

- 30 **13-39-102**, as enacted by Chapter 338, Laws of Utah 2004
- 31 **13-39-201**, as enacted by Chapter 338, Laws of Utah 2004
- 32 **13-39-202**, as enacted by Chapter 338, Laws of Utah 2004
- 33 **13-39-203**, as enacted by Chapter 338, Laws of Utah 2004

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **13-39-102** is amended to read:

37 **13-39-102. Definitions.**

38 As used in this chapter:

39 (1) "Contact point" means an electronic identification to which a communication may
40 be sent, including:

41 (a) an email address; or

42 (b) subject to Subsection 13-39-201(2):

43 (i) an instant message identity, subject to rules made by the division under Subsection
44 13-39-203(1);

45 (ii) a mobile or other telephone number;

46 (iii) a facsimile number; or

47 (iv) an electronic address:

48 (A) similar to a contact point listed in this Subsection (1); and

49 (B) defined as a contact point by rule made by the division under Subsection
50 13-39-203(1).

51 (2) "Division" means the Division of Consumer Protection in the Department of
52 Commerce.

53 (3) "Registry" means the child protection registry established in Section 13-39-201.

54 Section 2. Section **13-39-201** is amended to read:

55 **13-39-201. Establishment of child protection registry.**

56 (1) The division shall:

57 (a) establish and operate a child protection registry to compile and secure a list of

58 contact points the division has received pursuant to this section; or

59 (b) contract with a third party to establish and secure the registry described in
60 Subsection (1)(a).

61 (2) (a) The division shall implement the registry described in this section with respect
62 to email addresses beginning on July 1, 2005.

63 (b) The division shall implement the registry described in this section with respect to
64 instant message identities [~~after~~].

65 [~~(i) the division has determined to the satisfaction of the division the security of the~~
66 ~~registry described in this section with respect to email addresses; and]~~

67 [~~(ii) the division has reported to the Public Utilities and Technology Interim~~
68 ~~Committee the intention of the division to implement the registry described in this section with~~
69 ~~respect to instant message identities.]~~

70 (c) The division shall implement the registry described in this section with respect to
71 mobile or other telephone numbers[, ~~facsimile numbers, and electronic addresses described in~~
72 ~~Subsection 13-39-102(1)(b)(iv) after~~].

73 [~~(i) the division has determined to the satisfaction of the division the security of the~~
74 ~~registry described in this section with respect to instant message identities; and]~~

75 [~~(ii) the division has reported to the Public Utilities and Technology Interim~~
76 ~~Committee the intention of the division to implement the registry described in this section with~~
77 ~~respect to telephone numbers, facsimile numbers, and electronic addresses described in~~
78 ~~Subsection 13-39-102(1)(b)(iv).]~~

79 (3) (a) A person may register a contact point with the division pursuant to rules
80 established by the division under Subsection 13-39-203(1) if:

81 (i) the contact point belongs to a minor; [or]

82 (ii) a minor has access to the contact point[~~;~~ or

83 (iii) the contact point is used in a household in which a minor is present.

84 (b) A school or other institution that primarily serves minors may register its domain
85 name with the division pursuant to rules made by the division under Subsection 13-39-203(1).

86 (c) The division shall provide a disclosure in a confirmation message sent to a person
87 who registers a contact point under this section that reads: "No solution is completely secure.
88 The most effective way to protect children on the Internet is to supervise use and review all
89 email messages and other correspondence. Under law, theft of a contact point from the Child
90 Protection Registry is a [~~class-B~~] second degree felony. While every attempt will be made to
91 secure the Child Protection Registry, registrants and their guardians should be aware that their
92 contact points may be at a greater risk of being misappropriated by marketers who choose to
93 disobey the law."

94 (4) A person desiring to send a communication described in Subsection 13-39-202(1)
95 to a contact point or domain shall:

96 (a) use a mechanism established by rule made by the division under Subsection
97 13-39-203(2); and

98 (b) pay a fee for use of the mechanism described in Subsection (4)(a) determined by
99 the division in accordance with Section 63-38-3.2.

100 (5) The division may implement a program to offer discounted compliance fees to
101 senders who meet enhanced security conditions established and verified by the division, the
102 third party registry provider, or a designee.

103 (6) The contents of the registry, and any complaint filed about a sender who violates
104 this chapter, are not subject to public disclosure under Title 63, Chapter 2, Government
105 Records Access and Management Act.

106 (7) The state shall promote the registry on the state's official Internet website.

107 Section 3. Section **13-39-202** is amended to read:

108 **13-39-202. Prohibition of sending certain materials to a registered contact point**
109 **-- Exception for consent.**

110 (1) A person may not send, cause to be sent, or conspire with a third party to send a
111 communication to a contact point or domain that has been registered for more than 30 calendar
112 days with the division under Section 13-39-201 if the communication:

113 (a) [~~advertises~~] has the primary purpose of advertising or promoting a product or

114 service that a minor is prohibited by law from purchasing; or

115 (b) contains or ~~[advertises]~~ has the primary purpose of advertising or promoting
116 material that is harmful to minors, as defined in Section 76-10-1201.

117 (2) ~~[The]~~ Except as provided in Subsection (4), consent of a minor is not a defense to a
118 violation of this section.

119 (3) An Internet service provider does not violate this section for solely transmitting a
120 message across the network of the Internet service provider.

121 (4) (a) Notwithstanding Subsection (1), a person may send a communication to a
122 contact point if, before sending the communication, the person sending the communication
123 receives consent from an adult who controls the contact point.

124 (b) Any person who proposes to send a communication under Subsection (4)(a) shall:

125 (i) verify the age of the adult who controls the contact point by inspecting the adult's
126 government-issued identification card in a face-to-face transaction;

127 (ii) obtain a written record indicating the adult's consent that is signed by the adult;

128 (iii) include in each communication:

129 (A) a notice that the adult may rescind the consent; and

130 (B) information that allows the adult to opt out of receiving future communications;

131 and

132 (iv) notify the division that the person intends to send communications under this
133 Subsection (4).

134 (c) The division shall implement rules to verify that a person providing notification
135 under Subsection (4)(b)(iv) complies with this Subsection (4).

136 Section 4. Section **13-39-203** is amended to read:

137 **13-39-203. Rulemaking authority.**

138 In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
139 division shall make rules to establish procedures under which:

140 (1) (a) a person may register a contact point with the division under Section 13-39-201,
141 including:

- 142 (i) the information necessary to register an instant message identity; and
143 (ii) for purposes of Subsection 13-39-102(1)(b)(iv), an electronic address that is similar
144 to a contact point listed in Subsection 13-39-102(1); and
- 145 (b) a school or other institution that primarily serves minors may register its domain
146 name with the division under Section 13-39-201; ~~and~~
- 147 (2) the division shall:
- 148 (a) provide a mechanism under which a person described in Subsection 13-39-201(4)
149 may verify compliance with the registry to remove registered contact points from the person's
150 communications; and
- 151 (b) establish the mechanism described in Subsection (2)(a) in a manner that protects
152 the privacy and security of a contact point registered with the division under Section
153 13-39-201[-]; and
- 154 (3) the division may:
- 155 (a) implement a program offering discounted fees to a sender who meets enhanced
156 security conditions established and verified by the division, the third party registry provider, or
157 a designee; and
- 158 (b) allow the third party registry provider to assist in any public or industry awareness
159 campaign promoting the registry.