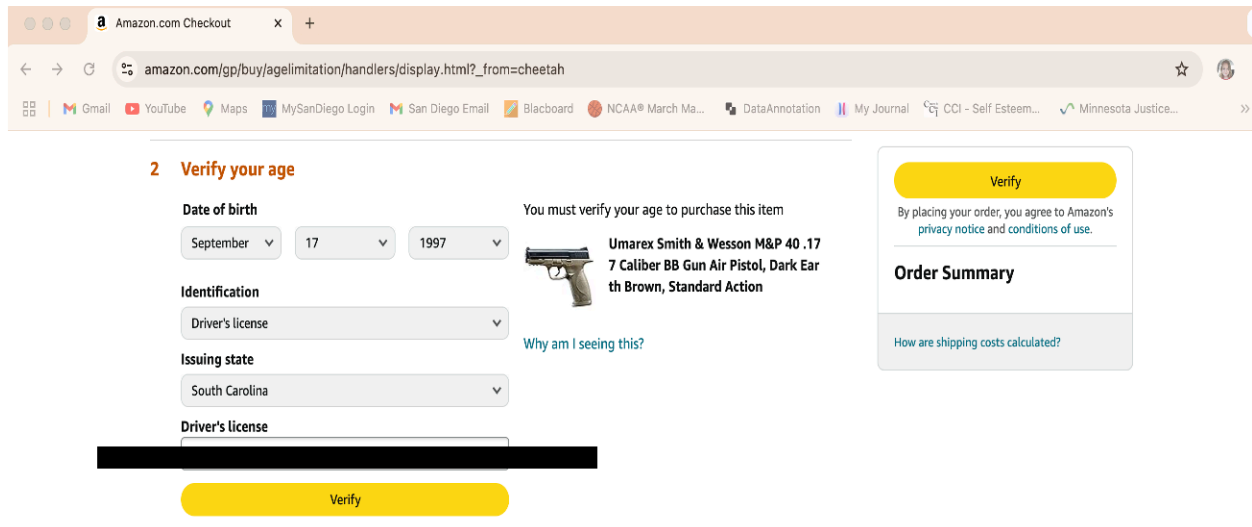


However, inputting a birthdate that puts a customer at the legal age of purchase *but entering an incorrect driver's license number* (off by one digit), however, presents no issue; the ID verification is accepted, and the purchase can be continued. **This undermines the whole purpose of asking for a verifying identification.**





Similarly problematic is that entering a valid driver's license number but lying about the date of birth and entering an age *older* than the age associated with the driver's license allows customers to proceed with their purchases.⁷ **In other words, the age entered and the age on a driver's license can be different, meaning the license is likely not being used as authentication of age.**



⁷ Unable to verify at this time if putting a valid driver's license number of someone age 16 or 17 but putting an older age would similarly allow minor customers to proceed with the purchase.

Amazon.com Checkout

amazon.com/gp/buy/spc/handlers/display.html?hasWorkingJavascript=1


3 Review items and shipping

Want to save time on your next order and go directly to this step when checking out?

Default to this delivery address and payment method.

Select FREE Amazon Day Delivery to receive orders in fewer boxes on a single day.

Arriving Oct 15, 2024 If you order in the next 9 hours and 59 minutes (Details)
Items shipped from Amazon.com

 **Umarex Smith & Wesson M&P 40 .177 Caliber BB Gun Air Pistol, Dark Earth Brown, Standard Action**
\$40.47 ✓ prime
Qty: 1
Sold by: Amazon.com Services, Inc
WARNING: California's Proposition 65
Add gift options

Choose your Prime delivery option:

- Tomorrow, Oct 15**
FREE One Day Delivery
- Thursday, Oct 17**
FREE Amazon Day Delivery
Fewer boxes, fewer trips. Change delivery day

Or choose your pickup location:

- Pickup available nearby**
Choose a location

Order total: \$43.61
By placing your order, you agree to Amazon's [privacy notice](#) and [conditions of use](#).

Place your order

Place your order

By placing your order, you agree to Amazon's [privacy notice](#) and [conditions of use](#).

Order Summary

Items:	\$40.47
Shipping & handling:	\$0.00
Total before tax:	\$40.47
Estimated tax to be collected:	\$3.14
Order total:	\$43.61

How are shipping costs calculated?
Prime shipping benefits have been applied to your order.

Additionally, and critically, once accepting an age verification of one product regardless of whether it is in part based on incorrect documentation like an incorrect driver's license number, *Amazon does not again ever ask for age verification when purchasing subsequent items.* For example, if a customer selects a BB gun with no delivery restrictions in California, enters a qualifying birth date, and an incorrect driver's license number, *that account holder is not again promoted to verify their age. A child successfully misrepresenting their age once permits them to buy additional age-limited items without restriction.*

Consider, after having entered a birthdate and driver's license for a BB weapon (the Smith & Wesson one, above), another search for such a weapon reveals the following:

Amazon.com | Crosman 2240

amazon.com/Crosman-2240-Action-Pellet-Pistol/dp/B00069PQFY/ref=sr_1_3_sspa?pd_rd_i=33M40V07WEA22&dlb=eyJ2j2oiMSJ9.4gy9yC1RdBoAB-8FhgpM7jD0khCHKFhev...

bb+gun

Spend less on your medication

Crosman 2240 Bolt Action CO2-Powered .22 Pistol

Visit the Crosman Store
4.5 ★★★★★ | 2,073 ratings | Search this page
200+ bought in past month

-\$12.25 (12% off)
List Price: \$69.99
Or \$25.25/mo (3 mo). Select from 2 plans

Pay \$12.63/month for 6 months, interest-free upon approval for Amazon Visa

Available at a lower price from other sellers that may not offer free Prime shipping.

Style: Standard Packaging

Frustration Free Packaging 1 option from \$107.99	Standard Packaging \$75.75
--	--------------------------------------

Brand: Crosman
Color: Black

\$75.75

FREE delivery Monday, October 14

Or Prime members get FREE delivery **Overnight 7 AM - 11 AM**. Order within 11 hrs 17 mins. Join Prime

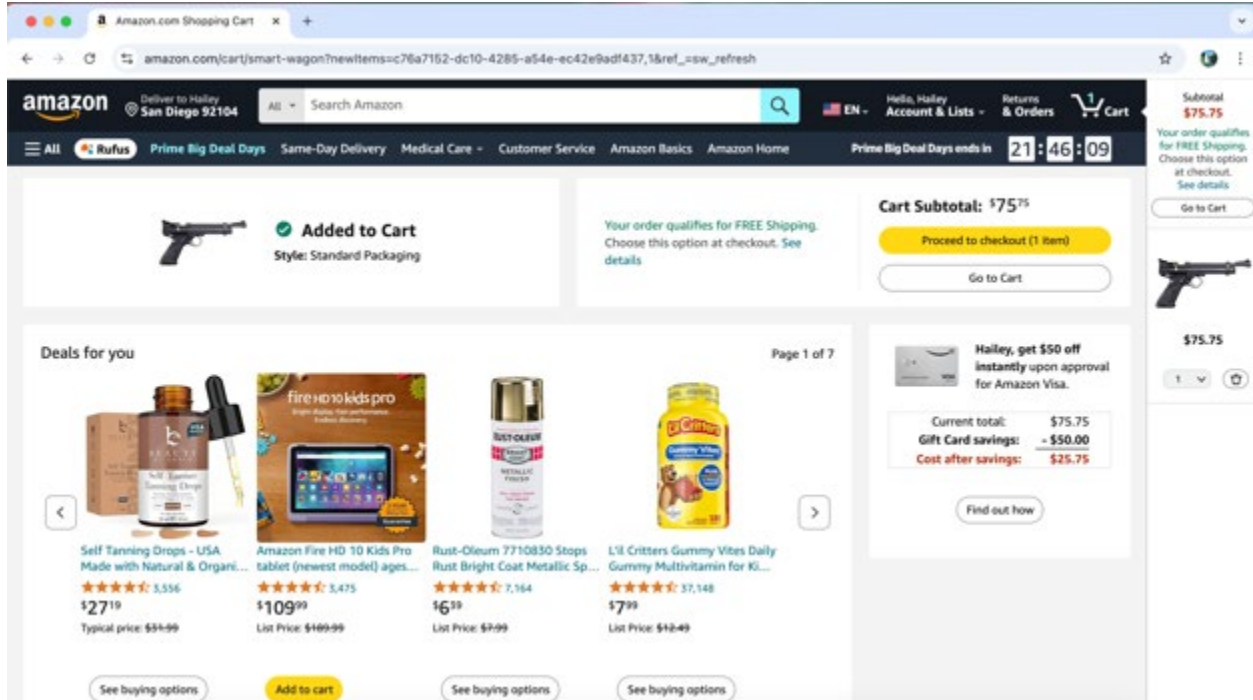
Deliver to Halley - San Diego 92104

In Stock

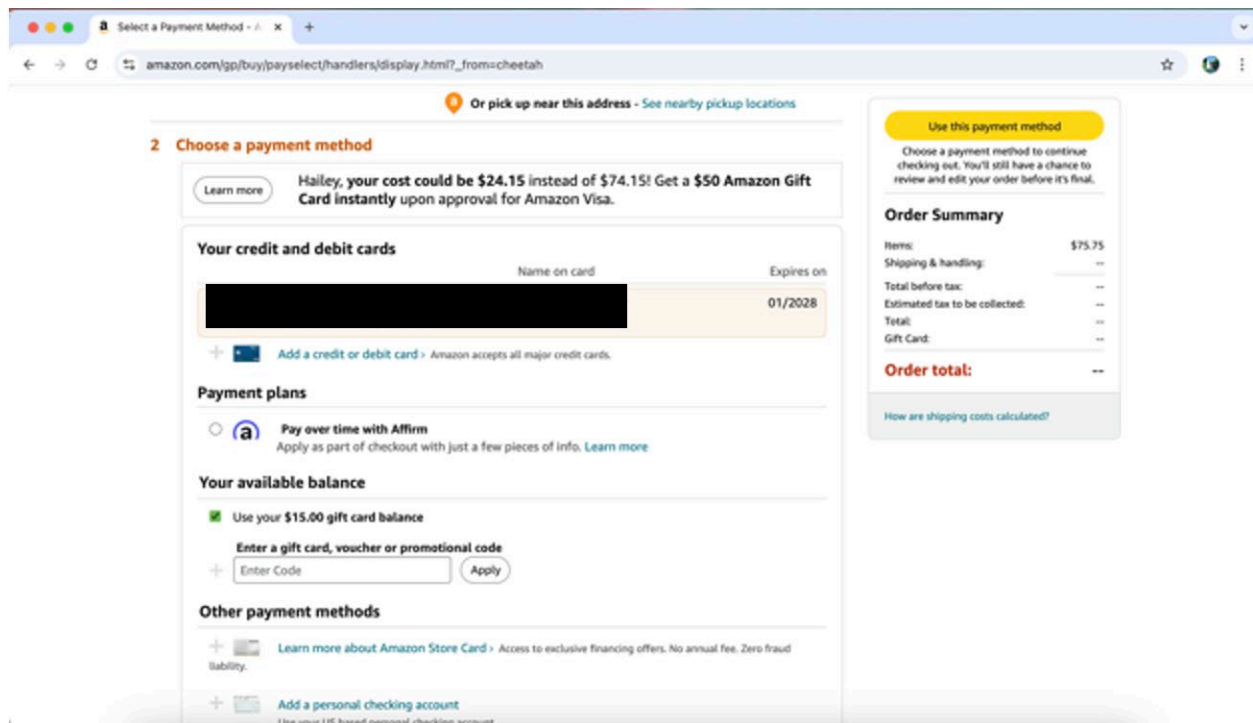
Quantity: 1

Add to Cart
Buy Now

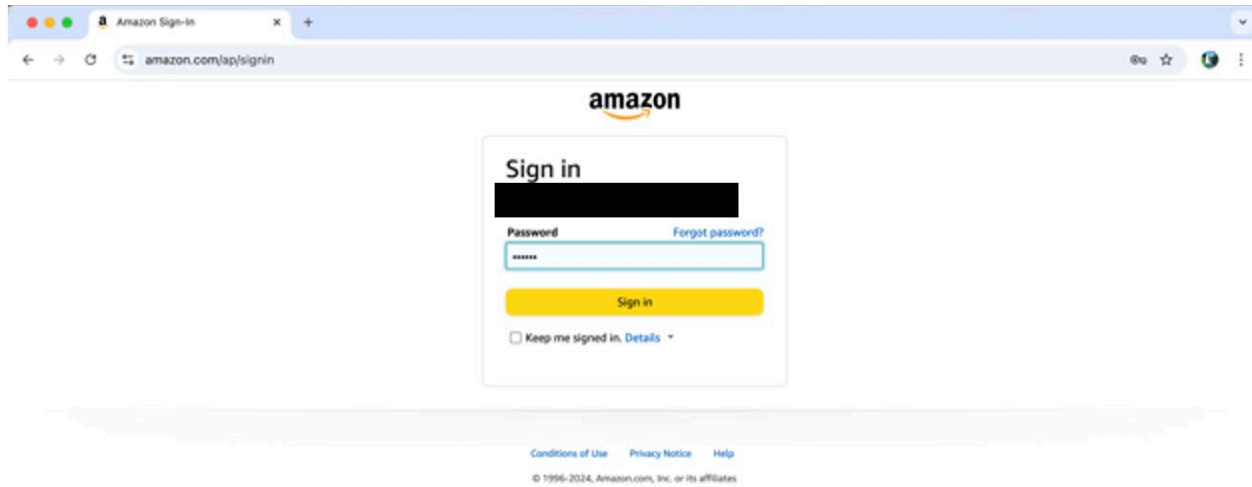
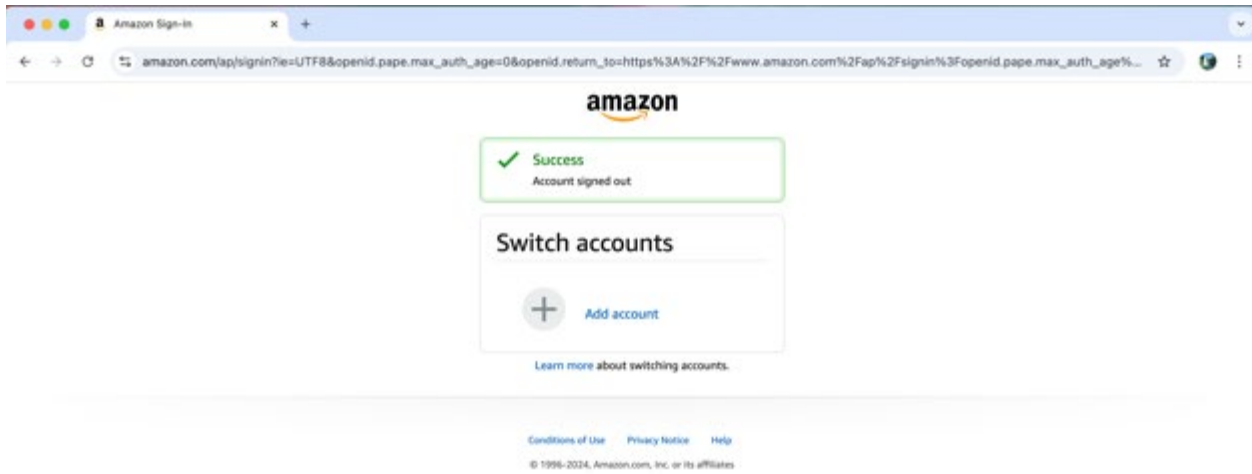
A customer is able to add the item to the cart.



And then the purchaser is able to proceed directly to check out, without again being prompted to verify their age.



This remains the same even after a customer has signed out and signed back into their account later.



Once signed back in, if a customer searches for a BB gun ...

Amazon.com | bb gun

amazon.com/s?k=bb+gun&rid=2YCLLINGY7D62&prefix=bb+gun%2Ccaps%2C210&ref=nb_sb_noss_1

amazon Deliver to Halley San Diego 92104 All bb gun

1-48 of over 2,000 results for "bb gun"

Results
Check each product page for other buying options. Price and other details may vary based on product size and color.

Deals & Discounts
Prime Big Deals


Eligible for Free Shipping
 Free Shipping by Amazon
Get FREE Shipping on eligible orders shipped by Amazon

Delivery Day
 Get It by Tomorrow

Department
Sports & Outdoors
Air Pistols
Air Rifles
Airsoft Pistols
Hunting Equipment
Airsoft Rifles
Gun & Ammunition Storage & Safes

Customer Reviews
★★★★☆ & Up


Brands
 Umarex
 Daisy
 Gamo
 Crosman
 Sig Sauer



Sponsored @

Crosman 2240 Bolt Action CO2-Powered .22 Pistol
★★★★☆ 2,073
200+ bought in past month


\$75⁷⁵ List: \$85.99
Or \$25.25/month for 3 months (no fees or interest)
FREE delivery **Mon, Oct 14**
Or **Prime members** get FREE delivery **Overnight 7 AM - 11 AM**



Sponsored @

Guard Dog Security 12 Gram CO2 Cartridges, Non-Threaded, CO2 cartridges BB Gun, CO2 BB Pistol, CO2 Airsoft Pistol, and CO2...
★★★★☆ 204
100+ bought in past month

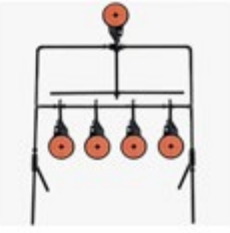
\$24⁹⁹
FREE delivery **Mon, Oct 14** on \$35 of items shipped by Amazon



Sponsored @

O-MEGA Star Warrior Stun Gun, Extra Large, 18.5 inches, 2.5 lb., Max Amps and Stopping Power
★★★★☆ 431
100+ bought in past month

\$129⁹⁵
FREE delivery **Mon, Oct 14**
Or **Prime members** get FREE delivery **Fri, Oct 11**



Sponsored @

KNINE OUTDOORS Resetting Shooting Target Airsoft Rimfire Pellet BB Gun Target, Rated for .22 .177 Caliber
★★★★☆ 1,366
300+ bought in past month

\$24⁹⁷
Join Prime to buy this item at \$19.97
FREE delivery **Mon, Oct 14** on \$35 of

... then selects a different BB gun than the one they originally verified their age for


Amazon.com | Crosman 2240

amazon.com/Crosman-2240-Action-Pellet-Pistol(dp/B00069PQFY/ref=sr_1_1_sspa?cardId=2YCLLINGY7D62&db=eyJ2joIMSJ9.4gy9yC1RtdBoAB-8Fhgm7rD0khCHKFhevB...

amazon Deliver to Halley San Diego 92104 All bb gun

Spend less on your medication [Learn more](#) amazon pharmacy

Back to results



Crosman 2240 Bolt Action CO2-Powered .22 Pistol
Visit the Crosman Store
4.5 ★★★★★ 2,073 ratings | Search this page
200+ bought in past month

-12% \$75⁷⁵
List Price: \$85.99 @
Or **\$25.25**/mo (\$3 mo). Select from 2 plans

Get \$50 off instantly: Pay \$25.75 upon approval for Amazon Visa. No annual fee.

Available at a lower price from other sellers that may not offer free Prime shipping.

Style: **Standard Packaging**

Frustration Free Packaging 1 option from \$107.99 **Standard Packaging \$75.75**

Brand Crosman
Color Black
Rounds 22

Add your \$1.99 one-week trial of Prime and get fast, free delivery

\$75⁷⁵
FREE delivery **Monday, October 14**
Or **Prime members** get FREE delivery **Overnight 7 AM - 11 AM**. Order within 11 hrs 12 mins. Join Prime

Deliver to Halley - San Diego 92104

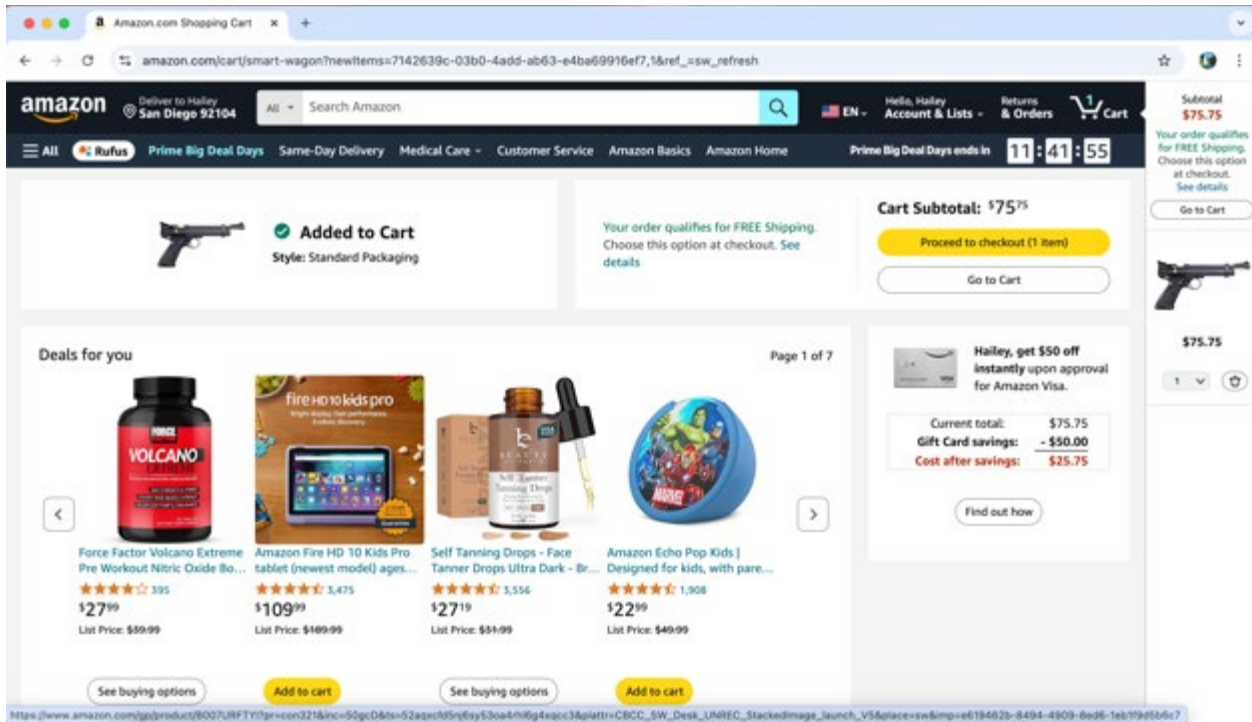
In Stock

Quantity: 1

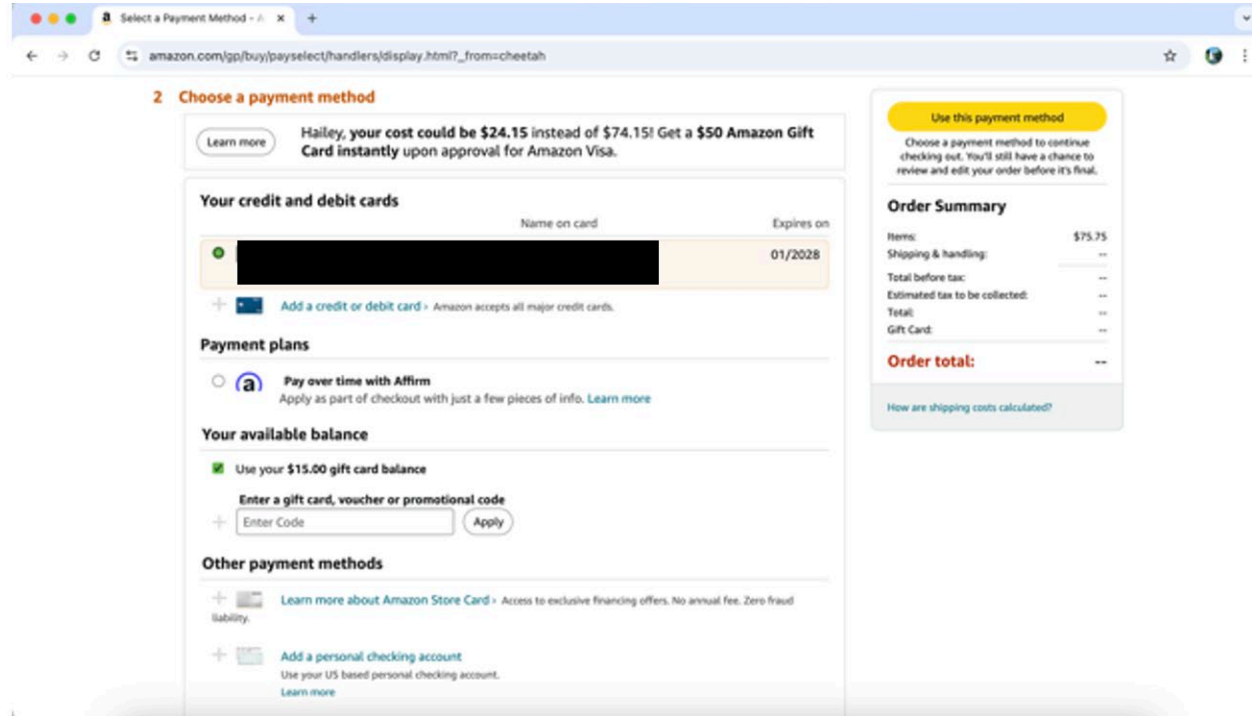
Add to Cart
Buy Now

... then adds the BB gun to their cart ...

27



they are again taken immediately to the final checkout page with no new request for age verification.



In summary, in regard to BB guns, Amazon fails to meet the illustrative “reasonable steps” found in §1798.99.1(a)(3) for age verification in the following ways:

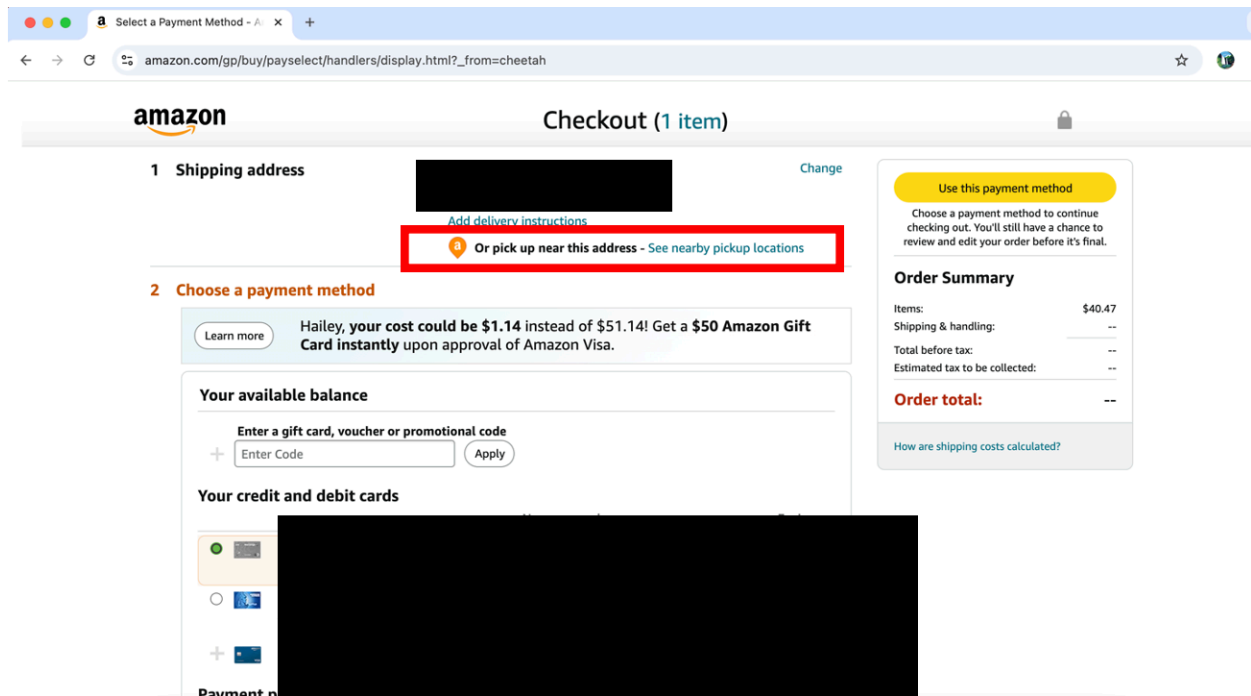
- Amazon apparently does not use inputted government ID information to verify the birthdate age being provided is correct and allows purchases of restricted items to proceed based on such incorrect information.
- Once a legally acceptable age is entered (regardless of whether it matches the number on the ID) in an Amazon account, a customer is not thereafter prompted to re-enter age verification information for subsequent purchases of restricted items.

(This is also true for other items listed in §1798.99.1(c), specifically tobacco paraphernalia, as discussed, *infra*.)

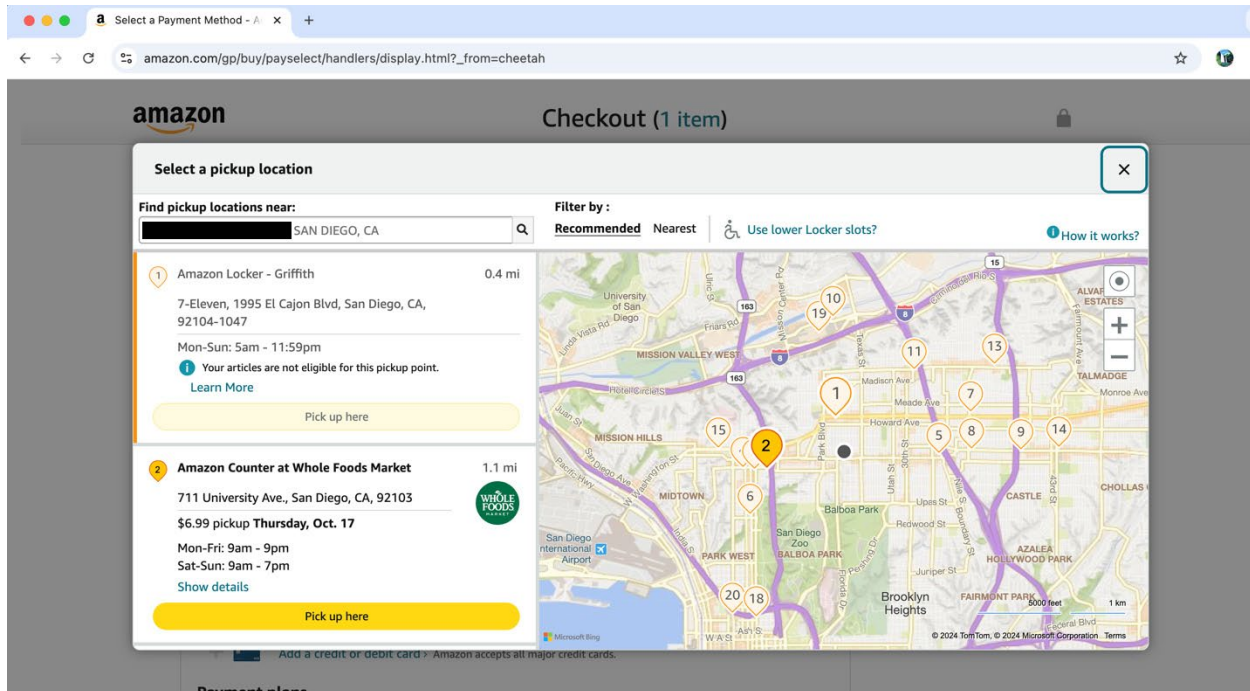
Similarly, Amazon appears to fail to engage in the illustrative “reasonable step” of shipping to someone of a legal age:

(A) Shipping the product or service to an individual who is of legal age.

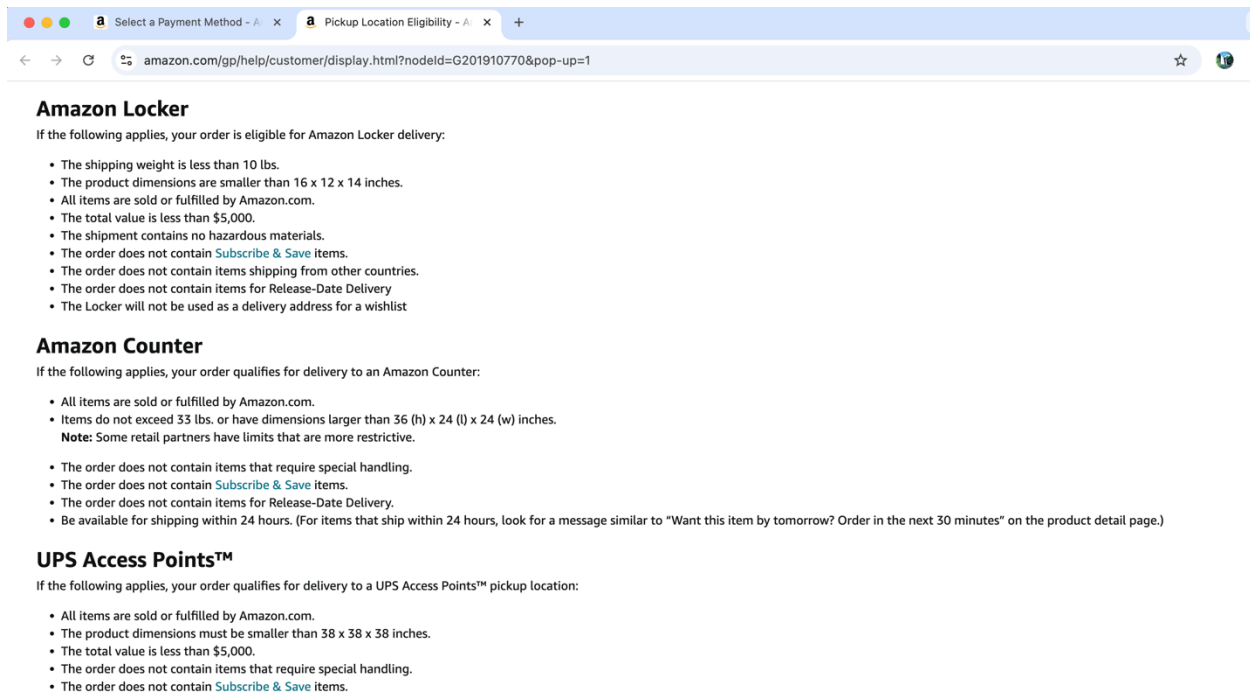
Upon entering the age information (whether technically correct or not), a customer can select their shipping information. Even for restricted items, a customer may select a third-party pick-up location rather than their own home.



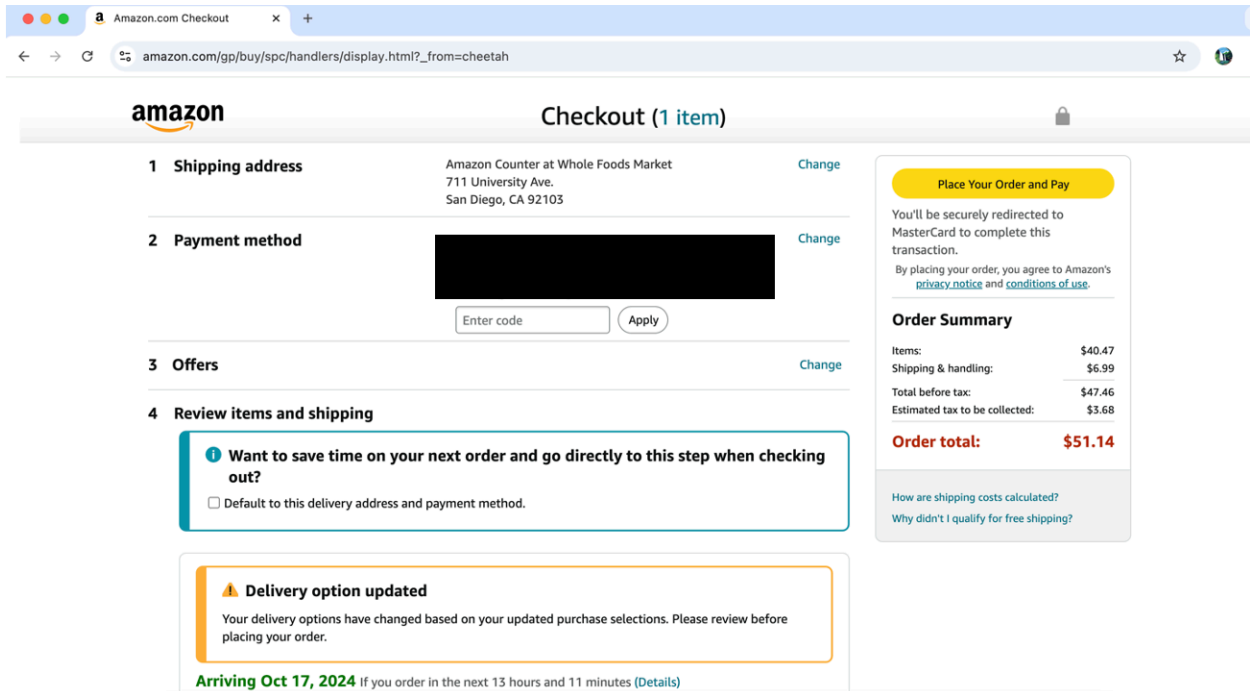
These locations are restricted to pick-up counters where customers check in with employees to pick up an item; the option of self-service locker locations is unavailable.



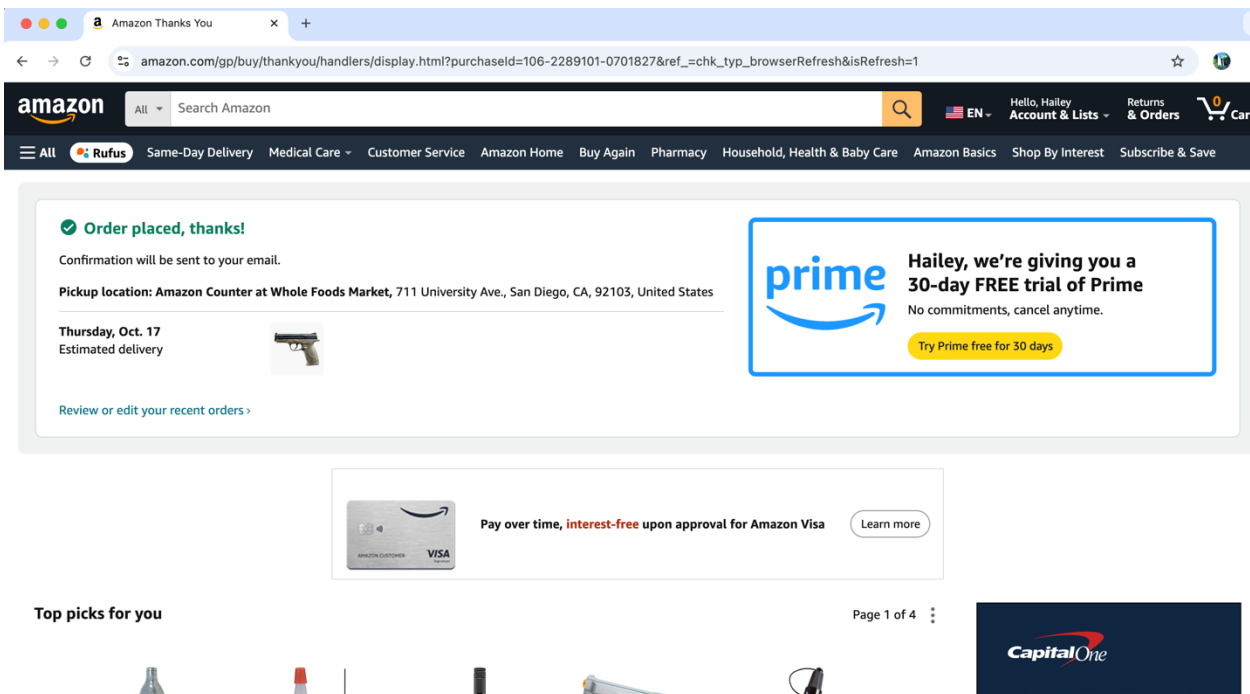
Upon checking Amazon’s policies regarding pick-up locations, there is a list of reasons why this restriction may be in place. *However, none of the reasons listed explicitly state that this restriction could be due to a need for a legal adult to be present at the time of pick-up.*



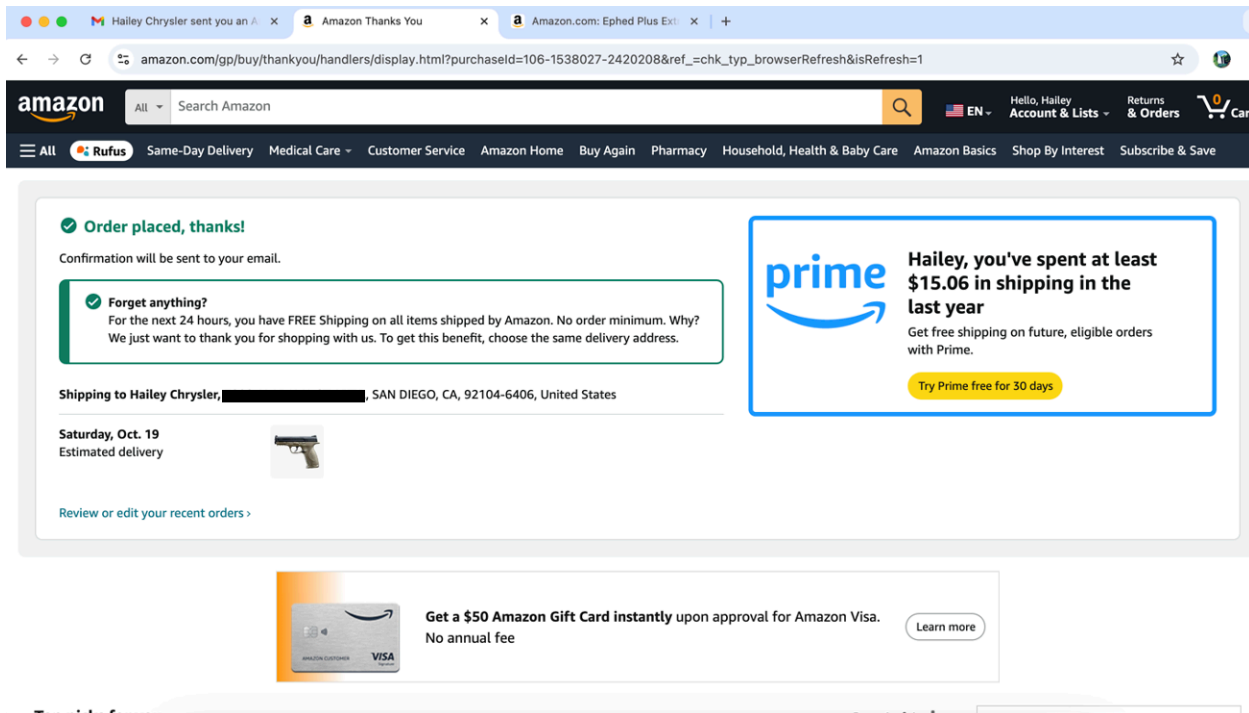
Upon selecting a third-party location for pick up, a customer can proceed with their purchase.



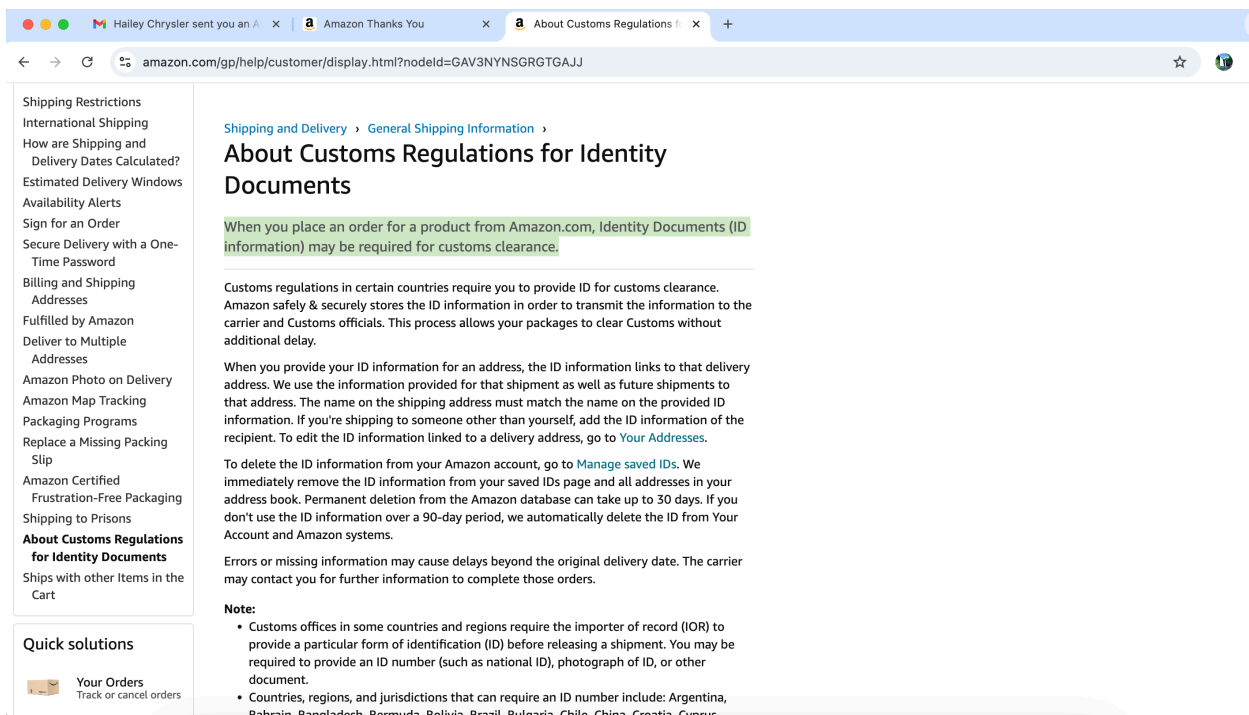
Then, upon selecting “place order,” customers are immediately taken to the confirmation screen, with no warning or mention of whether an adult needs to physically pick up the item.



Similarly, when selecting a traditional residential address instead of a third-party pick-up location, customers are not told that they need to have an adult present at the time of pick-up.

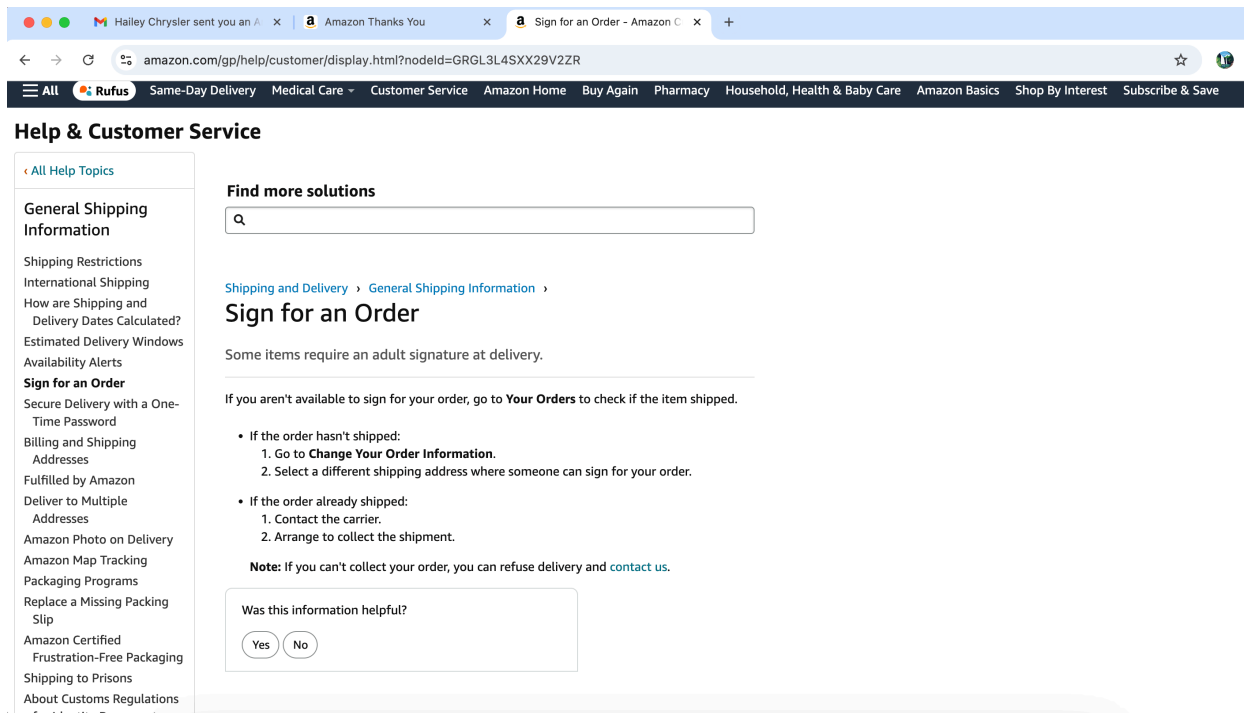


Additionally, Amazon’s policies only mention requiring ID information regarding customs clearance, not for age verification.



Amazon’s page about “Sign for an Order” does not provide much information other than “some items may require an adult signature.” It then goes on to outline steps on how to change your order information if you are unable to be present at the time of delivery, suggesting that Amazon informs

customers before delivery if an item is subject to this restriction. As nowhere in the purchase process of a BB weapon did Amazon identify that an adult must sign at delivery, there is a possibility this restriction does not apply based solely on the age of the purchaser.



In sum, regarding shipping “the product or service to an individual who is of legal age” Amazon appears not be availing itself of this option:

- Amazon allows delivery of restricted devices such as BB guns to third-party pick-up locations and does not identify if a legal adult must be the one to pick up an item,
- Nowhere in the purchase process does Amazon identify if a legal adult must be present at the delivery of a restricted item to a residential address.⁸

Ammunition or Reloaded Ammunition, as Referenced in Sections 16150 and 30300 of the Penal Code

Ammunition or reloaded ammunition is not available on Amazon as defined in Cal. Penal Code §16150(a) (Cal. Penal Code §30300 sets the standard for the punishment of sale of ammunition, as defined by §16150, to a minor). A search on Amazon for ammunition yields only storage containers and “dummy rounds,” which do not meet the Cal Penal Code definition of ammunition because they contain no propellant and are non-deadly.⁹

⁸ Currently, it is unclear whether Amazon checks ID upon delivery in practice still waiting for items to arrive.

⁹ <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/hscman.pdf>

Any Tobacco, Cigarette, Cigarette Papers, Blunt Wraps, Any Other Preparation of Tobacco, any Other Instrument or Paraphernalia

Any products containing tobacco, specifically cigarettes, are not available for purchase through Amazon. However, items such as cigarette tubs and cigarette paper, which are meant for preparing tobacco for smoking and are still restricted under §1798.99.1(c), are available. Section 1798.99.1(c) cross-references Division 8.5 (commencing with §22950) of the Business and Professions Code and §§308, 308.1, 308.2, and 308.3 of the Penal Code.

Considering each statute in turn,¹⁰ Cal. Bus. & Prof. Code §22950.5 states:

(d) (1) “Tobacco product” means any of the following:

(A) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.

(B) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(C) Any component, part, or accessory of a tobacco product, whether or not sold separately.

(2) “Tobacco product” does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

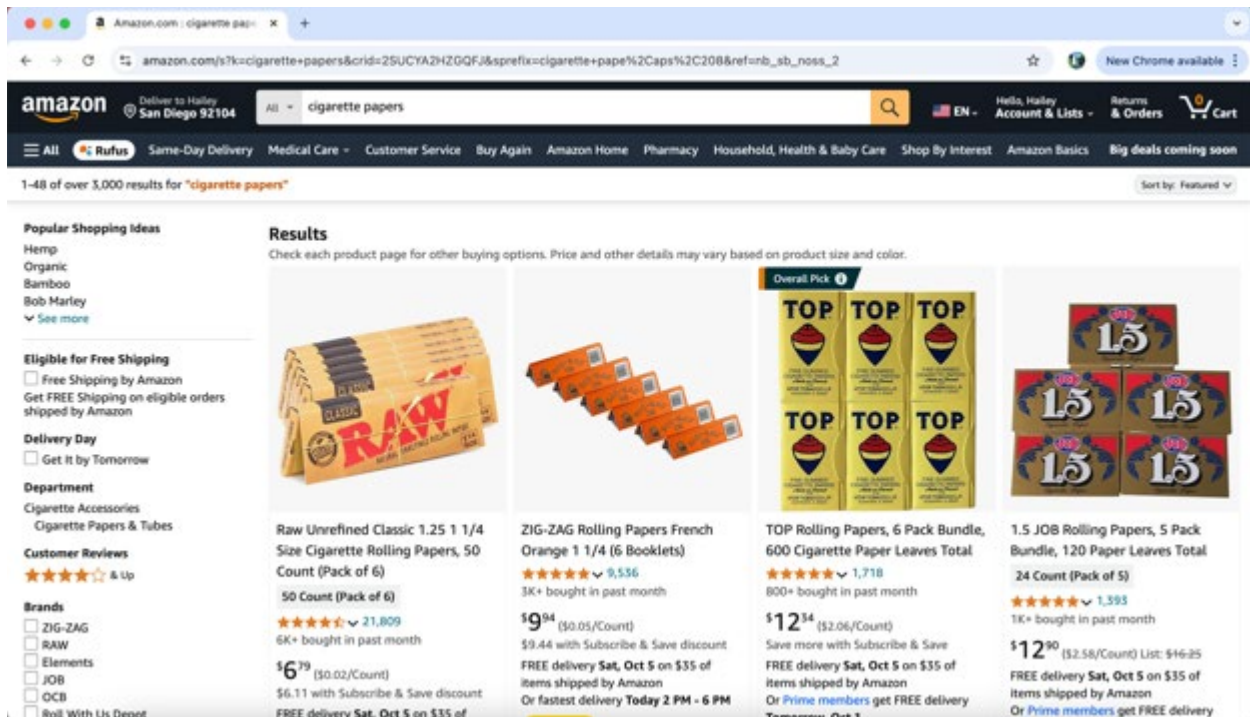
Amazon does not sell any items meeting the definition in Cal. Bus. & Prof. Code § 22950.5 because it does not sell any items containing tobacco or nicotine. All items available upon executing a search for “tobacco” are tobacco and nicotine-free alternatives.

Next, Cal. Penal Code §308 (a) (1) (A) (i) similarly provides that it is unlawful to in any way furnish to someone under the age of 21:

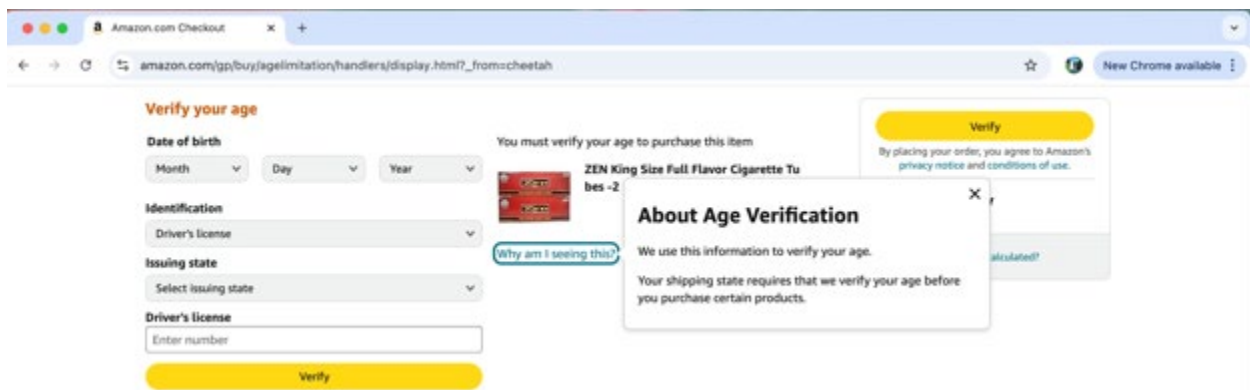
any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, tobacco products, or any controlled substance.

Products identified Cal. Penal Code §308(a)(1)(A)(i) are available for purchase on Amazon.

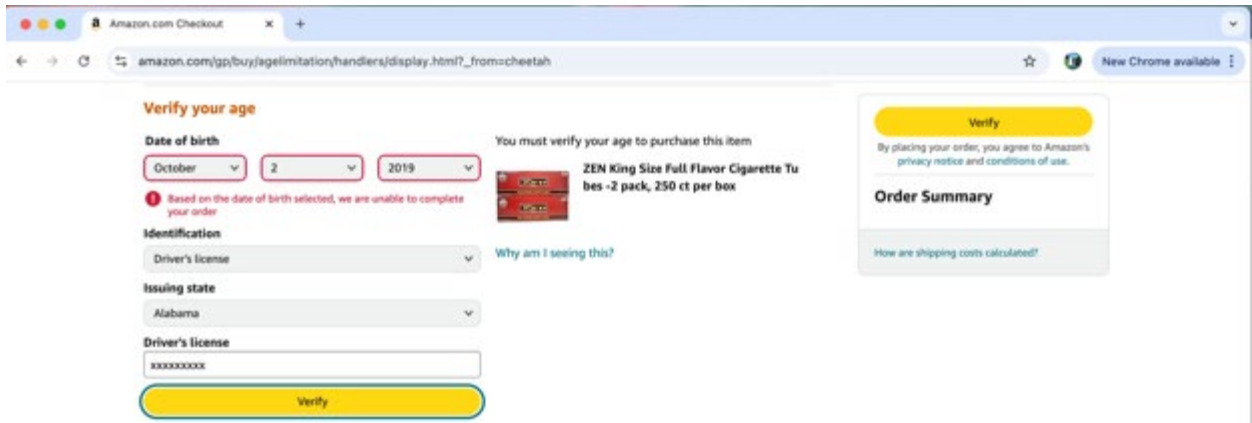
¹⁰ Cal. Penal Code §308.2 makes the sale of one or more unpackaged cigarettes unlawful, and Cal. Penal Code § 308.3 sets out standards for selling cigarettes or rolls of tobacco for business.



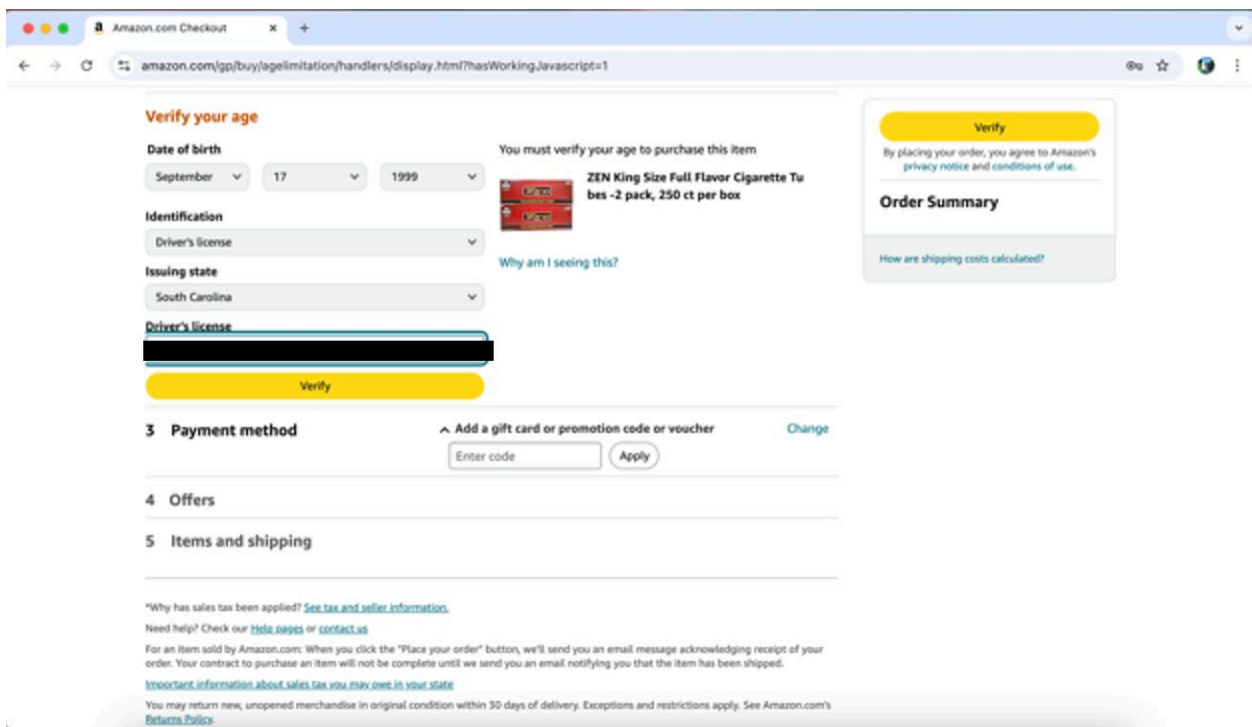
Upon selecting a tobacco paraphernalia item like cigarette tubes for purchase, a customer is prompted to verify their age by inputting their date of birth and driver's license number. Upon selecting "Why am I seeing this?" a pop-up appears notifying customers that this item has an age restriction in their state, and the license information will be used to verify that they are of the correct age to make the purchase.

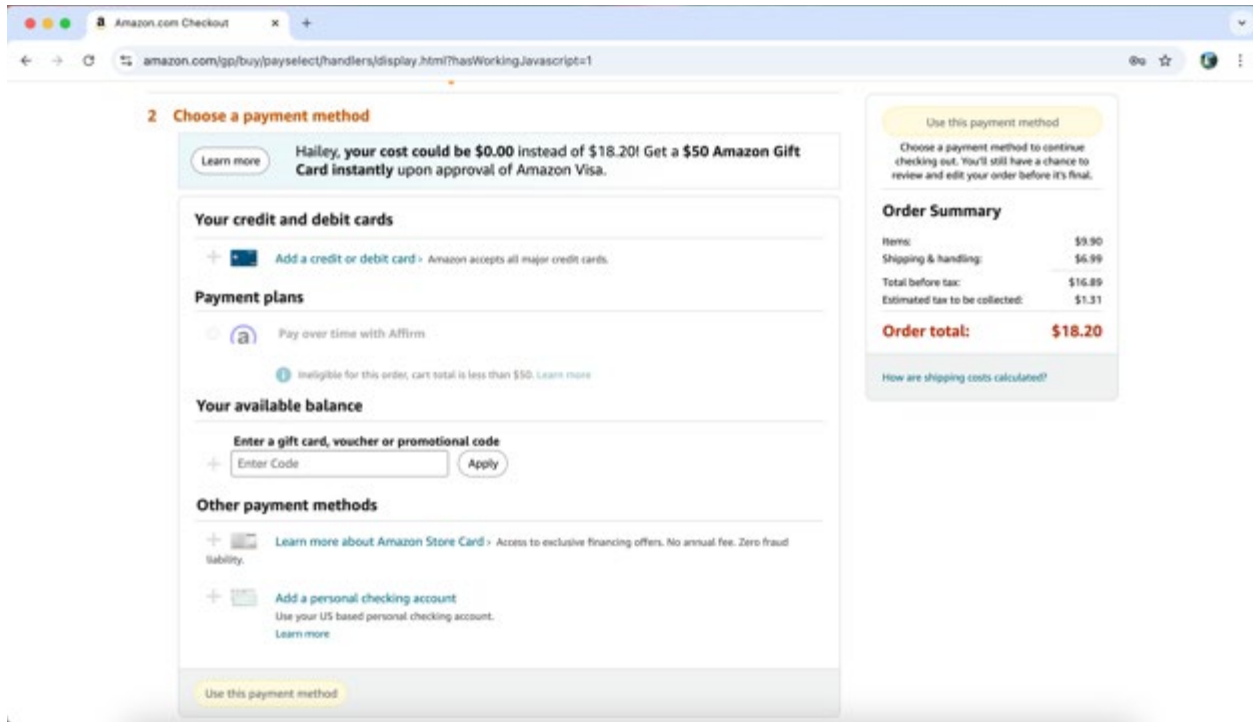


Upon inputting a birthdate that places you below the legal purchase age, Amazon informs the customer that they cannot complete that purchase.



As with the BB gun purchase process above, a customer can proceed to the final check-out page upon inputting a legal age and driver's license number; however, as above, Amazon apparently takes no steps to verify that the information entered is accurate. Here, as above, entering an incorrect driver's license number (off by one digit) was accepted as valid identification, and the purchase was able to proceed.





Moreover, like the BB weapon example above, once customers input a legal age, they are not prompted to do so again for different items. Even upon signing out and signing back in, customers are not required to re-verify their age.

Finally, Cal. Penal Code §308.1 states:

- (a) Notwithstanding any other law, no person shall sell, offer for sale, distribute, or import any tobacco product commonly referred to as “bidis” or “beedies,” unless that tobacco product is sold, offered for sale, or intended to be sold in a business establishment that prohibits the presence of persons under 18 years of age on its premises.
- (b) For purposes of this section, “bidis” or “beedies” means any of the following:
 - (1) A product containing tobacco that is wrapped in tempura leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpatate*).
 - (2) A product that is marketed and sold as “bidis” or “beedies.”

While the items available on Amazon under a search for “bidis” do not contain tobacco, they are “marketed and sold as bidis” and still fall under the Cal. Penal Code §308.1 definition.


Amazon.com | bids

amazon.com/s?k=bidis&crd=30MWWXDF5DOTB&prefix=bidis%2C400&ref=nb_sb_noss_1


Sponsored

Results


Check each product page for other buying options. Price and other details may vary based on product size and color.




Ayurvedic & Herbal Long Filtered Bidi Smoke (Pack of 2 X 20 Bidi Sticks Per Pack) with 12 ml Shot t...
 ★★★★★ 25
\$13⁹⁸ (\$13.98/Count)
 \$13.28 with Subscribe & Save discount
 Save 5% at checkout
 FREE delivery **Mon, Oct 14** on \$35 of items shipped by Amazon
 Or fastest delivery **Sun, Oct 13**
 Only 18 left in stock - order soon.
 Add to cart



Ayurvedic & Herbal Long Filtered Bidi Smoke (Pack of 1 X 20 Bidi Sticks Per Pack) with 12 ml Shot t...
 ★★★★★ 21
\$11⁰⁰ (\$11.00/Count)
 \$10.45 with Subscribe & Save discount
 Save 5% at checkout
 FREE delivery **Wed, Oct 16** on \$35 of items shipped by Amazon
 Or fastest delivery **Sun, Oct 13**
 Only 1 left in stock - order soon.
 Add to cart



Ayurvedic & Herbal Long Filtered Bidi Smoke (Pack of 5 X 20 Bidi Sticks Per Pack) with 12 ml Shot t...
 ★★★★★ 15
\$24⁹⁸ (\$24.98/Count)
 \$23.73 with Subscribe & Save discount
 Save 5% at checkout
 FREE delivery **Fri, Oct 18** on \$35 of items shipped by Amazon
 Or fastest delivery **Sun, Oct 13**
 Only 4 left in stock - order soon.
 Add to cart



Ayurvedic & Herbal Long Filtered Bidi Smoke (Pack of 3 X 20 Bidi Sticks Per Pack) with 12 ml Shot t...
 ★★★★★ 69
\$18⁹⁸ (\$18.98/Count)
 \$18.03 with Subscribe & Save discount
 Save 5% at checkout
 FREE delivery on \$35 shipped by Amazon.
 Add to cart

Customers frequently viewed

Sponsored

https://www.amazon.com/ROYAL-SWAG-Ayurvedic-Filtered-Nicotine/dp/B096877HND?ref=var_1_11?rd=30MWWXDF5DOTB&fb=eyJ2IjpmMSJ9.51-AjleEjTpw6oqV499eIVX3P0m48msZxhBT_M7yazmPDDMcAoiDEDeRj7dWR8SpJm02QzBYL...

A customer is able to add bidis to their cart with no pop-up or warning.

Amazon.com Shopping Cart

amazon.com/cart?smart-wagon?newItems=28beee99-c11e-4fee-91b4-efbd414ecf3c,1&ref_=sw_refresh

Deliver to San Diego 92104

Search Amazon

EN - Hello, Hailey Account & Lists Returns & Orders Cart


Prime Big Deal Days Same-Day Delivery Medical Care Prime Video Amazon Basics Buy Again Prime Prime Big Deal Days ends in 10:54:36

Subtotal **\$13.98**
 Add \$21.02 of eligible items to your order to qualify for FREE Shipping. See details
 Go to Cart


Added to Cart

Cart Subtotal: **\$13.98**
 Add \$21.02 of eligible items to your order to qualify for FREE Shipping. See details.
 Proceed to checkout (1 item)
 Go to Cart


Recommended for you based on ROYAL SWAG Ayurvedic & Herbal Long Filtered... Page 1 of 3




Only 8 left in stock - order soon.
ROYAL SWAG Ayurvedic & Herbal Long Filtered Bidi S...
 ★★★★★ 8
\$48⁹⁸
 Add to cart



Only 11 left in stock - order soon.
ROYAL SWAG Ayurvedic & Herbal Cigarette, Clove Smo...
 ★★★★★ 24
\$30⁰⁰
 Add to cart



Only 4 left in stock - order soon.
ROYAL SWAG Ayurvedic & Herbal Long Filtered Bidi S...
 ★★★★★ 15
\$24⁹⁸
 Add to cart



ROYAL SWAG Ayurvedic & Herbal Long Filtered Bidi S...
 ★★★★★ 69
\$18⁹⁸
 Add to cart

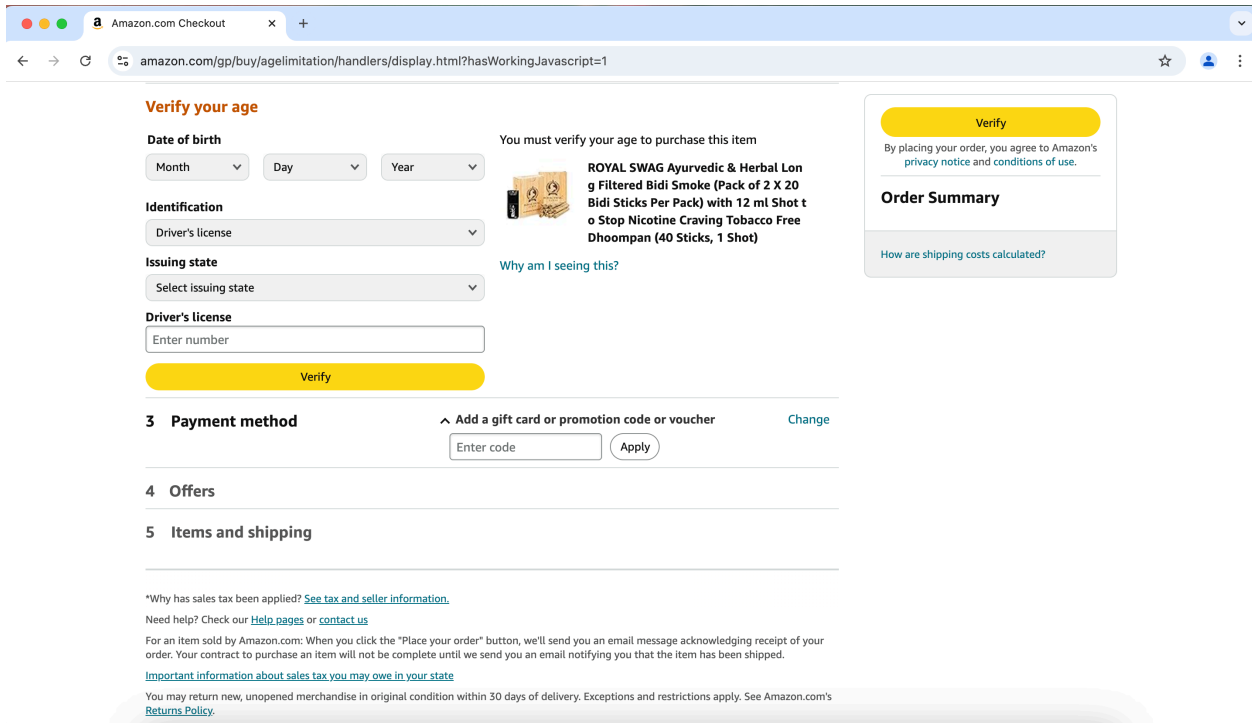
Hailey, pay \$13.98
\$0.00 for this order.
 Get a \$50 Amazon Gift Card upon approval for Amazon Visa.

Current total: **\$13.98**
 Gift Card savings: **-\$50.00**
 Cost after savings: **\$0.00**
 Savings remaining: **\$36.02**
 Find out how

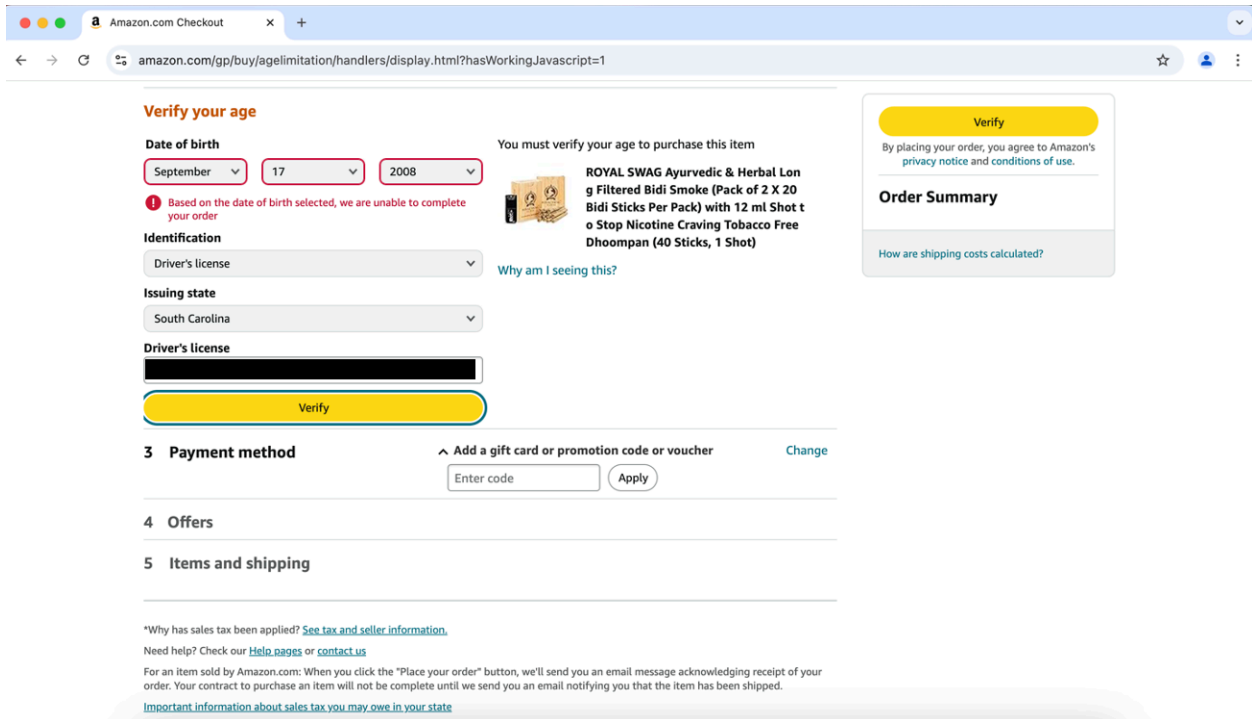
Subtotal **\$13.98**
 Add \$21.02 of eligible items to your order to qualify for FREE Shipping. See details
 Go to Cart

Only 18 left in stock - order soon.
\$13.98
 Add to Cart

Once customers select "Proceed to Check Out," they are prompted to input their age and driver's license (or other government-issued ID) number to verify they are of legal age to purchase this item.



As mentioned above, inputting an age below the legal age of purchase prompts an error message and prevents the purchase from proceeding.



However, as above, entering any age that is of legal purchasing age, even though it does not correctly match the age on the associated driver's license, is not flagged, and the purchase is able to proceed.

Amazon.com Checkout

amazon.com/gp/buy/age/limitation/handlers/display.html?hasWorkingJavascript=1

Verify your age

Date of birth
September 17 1998

Identification
Driver's license

Issuing state
South Carolina

Driver's license
[Redacted]

Verify

You must verify your age to purchase this item

ROYAL SWAG Ayurvedic & Herbal Long Filtered Bidi Smoke (Pack of 2 X 20 Bidi Sticks Per Pack) with 12 ml Shot of Stop Nicotine Craving Tobacco Free Dhoompan (40 Sticks, 1 Shot)

Why am I seeing this?

Verify

By placing your order, you agree to Amazon's [privacy notice and conditions of use.](#)

Order Summary

How are shipping costs calculated?

3 Payment method

^ Add a gift card or promotion code or voucher [Change](#)

Enter code **Apply**

4 Offers

5 Items and shipping

*Why has sales tax been applied? [See tax and seller information.](#)
Need help? Check our [help pages](#) or [contact us](#)
For an item sold by Amazon.com: When you click the "Place your order" button, we'll send you an email message acknowledging receipt of your order. Your contract to purchase an item will not be complete until we send you an email notifying you that the item has been shipped.
[Important information about sales tax you may owe in your state](#)
You may return new, unopened merchandise in original condition within 30 days of delivery. Exceptions and restrictions apply. See Amazon.com's [Returns Policy.](#)

Amazon.com Checkout

amazon.com/gp/buy/payselect/handlers/display.html?hasWorkingJavascript=1

2 Choose a payment method

\$50 Amazon Gift Card

Hailey, pay \$21.84 \$0.00 for this order with a \$50 Amazon Gift Card [Find out how](#)

Use this payment method

Choose a payment method to continue checking out. You'll still have a chance to review and edit your order before it's final.

Your credit and debit cards

+ [Add a credit or debit card](#) Amazon accepts all major credit cards.

Payment plans

Pay over time with Affirm

i Ineligible for this order, cart total is less than \$50. [Learn more](#)

Your available balance

Enter a gift card, voucher or promotional code

+ Enter Code **Apply**

Other payment methods

+ [Learn more about Amazon Store Card](#) Access to exclusive financing offers. No annual fee. Zero fraud liability.

+ [Add a personal checking account](#)
Use your US based personal checking account. [Learn more](#)

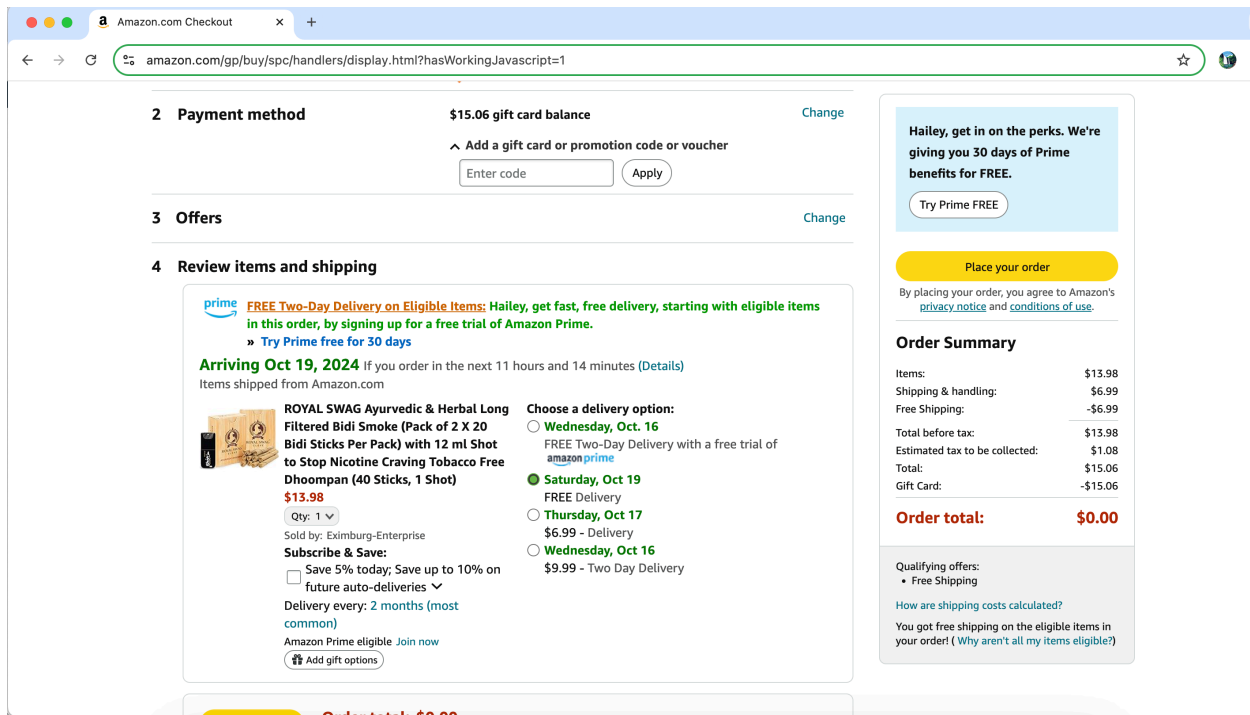
Use this payment method

Order Summary

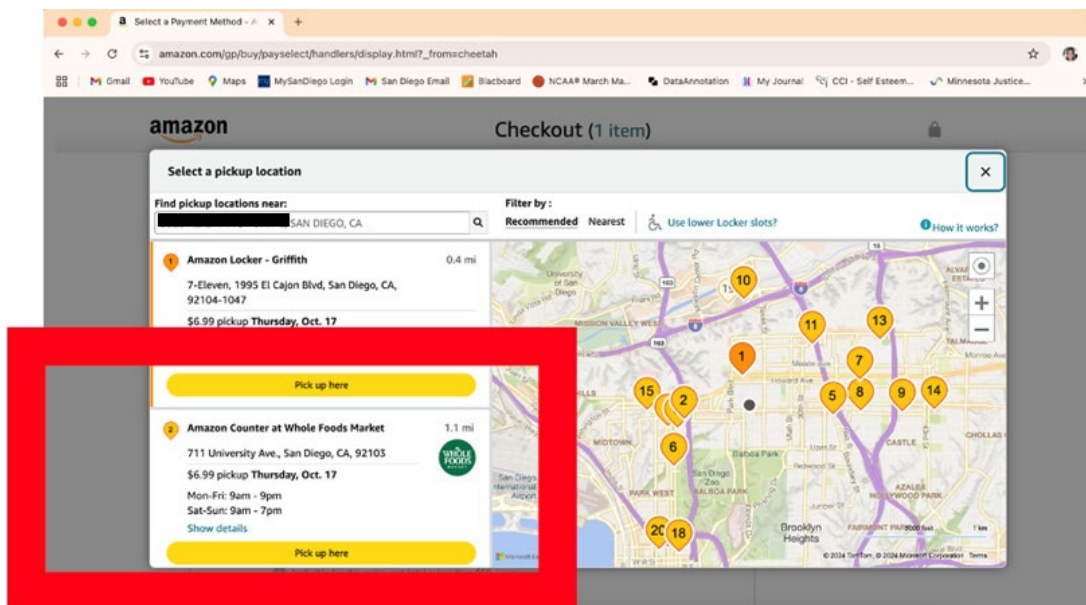
Items:	\$13.98
Shipping & handling:	\$6.99
Promotion Applied:	-\$0.70
Total before tax:	\$20.27
Estimated tax to be collected:	\$1.57
Order total:	\$21.84

How are shipping costs calculated?

Observe that even though “bidis” that are among the products listed in subdivision (c) as more inherently dangerous, they may be purchased with a pre-paid gift card. This means there is nothing at all stopping children from purchasing these items, which, while they may be tobacco and nicotine-free, are still dangerous to their health.



Then, as with the BB weapon, both cigarette tubes and “bidis” can be shipped to third-party pick-up locations. Cigarette tubes and “bidis” can be shipped to Amazon lockers, which apparently require no employee interaction to pick up from and have absolutely no way of identifying if the individual picking up the items is of legal age.



In summary, while Amazon does not sell any items containing tobacco or nicotine in California, it sells several items that are still restricted under the language of §1798.99.1(c) and the cross-

referenced statutes. Specifically, products like cigarette tubes (Cal. Penal Code §308(a)(1)(A)(i)) and “bidis” (Cal. Penal Code §308.1).

For these items, Amazon prompts customers to input their age and driver’s license number. However, as noted in several examples, Amazon does not verify that this information is correct and allows customers to proceed so long as the age entered is above the legal age of purchase without taking any actual steps – including cross-referencing to a requested driver’s license -- to verify it is the correct age of the purchaser. Additionally, Amazon allows these items to be shipped to their Amazon lockers for pickup. These lockers apparently have no way of verifying the age of the person receiving the item.

Electronic Cigarettes, as Referenced in Section 119406 of the Health and Safety Code

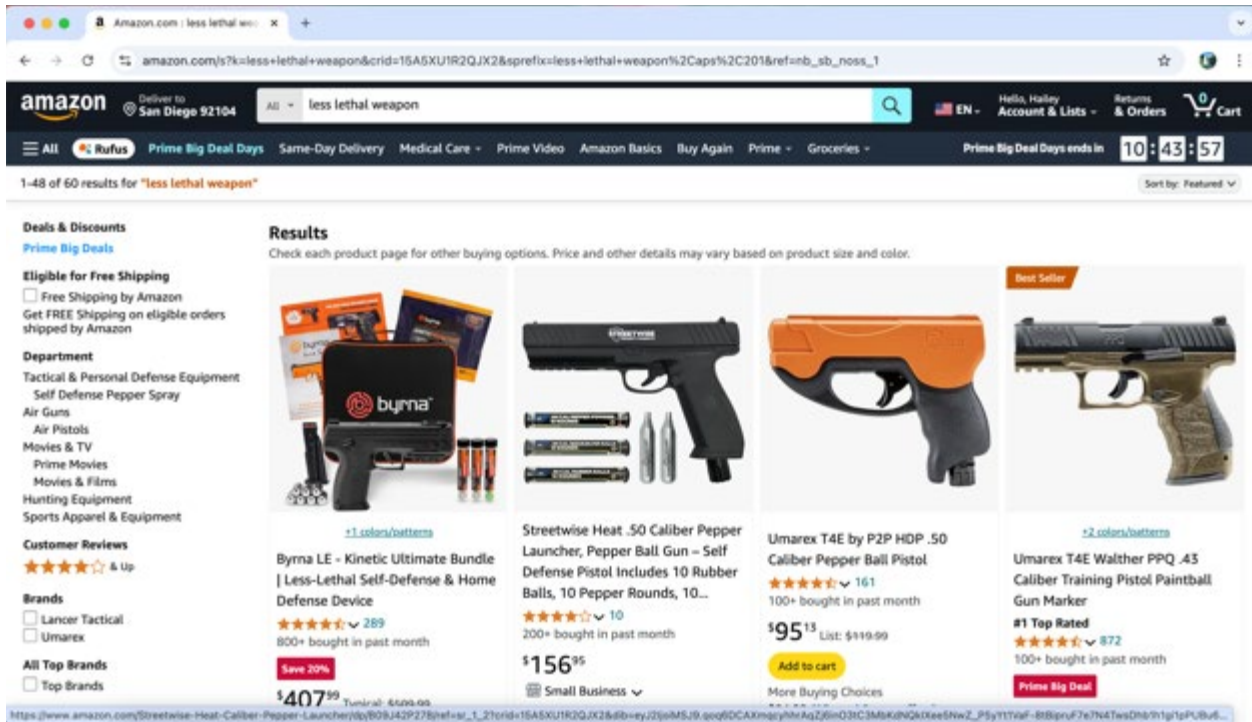
California Health & Safety Code §119406 restricts the sale of “all cartridges for electronic cigarettes and solutions for filling or refilling an electronic cigarette.” Electronic cigarettes, cartridges, and solutions for filling and refilling are not available on Amazon, and a search for “electronic cigarettes” yields results only for non-tobacco, non-nicotine, and non-electric alternatives.

A Less Lethal Weapon, as Referenced in Sections 16780 and 19405 of the Penal Code

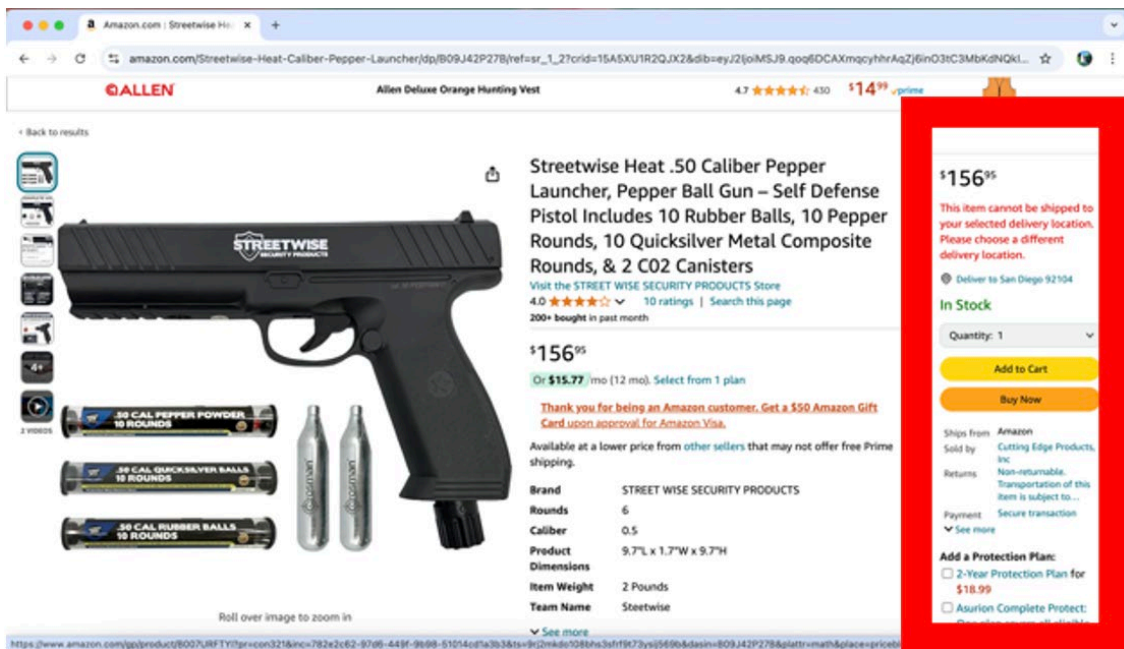
Amazon sells items that meet the criteria for a “less lethal weapon” defined by California Penal Code §16780 (Cal. Penal Code §19405 declares the sale of a less lethal weapon as defined by §16780 to a minor a misdemeanor). With emphasis supplied, Cal. Penal Code §16780 states:

(a) “Less lethal weapon” means **any device that is designed to or that has been converted to expel or propel less lethal ammunition** by any action, mechanism, or process **for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort.** It is not necessary that a weapon leave any lasting or permanent incapacitation, discomfort, pain, or other injury or disability in order to qualify as a less lethal weapon.

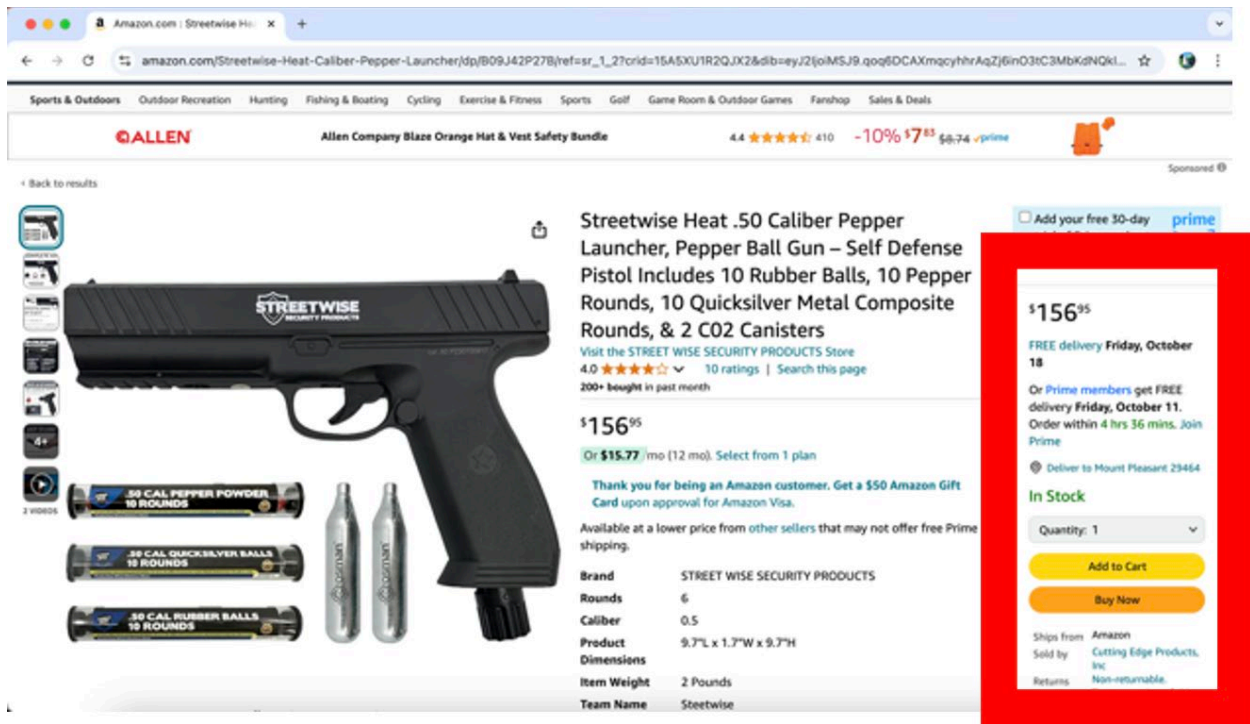
A search for “less lethal weapon” on Amazon yields results for several handguns “designed to or that has been converted to expel or propel less lethal ammunition.”



However, these less lethal weapons, while discoverable on Amazon, are not allowed to be delivered in the state of California. Any weapon meeting the definition of “any device that is designed to or that has been converted to expel or propel less lethal ammunition by any action, mechanism, or process for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort,” displays the message “this item cannot be shipped to your selected delivery location. Please choose a different delivery location.”



Only upon inputting a different address in a different state (in this example, South Carolina) are customers able to proceed with the purchase of less lethal weapons.



With the exception of §16780(b)(1), a pistol, revolver, or firearm, which is discussed above of the weapons listed §16780(b), Amazon either does not sell or sells only the original version, not a modified version “converted to expel or propel less lethal ammunition,” that would fit the definition of a less lethal weapon.

CONCLUSION

Amazon – the largest online retailer in the world by far, the company that inspired the California Legislature and the Governor to enact legislation -- is not complying with §1798.99.1. More specifically, Amazon is violating the statute because it is apparently taking no “reasonable steps” – indeed, no steps – to verify the age of the purchaser for the following items in subdivision (b):

- **An aerosol container of paint** that is capable of defacing property, as referenced in Section 594.1 of the Penal Code.
- **Etching cream** that is capable of defacing property, as referenced in Section 594.1 of the Penal Code.
- **Tanning in an ultraviolet tanning device**, dangerous to children, as referenced in Sections 22702 and 22706 of the Business and Professions Code.

- **Body branding**, as referenced in Sections 119301 and 119302 of the Health and Safety Code.

For these items, Amazon does not appear to require the purchaser or recipient to input, scan, provide, or display government-issued identification. It appears to allow purchases with a prepaid card, such as a gift card. It apparently has no system of minor accounts that restricts individuals from purchasing these specific products, and it does not appear to require a legal adult to be on the receiving end at delivery. Amazon also apparently takes no additional steps not explicitly outlined by the statute that could be construed as “reasonable steps” to ensure minors are not purchasing these items.

As for the more dangerous items listed in subdivision (c) that are sold on Amazon and deliverable to California, namely:

- **a BB device**, as referenced in Sections 16250 and 19910 of the Penal Code.
- any **instrument or paraphernalia** that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, specifically; **cigarette tubes**, and “**bidis**” as referenced in 308.1.

Amazon apparently does require the purchaser or recipient to input, scan, provide, or display a government-issued identification, however, Amazon does not appear to verify this information is correct, making the act purely performative. For example, Amazon apparently accepts inputting an incorrect age so long as it is above the age of 18 even if the age does not match the information on the provided driver’s license.

Additionally, Amazon accepts an incorrect driver’s license number paired with a legally acceptable age, making it unclear, at best, what, if anything Amazon is doing with the license number. Amazon also appears to prompt customers to verify their age only once, and upon verifying their age within their account a single time, they are no longer prompted to verify it again for any other restricted items. Amazon also does not appear to require a legal adult to be at the receiving end at delivery. Amazon also takes no additional steps that could be construed as “reasonable steps” to ensure minors are not purchasing these items.

APPENDIX A: BB WEAPONS AND UNSAFE DIET PILLS ACTUAL PURCHASE TEST CASES

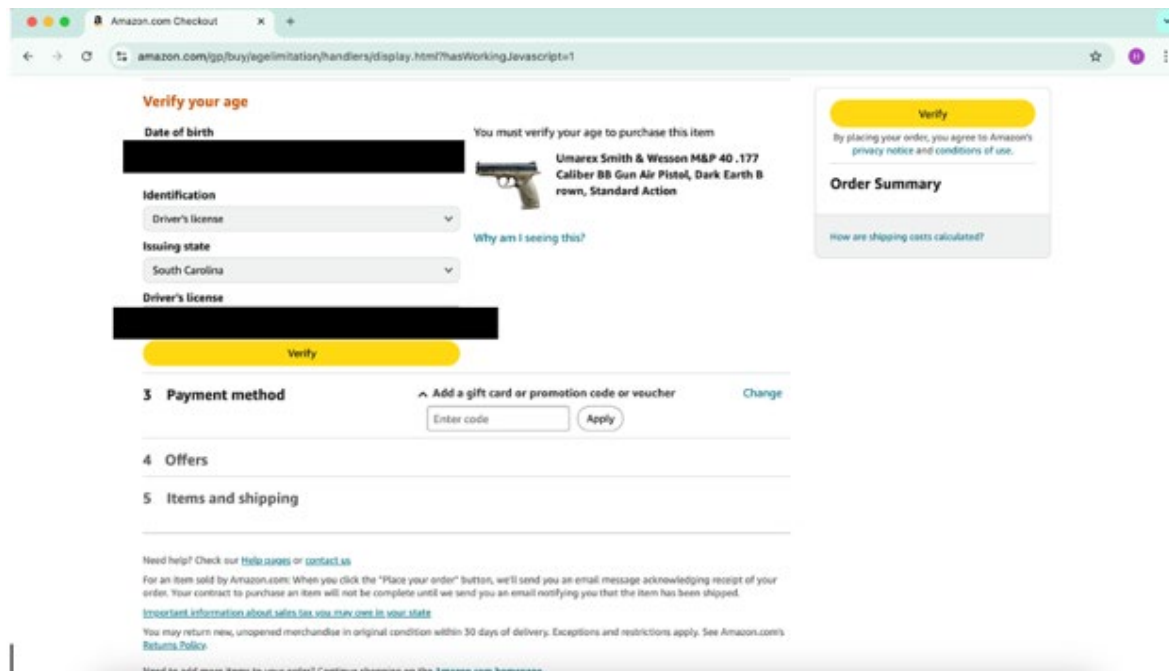
Hailey Chrysler, Children’s Advocacy Institute Research Assistant, Tests Whether Amazon Complies with §1798.99.1(a)(3)(B)

BB weapons cannot lawfully be sold to certain minors in California. Under Cal. Civ. Code §1798.99.1(a). Likewise, certain diet pills are unsafe for children; the bottles even say on their labels they should not be used for children. As to the former, Amazon is responsible for taking “reasonable steps” to ensure it only sells or delivers such items to a legal adult and one way the law permits Amazon to comply with this requirement is to “ship[] the product or service to an individual who is of legal age.” §1798.99.1(a) (a)(3)(B) (BB weapons). As to the latter, Amazon selling the products without age verification might not violate a law. But, it is dangerous to children.

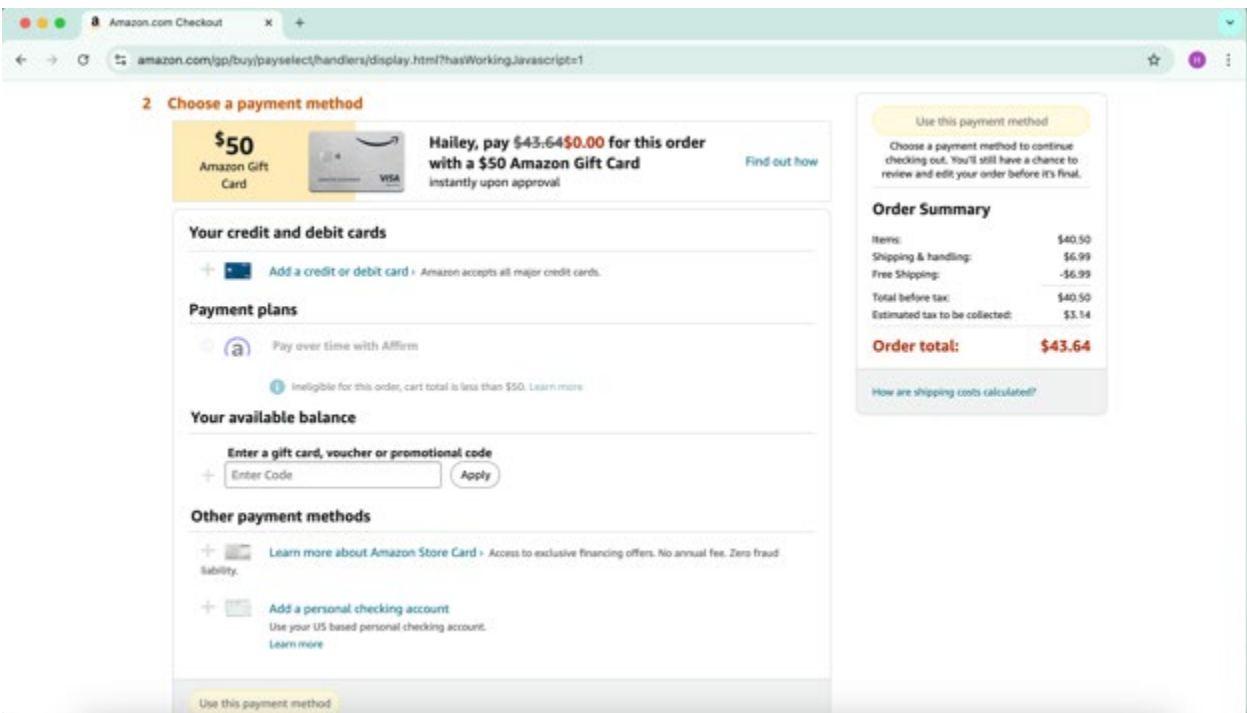
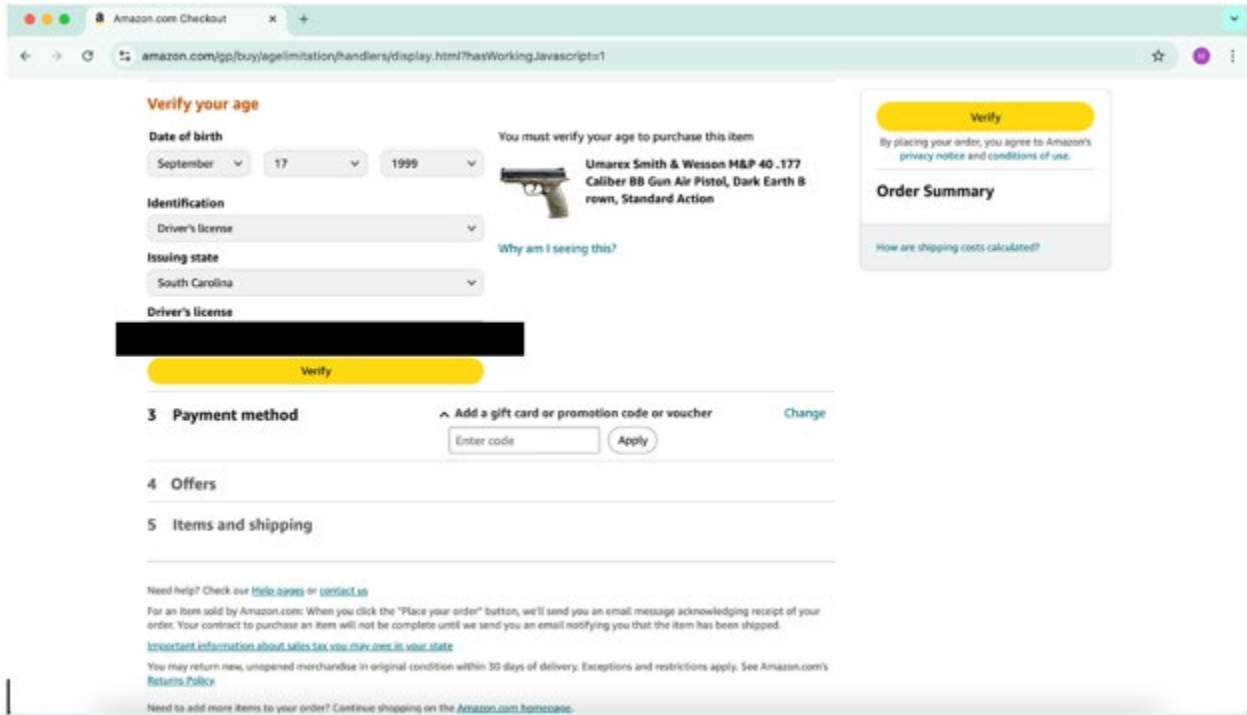
In testing whether Amazon complies with §1798.99.1 (a)(2)(D) and (a)(3)(B) and (a), I purchased two BB weapons which I had delivered in different ways. One was delivered to a residential address and the other to an Amazon pickup location. I also bought dietary supplements delivered to a residential address.

BB Weapon Residential Delivery

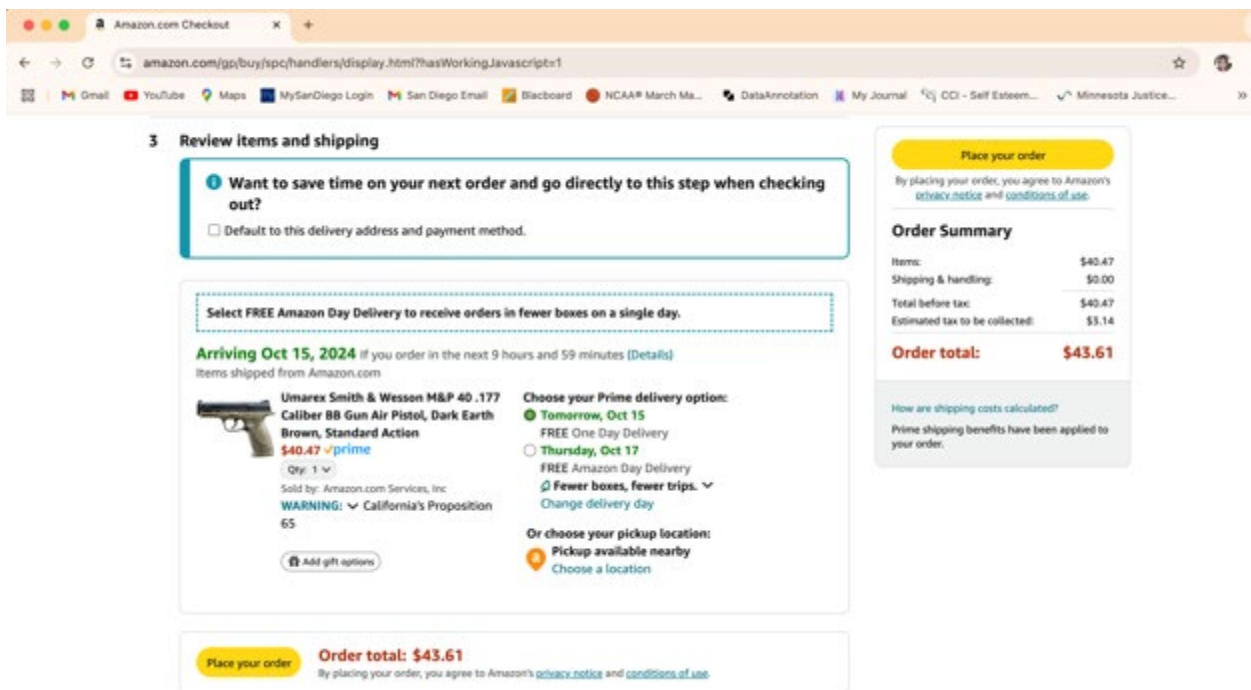
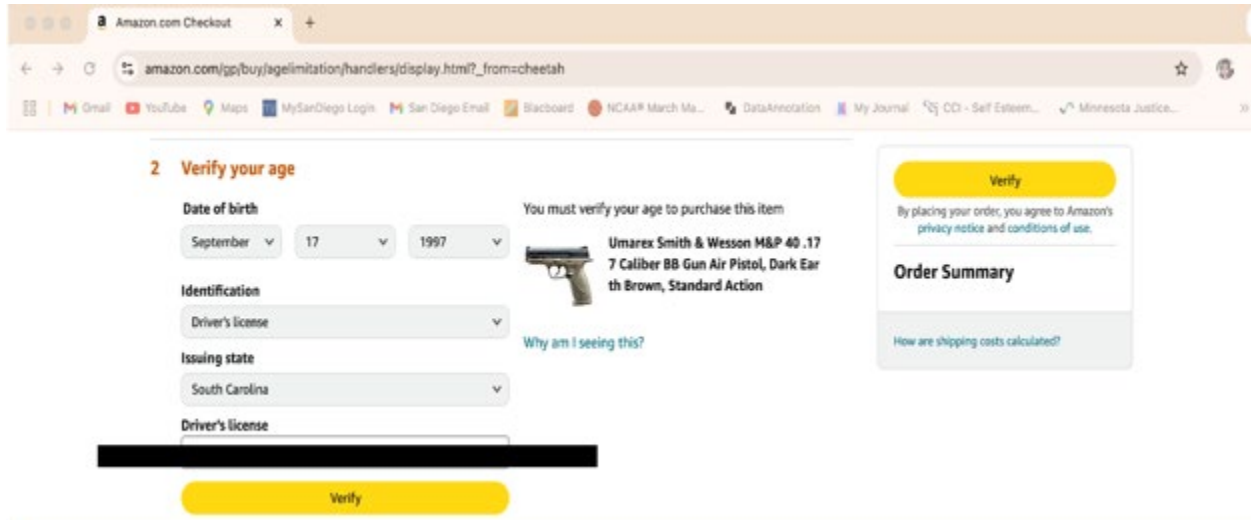
On Monday, October 14th, 2024, I purchased the first BB weapon. I was prompted to input my age and driver’s license number. I chose to input my correct date of birth and driver’s license number to ensure delivery could be completed.



However, I expected to be required to verify my entered information and show my ID upon delivery because throughout the process of testing the different ways Amazon checks a customer's age, I found that if I input a birthdate at the legal age of purchase *but entered an incorrect driver's license number* (off by one digit), the ID verification was accepted, and the purchase could be completed. (See discussion above)



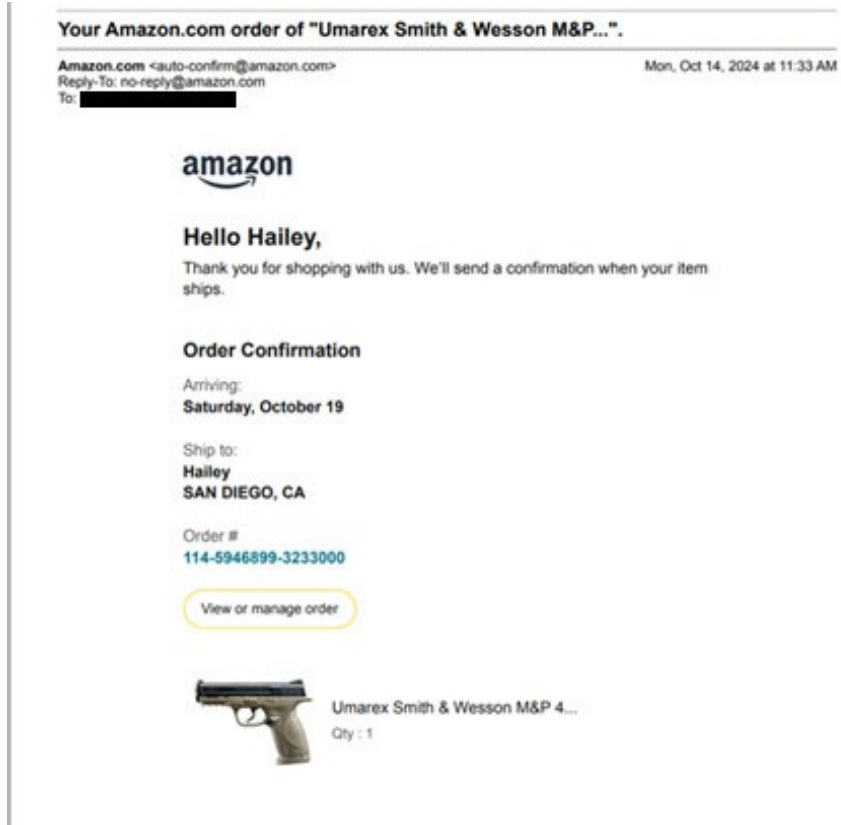
Similarly problematic, I found that entering a valid driver's license number but lying about the date of birth and entering an age *older* than the age associated with the driver's license was also accepted. In other words, the age entered and the age on a driver's license can differ, meaning the license is likely not checked to authenticate age.



Because of this lack of authentication at the time of purchase, I expected Amazon to verify my age at delivery to confirm I was old enough to purchase a BB weapon.

I completed the purchase using a regular credit card provided to me by my supervising attorney at the Children's Advocacy Institute, Ed Howard. The card was not in my name and did not match any of the "age verification" information I had input on the prior screen. Amazon had no issue

with this; they let me complete the purchase and sent me an email to confirm everything had gone through. Nowhere in the confirmation email did Amazon say that an adult needed to be home to sign for the item upon delivery.



After a few days, I received an email that my items had shipped. At this point, the dietary supplements and the BB device were combined into one package.

Your Amazon.com order #114-5946899-3233000 has shipped

1 message

Amazon.com <shipment-tracking@amazon.com>
Reply-To: no-reply@amazon.com
To: [REDACTED]

Tue, Oct 15, 2024 at 2:07 PM



Hello Hailey,

We wanted to let you know that we have shipped your items.

Shipping Confirmation

Your package will arrive by
Friday, October 18

i This contains items from 2 orders

Ship to
Hailey
SAN DIEGO, CA

Order #
114-5946899-3233000
See all order # information

[Track package](#)

Within this email, Amazon included some fine print about specific laws and restrictions California customers may be impacted by. Nowhere were age restrictions mentioned, nor was it stated that an adult must be present at delivery.



StudPro 3750XI StudWelder
3/8" ...
\$4,960.00



StudPro 2500XI Stud Welder
1/4" ...
\$3,220.00

Unless otherwise noted, items sold by Amazon.com are subject to sales tax in select states in accordance with the applicable laws of that state. If your order contains one or more items from a seller other than Amazon.com, it may be subject to state and local sales tax, depending upon the seller's business policies and the location of their operations. Learn more about [tax and seller information](#).

Items in this shipment may be subject to California's Electronic Waste Recycling Act. For any items not sold by Amazon.com or Amazon Digital Services, Inc. that are subject to that Act, the seller of that item is responsible for submitting the California Electronic Waste Recycling fees on your behalf.

Your invoice can be accessed [here](#).

One or more items in your shipment was supplied by a different seller than the seller you purchased the item from. Visit [Your Orders](#) from a web browser to see the suppliers of these items on your invoices.

This email was sent from a notification-only address that cannot accept incoming email. Do not reply to this message.



While Amazon sometimes alerts customers when their package is delivered, there was no notification that the BB weapon had been delivered. While I was away on Saturday, October 18th, Amazon left the package in the shared space courtyard of my apartment complex which is not even on the same floor as my unit. I found the package when I got home later that day, and I happened to walk past it.



Opening the package confirmed that both items had been delivered. On the front package of the BB weapon, there is an age warning: “16+.” Additionally, the BB weapon’s user manual clearly states that this item is intended for individuals aged 16+. Yet Amazon took no steps to ensure the person receiving these items was actually of lawful age.

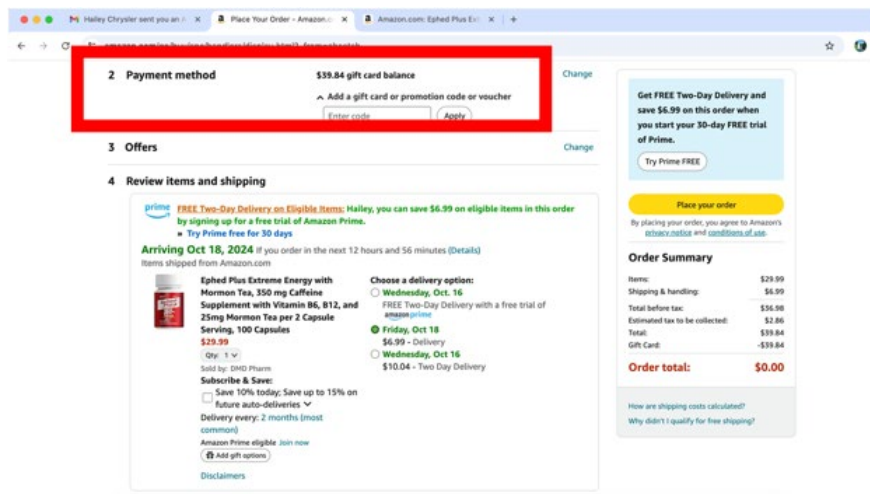




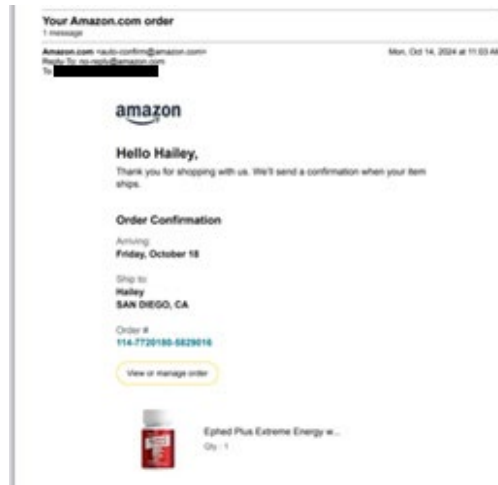
The Amazon driver did not call the number I provided at check out for delivery questions to check if I was home. I did not receive a notification on my account or through my email when the delivery was completed. Amazon took zero steps to verify that a legal adult was physically receiving this weapon.

Dietary Supplements Home Delivery

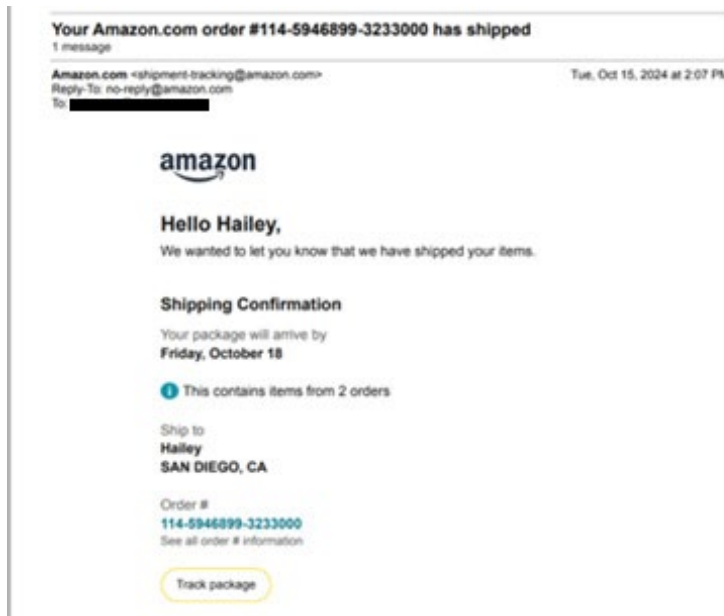
On Monday, October 14th, I also placed an order for delivery at my apartment for dietary supplements. For this item, I used a pre-paid gift card to cover the entire cost of these supplements.



After placing my order, Amazon sent me a confirmation email identical to the confirmation email from the BB device. Again, nowhere in the confirmation email did Amazon alert me that an adult needs to be home and sign for the item upon delivery.



After a few days, I received an email notifying me that my items had shipped. This was the same email I received for the BB weapon because, at this point, Amazon had combined my two separate purchases into one package for delivery.



The fine print included the same language about specific laws and restrictions California customers may be impacted by. No age restriction is mentioned anywhere, nor is it stated that an adult must be present at delivery. Additionally, there is no clarification as to which item, the BB device or the dietary supplements, may be triggering the legal warning Amazon was now providing.



StudPro 3750XI StudWelder
3/8" ...
\$4,960.00



StudPro 2500XI Stud Welder
1/4" ...
\$3,220.00

Unless otherwise noted, items sold by Amazon.com are subject to sales tax in select states in accordance with the applicable laws of that state. If your order contains one or more items from a seller other than Amazon.com, it may be subject to state and local sales tax, depending upon the seller's business policies and the location of their operations. [Learn more about tax and seller information.](#)

Items in this shipment may be subject to California's Electronic Waste Recycling Act. For any items not sold by Amazon.com or Amazon Digital Services, Inc. that are subject to that Act, the seller of that item is responsible for submitting the California Electronic Waste Recycling fees on your behalf.

Your invoice can be accessed [here](#).

One or more items in your shipment was supplied by a different seller than the seller you purchased the item from. Visit [Your Orders](#) from a web browser to see the suppliers of these items on your invoices.

This email was sent from a notification-only address that cannot accept incoming email. Do not reply to this message.



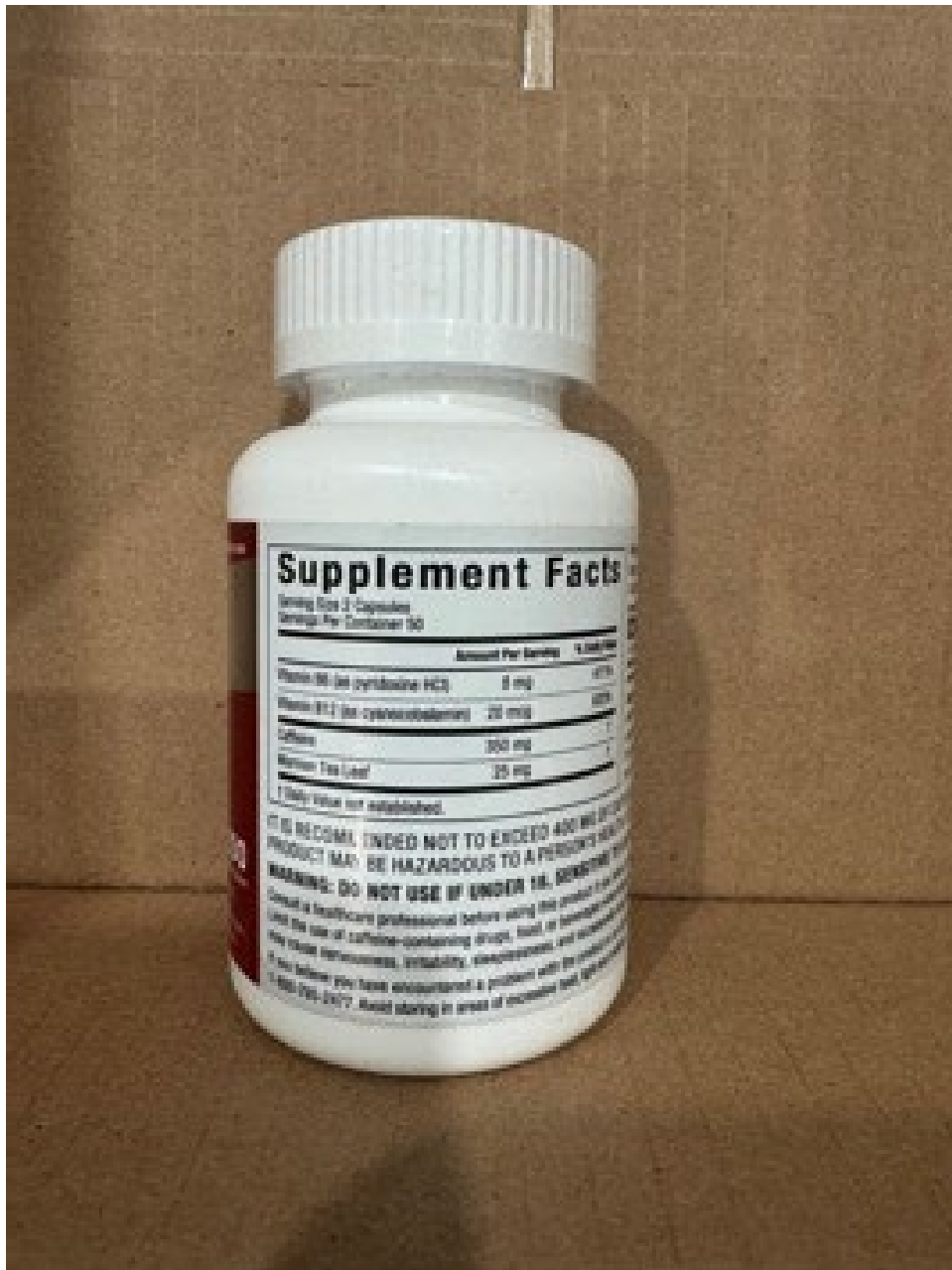
These dietary supplements were in the same box as the BB device and were delivered to my apartment on Saturday, October 19th. They were left outside in a shared space, not near my unit, and I received no notification delivery had happened.



As shown above, opening the package, I confirmed both items were inside.



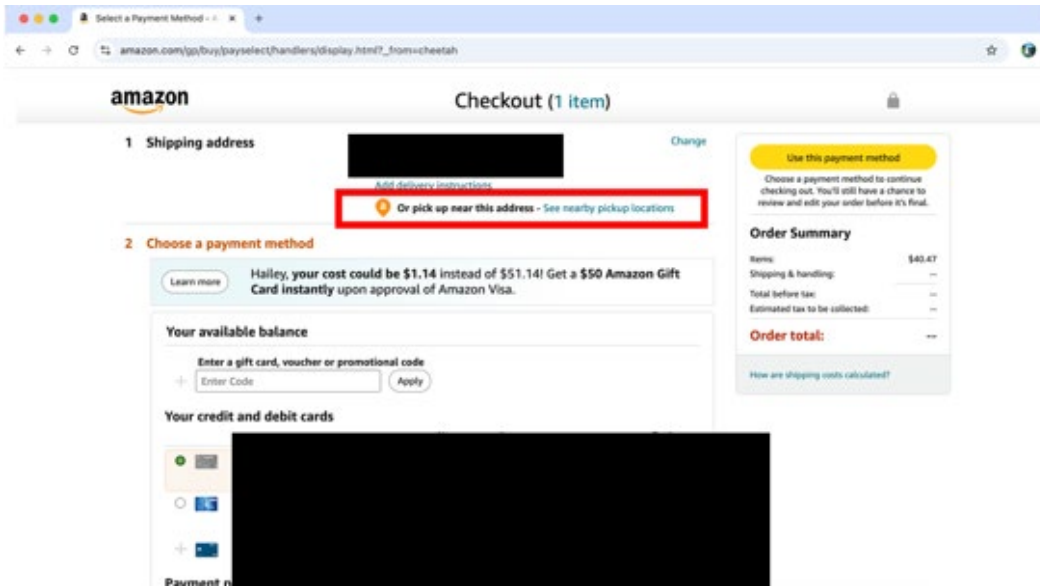
Similar to how the BB device had an age restriction visible on its packaging, the supplements' back packaging says, in bold and all caps, “do not use if under 18.”



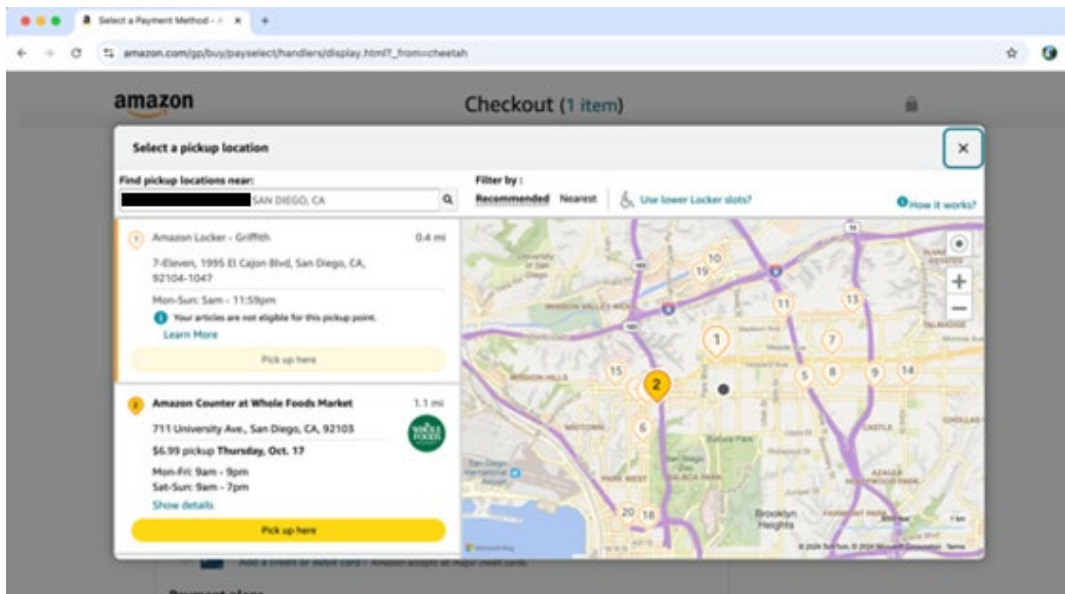
Amazon still took no steps to ensure that the person physically receiving the age-restricted pills was the correct age.

BB Weapon Amazon Pick-Up Location

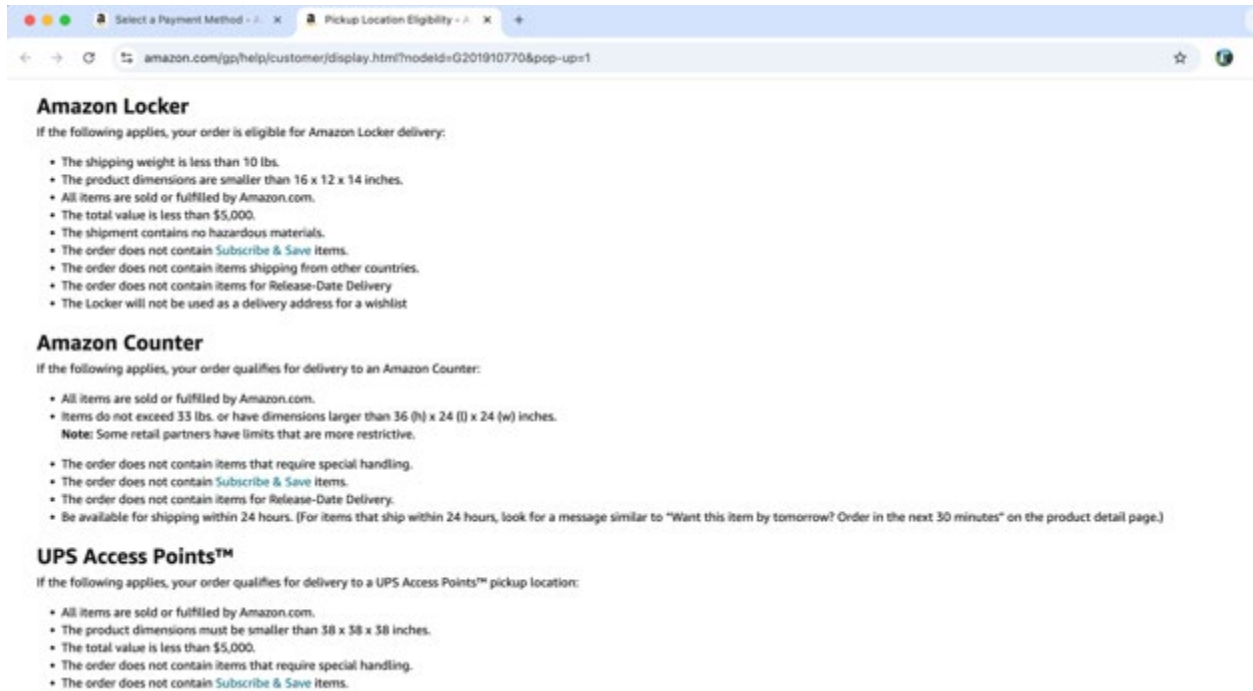
The final purchase I made on Monday, October 14th, was for a second BB weapon. However, I did several things differently with this purchase. First, I paid for the item with a different credit card (this time in my name) to see if this would prompt renewed age verification (it did not). I then selected the option of delivering the weapon to an Amazon Pick-up location rather than a residential address.



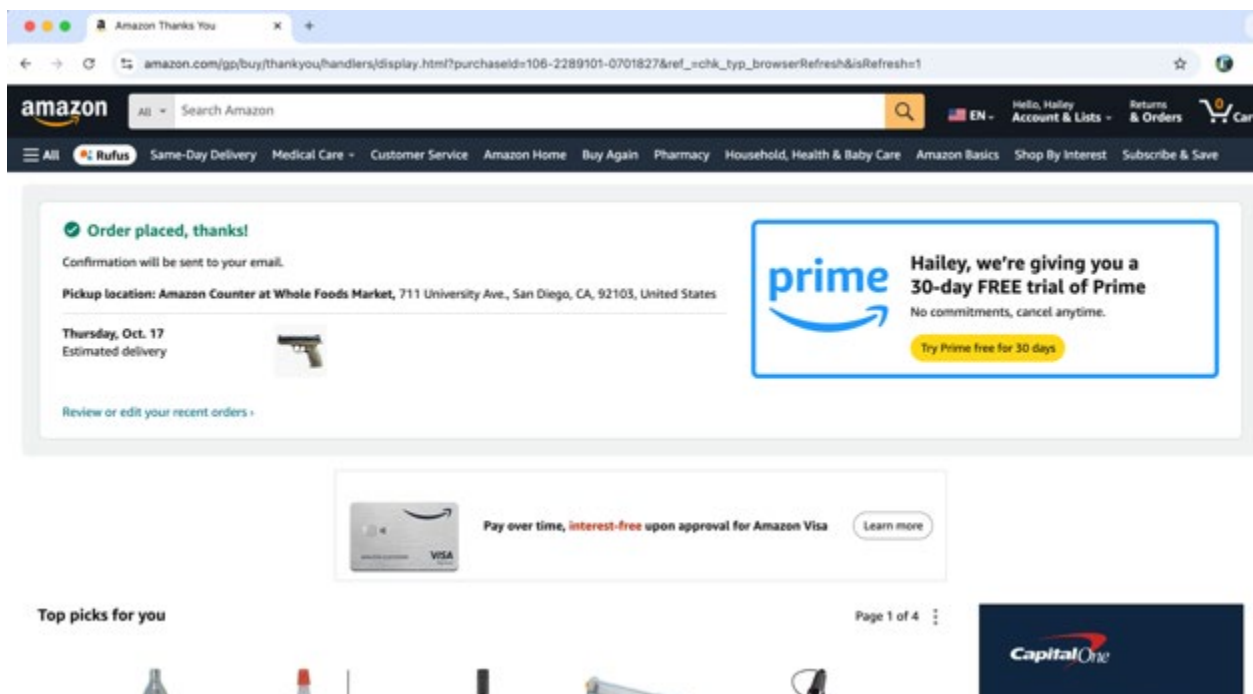
Amazon restricted my pick-up location options to counters, where I would have to physically check-in with an employee to pick-up the item; the option of self-service locker locations was unavailable.



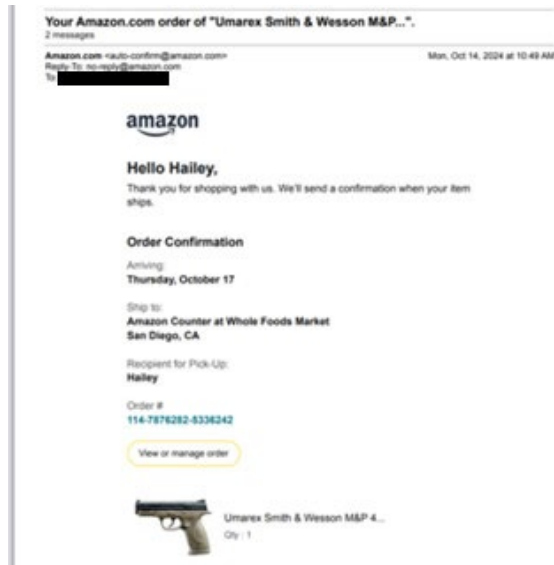
Upon reading Amazon's policies regarding pick-up locations, I found a list of reasons why this restriction may be in place. *However, none of the reasons listed explicitly state that this restriction could be due to a need for a legal adult to be present at pick-up time.*



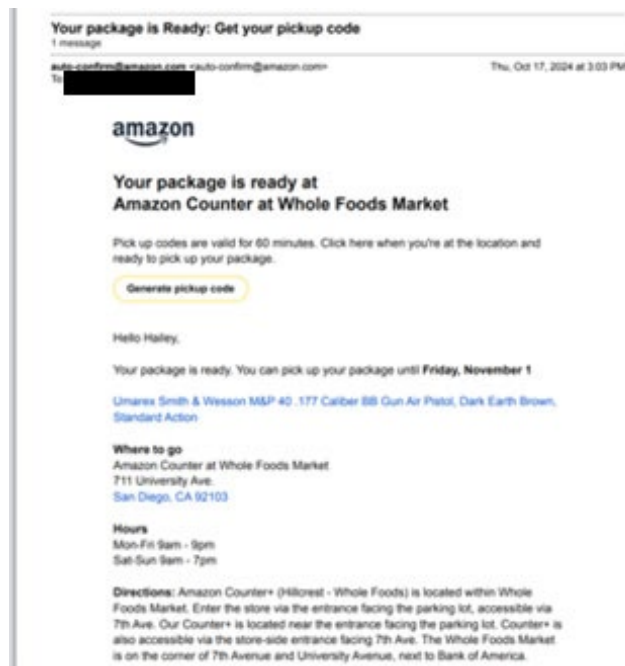
After selecting a third-party location for pick up (Amazon Counter at Whole Foods), I completed my order as normal.



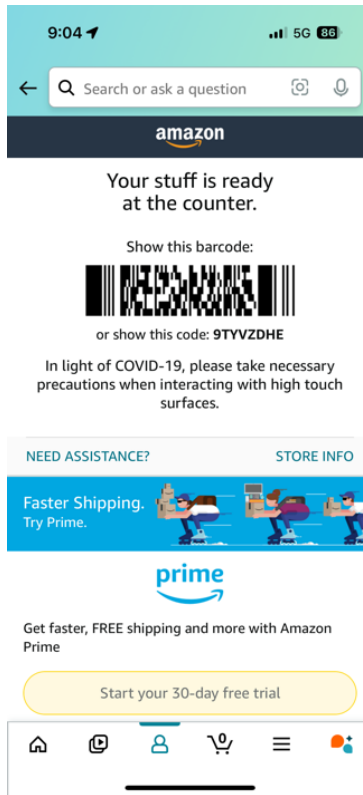
I was then sent a confirmation email. In the confirmation email, Amazon did not inform me if an adult needs to pick up the item or if I may be required to verify my age at pickup.



The item arrived at the pickup location on Thursday, October 17th and this time, I did receive an email notifying me of delivery. The email contained a link to obtain my pick-up code, but it did not say if an adult was required to make the pickup.

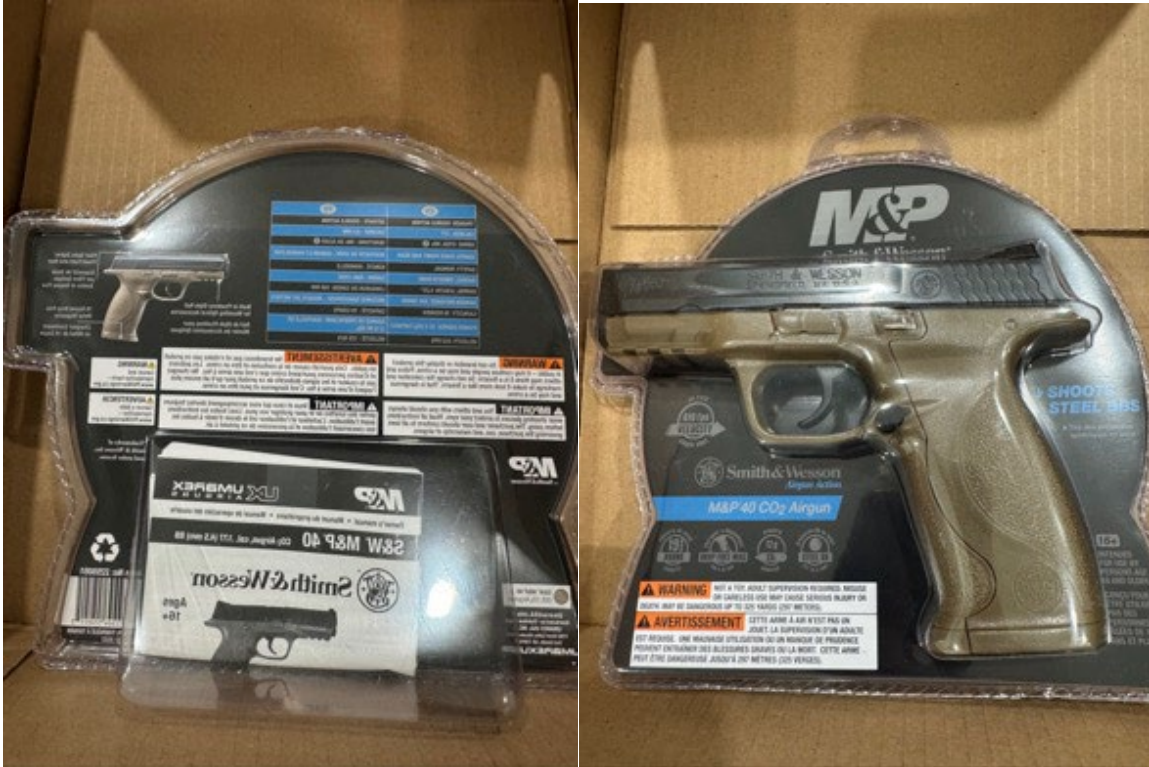


I went to the Amazon Counter at Whole Foods on Monday, October 21st, and used my phone's Amazon app to get my pick-up code and bar code.



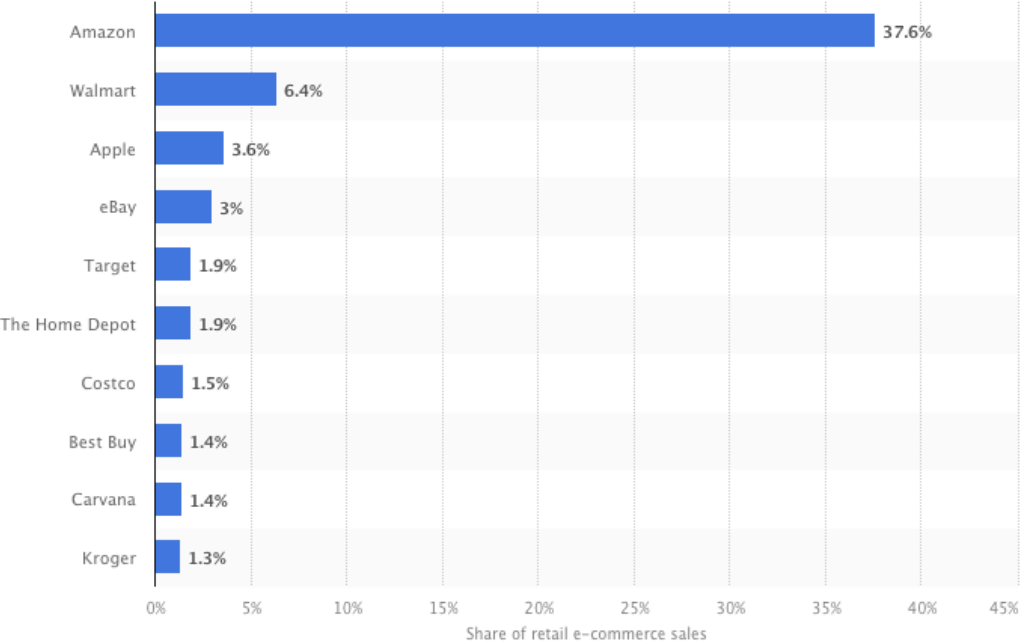
I took this code to the pick-up counter and the employee scanned my barcode and then went through the shelves to find my package. They found the package, scanned a bar code on the box, and then handed it to me without asking to see my ID or if I was over 18.





Even when I had to pick the item up physically from another person, I was not asked to verify my age. This is particularly concerning because if a minor makes a restricted purchase without a parent's knowledge or consent, they can have the item shipped to a third-party location and pick it up without the risk of the parent stumbling upon a package delivered to their home.

APPENDIX B: MARKET SHARES OF ONLINE RETAIL



11

¹¹ <https://www.repricerexpress.com/amazon-statistics/>

RECOMMENDATIONS

1. The modest, per violation maximum penalties in the law (\$7,500) are less than the jurisdictional limit of California small claims court and have not prompted Amazon voluntarily to comply with this child protection statute. The law should be amended to increase these financial consequences for lawbreaking in an amount that will motivate the giant corporation to comply, including disgorgement of money earned on the unlawful sale of these products since the law was enacted with the money to fund Attorney General child Internet safety suits. The law should likewise provide attorneys' fees to the prevailing plaintiff.

2. While, broadly speaking, Amazon is subject in California to the same strict products liability as brick-and-mortar retailers (*Loomis v. Amazon* (2021) 63 Cal.App.5th 466), the law should be amended to eliminate all ambiguity about whether Amazon is strictly liable to an injured party/child for any damages that result from violations of this particular law or harm caused to a child.

3. The Attorney General and other public prosecutors should investigate Amazon for investigation and possible enforcement, including unfair competition as Amazon is, by not checking for age, enjoying a competitive advantage over brick-and-mortar stores.

Children's Advocacy Institute
University of San Diego School of Law
5998 Alcalá Park
San Diego, CA 92110
(610) 260-4806
info@caichildlaw.org