

1 **SOCIAL MEDIA USAGE AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jordan D. Teuscher**

5 Senate Sponsor: Kirk A. Cullimore

7 **LONG TITLE**

8 **General Description:**

9 This bill regulates interactive computer services and the use and design of social media
10 platforms.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ enacts the Utah Social Media Regulation Act;
- 15 ▶ requires a social media company to verify the age of Utah residents;
- 16 ▶ prohibits a Utah resident who is under the age of 16 from holding an account for the
17 use of certain social media platforms;
- 18 ▶ requires a social media company to obtain the consent of a parent or guardian before
19 a Utah resident under the age of 18 may open or continue to use an account on a
20 social media platform;
- 21 ▶ prohibits a Utah resident who is a minor from entering into a contract online unless
22 the minor's parent or legal guardian consents;
- 23 ▶ prohibits a social media company from using a design or feature that the company
24 knows causes a minor to become addicted to a social media platform;
- 25 ▶ directs the Division of Consumer Protection to receive and investigate complaints
26 of violations of the requirements established under the act and impose
27 administrative fines for violations;



- 28 ▶ authorizes the division to seek enforcement through an injunction, civil penalties,
- 29 and other relief through the judicial process;
- 30 ▶ requires fines and civil penalties to be deposited into the Consumer Protection
- 31 Education and Training Fund;
- 32 ▶ requires an annual report from the division;
- 33 ▶ authorizes a private right of action to collect attorney fees and damages from a
- 34 social media company for harm incurred in relation to a violation of the
- 35 requirements established by the act;
- 36 ▶ provides a severability clause; and
- 37 ▶ makes technical and conforming changes.

38 **Money Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 This bill provides a special effective date.

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **13-2-1 (Superseded 12/31/23)**, as last amended by Laws of Utah 2022, Chapter 201

45 **13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201, 462

46 ENACTS:

47 **13-63-101**, Utah Code Annotated 1953

48 **13-63-102**, Utah Code Annotated 1953

49 **13-63-103**, Utah Code Annotated 1953

50 **13-63-201**, Utah Code Annotated 1953

51 **13-63-202**, Utah Code Annotated 1953

52 **13-63-203**, Utah Code Annotated 1953

53 **13-63-301**, Utah Code Annotated 1953

54 **13-63-401**, Utah Code Annotated 1953

55 **13-63-501**, Utah Code Annotated 1953



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

58 Section 1. Section **13-2-1 (Superseded 12/31/23)** is amended to read:

59 **13-2-1 (Superseded 12/31/23). Consumer protection division established --**
60 **Functions.**

61 (1) There is established within the Department of Commerce the Division of Consumer
62 Protection.

63 (2) The division shall administer and enforce the following:

64 (a) Chapter 5, Unfair Practices Act;

65 (b) Chapter 10a, Music Licensing Practices Act;

66 (c) Chapter 11, Utah Consumer Sales Practices Act;

67 (d) Chapter 15, Business Opportunity Disclosure Act;

68 (e) Chapter 20, New Motor Vehicle Warranties Act;

69 (f) Chapter 21, Credit Services Organizations Act;

70 (g) Chapter 22, Charitable Solicitations Act;

71 (h) Chapter 23, Health Spa Services Protection Act;

72 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;

73 (j) Chapter 26, Telephone Fraud Prevention Act;

74 (k) Chapter 28, Prize Notices Regulation Act;

75 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
76 Transaction Information Act;

77 (m) Chapter 34, Utah Postsecondary Proprietary School Act;

78 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;

79 (o) Chapter 41, Price Controls During Emergencies Act;

80 (p) Chapter 42, Uniform Debt-Management Services Act;

81 (q) Chapter 49, Immigration Consultants Registration Act;

82 (r) Chapter 51, Transportation Network Company Registration Act;

83 (s) Chapter 52, Residential Solar Energy Disclosure Act;

84 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;

85 (u) Chapter 54, Ticket Website Sales Act;

86 (v) Chapter 56, Ticket Transferability Act; [~~and~~]

87 (w) Chapter 57, Maintenance Funding Practices Act[-]; and

88 (x) Chapter 63, Utah Social Media Regulation Act.

89 Section 2. Section **13-2-1 (Effective 12/31/23)** is amended to read:

90 **13-2-1 (Effective 12/31/23). Consumer protection division established --**

91 **Functions.**

92 (1) There is established within the Department of Commerce the Division of Consumer
93 Protection.

94 (2) The division shall administer and enforce the following:

95 (a) Chapter 5, Unfair Practices Act;

96 (b) Chapter 10a, Music Licensing Practices Act;

97 (c) Chapter 11, Utah Consumer Sales Practices Act;

98 (d) Chapter 15, Business Opportunity Disclosure Act;

99 (e) Chapter 20, New Motor Vehicle Warranties Act;

100 (f) Chapter 21, Credit Services Organizations Act;

101 (g) Chapter 22, Charitable Solicitations Act;

102 (h) Chapter 23, Health Spa Services Protection Act;

103 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;

104 (j) Chapter 26, Telephone Fraud Prevention Act;

105 (k) Chapter 28, Prize Notices Regulation Act;

106 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
107 Transaction Information Act;

108 (m) Chapter 34, Utah Postsecondary Proprietary School Act;

109 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;

110 (o) Chapter 41, Price Controls During Emergencies Act;

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112 (q) Chapter 49, Immigration Consultants Registration Act;

113 (r) Chapter 51, Transportation Network Company Registration Act;

114 (s) Chapter 52, Residential Solar Energy Disclosure Act;

115 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;

116 (u) Chapter 54, Ticket Website Sales Act;

117 (v) Chapter 56, Ticket Transferability Act;

118 (w) Chapter 57, Maintenance Funding Practices Act; ~~and~~

119 (x) Chapter 61, Utah Consumer Privacy Act~~[-];~~ and

120 (y) Chapter 63, Utah Social Media Regulation Act.

121 Section 3. Section **13-63-101** is enacted to read:

122 **CHAPTER 63. UTAH SOCIAL MEDIA REGULATION ACT**

123 **Part 1. General Requirements**

124 **13-63-101. Definitions.**

125 As used in this chapter:

126 (1) "Acceptable form of identification" means:

127 (a) a currently valid driver license;

128 (b) a birth certificate;

129 (c) a currently valid passport; or

130 (d) a currently valid identification card or certificate issued by:

131 (i) a state; or

132 (ii) a branch, department, or agency of the United States.

133 (2) "Account holder" means a person who has, or opens, an account to use a social
134 media company's platform.

135 (3) "Addicted" means to knowingly or negligently cause addiction through any act or
136 omission or any combination of acts or omissions.

137 (4) "Addiction" means use of one or more social media platforms that:

138 (a) indicates preoccupation or obsession with, or withdrawal or difficulty to cease or
139 reduce use of, a social media platform despite the user's desire to cease or reduce that use; and

140 (b) causes physical, mental, emotional, developmental, or material harms to the user.

141 (5) "Director" means the director of the Division of Consumer Protection created in
142 Section [13-2-1](#).

143 (6) "Division" means the Division of Consumer Protection created in Section [13-2-1](#).

144 (7) (a) "Interactive computer service" means any information service, information
145 system, or information access software provider that:

146 (i) provides or enables computer access by multiple users to a computer server; and

147 (ii) provides access to the Internet.

148 (b) "Interactive computer service" includes:

149 (i) a web service;

150 (ii) a web system;

151 (iii) a website;

152 (iv) a web application; or

153 (v) a web portal.

154 (8) "Minor" means an individual who is under the age of 18 and has not been
155 emancipated as that term is defined in Section 80-7-102.

156 (9) "Post" means content that an account holder makes available on the account
157 holder's account for other account holders or users to view.

158 (10) "Social media company" means any domestic business entity or foreign business
159 entity that provides a social media platform that:

160 (a) has at least 10,000,000 account holders; and

161 (b) is an interactive computer service.

162 (11) (a) "Social media platform" means an online forum that a social media company
163 makes available for an account holder to:

164 (i) create a profile;

165 (ii) upload posts;

166 (iii) view the posts of other account holders; and

167 (iv) interact with other account holders or users.

168 (b) "Social media platform" does not include an online service, website, or application:

169 (i) where the predominant or exclusive function is:

170 (A) electronic mail;

171 (B) direct messaging;

172 (C) a streaming service that:

173 (I) provides only licensed media in a continuous flow from the service, website, or
174 application to the end user; and

175 (II) does not obtain a license to the media from a user by agreement to its terms of
176 service;

177 (D) online shopping or e-commerce, if the interaction with other users or account
178 holders is generally limited to:

179 (I) the ability to post and comment on reviews;

180 (II) the ability to display lists or collections of goods for sale or wish lists; and

181 (III) other functions that are focused on online shopping or e-commerce rather than
182 interaction between users or account holders;

183 (E) business to business software that is not accessible to the general public;
184 (F) cloud storage or shared document collaboration;
185 (G) providing access to or interacting with data visualization platforms, libraries, or
186 hubs;
187 (H) to permit comments on a digital news website, if the news content is posted only
188 by the provider of the digital news website; or
189 (I) for the purpose of providing or obtaining technical support for the social media
190 platform;
191 (ii) where:
192 (A) the majority of the content that is posted or created is posted or created by the
193 provider of the online service, website, or application; and
194 (B) the ability to chat, comment, or interact with other users is directly related to the
195 provider's content; or
196 (iii) that is a classified ad service that only permits the sale of goods and prohibits the
197 solicitation of personal services.
198 (12) "User" means a person who has access to view all, or some of, the posts on a
199 social media platform, but is not an account holder.
200 (13) (a) "Utah account holder" means a person who is a Utah resident and an account
201 holder.
202 (b) "Utah account holder" includes a Utah minor account holder.
203 (14) "Utah minor account holder" means a Utah account holder who is a minor.
204 (15) "Utah resident" means a person who resides or operates in Utah and:
205 (a) if the person is an individual, has their primary residence in Utah; or
206 (b) if the person is a business entity or organization, has a principal place of business or
207 principal location in Utah.
208 Section 4. Section **13-63-102** is enacted to read:
209 **13-63-102. Age verification for use of social media platform -- Age limits --**
210 **Parental consent requirements -- Verification standards -- Retention and use restrictions.**
211 (1) Beginning January 1, 2024, a social media company may not permit a Utah resident
212 who is under the age of 16 to be an account holder on the social media company's social media
213 platform.

214 (2) Beginning January 1, 2024, a social media company shall verify the age of a Utah
215 resident before the Utah resident may:

216 (a) continue to use the Utah resident's account on the social media company's social
217 media platform if the account existed before January 1, 2024; or

218 (b) create an account with the social media company's social media platform.

219 (3) A social media company shall meet the age verification requirements of this section
220 by:

221 (a) using a third party verification service that meets the requirements of Subsection

222 (3)(b); or

223 (b) requiring submission of:

224 (i) for a Utah resident who is not a minor, an electronic copy of an acceptable form of
225 identification for that individual;

226 (ii) for a Utah resident who is a minor, the following information from a parent or
227 guardian of the individual:

228 (A) a statement that the person providing the information is a parent or legal guardian
229 of the minor seeking an account with the social media platform;

230 (B) a statement that the person providing the information consents to the minor's
231 having an account with the social media platform;

232 (C) the name and birth date of the minor;

233 (D) an electronic copy of an acceptable form of identification for the parent or
234 guardian; and

235 (E) an email address and physical mailing address for the purpose of allowing the
236 social media company to contact the parent or guardian; or

237 (iii) for a Utah resident that is a business entity or organization:

238 (A) an electronic copy of an acceptable form of identification for an individual who is a
239 principal, owner, or officer of the business entity or organization; and

240 (B) a statement confirming that the individual is authorized to act on behalf of the
241 business entity or organization.

242 (4) Notwithstanding any provision of this chapter, a social media company may not
243 permit a Utah resident who is a minor to hold or open an account on a social media platform if
244 the minor is ineligible to hold or open an account under any other provision of state or federal

245 law.

246 (5) (a) A social media company shall comply with the age verification required under
247 this section:

248 (i) for a new account, at the time a Utah resident opens the account; or

249 (ii) for a Utah account holder who has not provided age verification that is required
250 under this section, within 14 calendar days of the Utah account holder's attempt to access the
251 account.

252 (b) If a Utah account holder fails to meet the verification requirements of Subsection
253 (5)(a)(ii) within the required time period, the social media company shall deny access to the
254 account:

255 (i) upon the expiration of the time period; and

256 (ii) until all verification requirements under this section are met.

257 (6) Upon receipt of age verification or consent as required under this section, a social
258 media company shall provide confirmation of receipt of the information:

259 (a) for a Utah minor account holder, to the email and physical mailing address of the
260 parent or guardian of the Utah minor account holder; or

261 (b) for any other Utah account holder, to the account holder by a reasonable means of
262 communication.

263 (7) A social media company shall keep, or maintain access to, a record of any
264 submissions provided under the requirements of this section and:

265 (a) shall maintain that information in a secure manner; and

266 (b) may not share, allow access to, or use the information for any purpose other than:

267 (i) as a record of compliance with the requirements of this section; or

268 (ii) to verify age in accordance with the access requirements of this section.

269 Section 5. Section **13-63-103** is enacted to read:

270 **13-63-103. Social media contracts -- Consent for minors.**

271 (1) Beginning January 1, 2024, a Utah resident who is a minor is prohibited from
272 entering into a contract with an interactive computer service unless a parent or legal guardian
273 consents to the minor's acceptance of the contract by unambiguously indicating voluntary and
274 informed agreement to allowing the minor to enter into the contract.

275 (2) An interactive computer service shall provide a reasonably accessible means by

276 which a parent or legal guardian may provide consent under Subsection (1).

277 Section 6. Section **13-63-201** is enacted to read:

278 **Part 2. Enforcement by Division**

279 **13-63-201. Investigative powers of the division.**

280 (1) The division shall receive consumer complaints alleging a violation of Part 1,
281 General Requirements.

282 (2) A person may file a consumer complaint that alleges a violation under Part 1,
283 General Requirements, with the division.

284 (3) The division shall investigate a consumer complaint to determine whether a
285 violation of Part 1, General Requirements, occurred.

286 Section 7. Section **13-63-202** is enacted to read:

287 **13-63-202. Enforcement powers of the division.**

288 (1) Except for a private right of action under Section [13-63-301](#), the division has the
289 exclusive authority to administer and enforce the requirements of Part 1, General
290 Requirements.

291 (2) The attorney general, upon request, shall give legal advice to, and act as counsel
292 for, the division in the exercise of the division's responsibilities under this part.

293 (3) (a) Subject to the ability to cure an alleged violation under Subsection (4):

294 (i) the division director may impose an administrative fine of up to \$2,500 for each
295 violation of Part 1, General Requirements; and

296 (ii) the division may bring an action in a court of competent jurisdiction to enforce a
297 provision of Part 1, General Requirements.

298 (b) In a court action by the division to enforce a provision of Part 1, General
299 Requirements, the court may:

300 (i) declare that the act or practice violates a provision of Part 1, General Requirements;

301 (ii) issue an injunction for a violation of Part 1, General Requirements;

302 (iii) order disgorgement of any money received in violation of Part 1, General
303 Requirements;

304 (iv) order payment of disgorged money to an injured purchaser or consumer;

305 (v) impose a civil penalty of up to \$2,500 for each violation of Part 1, General
306 Requirements;

307 (vi) award actual damages to an injured purchaser or consumer; and
308 (vii) award any other relief that the court deems reasonable and necessary.
309 (4) (a) At least 30 days before the day on which the division initiates an enforcement
310 action against a person that is subject to the requirements of Part 1, General Requirements, the
311 division shall provide the person with:
312 (i) written notice that identifies each alleged violation; and
313 (ii) an explanation of the basis for each allegation.
314 (b) Except as provided under Subsection (4)(c), the division may not initiate an action
315 if the person:
316 (i) cures the noticed violation within 30 days after the day on which the person receives
317 the notice described in Subsection (4)(a); and
318 (ii) provides the division with a written statement that:
319 (A) the person has cured the violation; and
320 (B) no further violation will occur.
321 (c) The division may initiate a civil action against a person that:
322 (i) fails to cure a violation after receiving the notice described in Subsection (4)(a); or
323 (ii) after curing a noticed violation and providing a written statement in accordance
324 with Subsection (4)(b), commits another violation of the same provision.
325 (5) If a court of competent jurisdiction grants judgment or injunctive relief to the
326 division, the court shall award the division:
327 (a) reasonable attorney fees;
328 (b) court costs; and
329 (c) investigative fees.
330 (6) (a) A person who violates an administrative or court order issued for a violation of
331 Part 1, General Requirements, is subject to a civil penalty of no more than \$5,000 for each
332 violation.
333 (b) A civil penalty authorized under this section may be imposed in any civil action
334 brought by the division, or by the attorney general on behalf of the division.
335 (7) All money received for the payment of a fine or civil penalty imposed under this
336 section shall be deposited into the Consumer Protection Education and Training Fund
337 established in Section [13-2-8](#).

338 Section 8. Section **13-63-203** is enacted to read:

339 **13-63-203. Division report.**

340 (1) The division shall compile an annual report:

341 (a) evaluating the liability and enforcement provisions of this chapter, including:

342 (i) the effectiveness of the division's efforts to enforce this chapter; and

343 (ii) any recommendations for changes to this chapter;

344 (b) summarizing the consumer interactions that are protected and not protected by this
345 chapter, including a list of alleged violations the division has received; and

346 (c) an accounting of:

347 (i) all administrative fines and civil penalties assessed during the year;

348 (ii) all administrative fines and civil penalties collected during the year; and

349 (iii) the use of funds from the Consumer Protection Education and Training Fund.

350 (2) The division may update or correct the report as new information becomes
351 available.

352 (3) The division shall submit the report to the Business and Labor Interim Committee
353 on or before the August meeting of each interim period.

354 Section 9. Section **13-63-301** is enacted to read:

355 **Part 3. Private Right of Action**

356 **13-63-301. Private right of action.**

357 (1) A person may bring an action against a person that does not comply with the
358 requirements of Part 1, General Requirements.

359 (2) A suit filed under the authority of this section shall be filed in the district court for
360 the district in which a person bringing the action resides.

361 (3) If a court finds that a person has violated a provision of this chapter, the person who
362 brings an action under this section is entitled to:

363 (a) an award of reasonable attorney fees and court costs; and

364 (b) an amount equal to the greater of:

365 (i) \$2,500 per each incident of violation; or

366 (ii) actual damages for financial, physical, and emotional harm incurred by the person
367 bringing the action, if the court determines that the harm is a direct consequence of the
368 violation or violations.

369 Section 10. Section **13-63-401** is enacted to read:

370 **Part 4. Social Media Design Regulations**

371 **13-63-401. Social media platform design regulations -- Penalties.**

372 (1) The division shall administer and enforce the provisions of this section.

373 (2) A social media company shall not use a practice, design, or feature on the
374 company's social media platform that the social media company knows, or which by the
375 exercise of reasonable care should know, causes a Utah minor account holder to become
376 addicted to the social media platform.

377 (3) (a) Subject to Subsection (3)(b), a social media company that violates this section is
378 subject to a civil penalty not to exceed \$250,000 per violation.

379 (b) A social media company shall not be subject to a civil penalty for violating this
380 section if the social media company, as an affirmative defense, demonstrates that the social
381 media company:

382 (i) instituted and maintained a program of at least quarterly audits of the social media
383 company's practices, designs, and features to detect practices, designs, or features that have the
384 potential to cause or contribute to the addiction of a child user; and

385 (ii) corrected, within 30 days of the completion of an audit described in Subsection
386 (4)(a), any practice, design, or feature discovered by the audit to present more than a de
387 minimus risk of violating this section.

388 (c) In a court action by the division to enforce this section, the court may, in addition to
389 a civil penalty:

390 (i) declare that the act or practice violates a provision of this section;

391 (ii) issue an injunction for a violation of this section;

392 (iii) award actual damages to an injured purchaser or consumer; and

393 (iv) award any other relief that the court deems reasonable and necessary.

394 (4) Nothing in this section may be construed to impose liability for a social media
395 company for any of the following:

396 (a) content that is generated by an account holder, or uploaded to or shared on the
397 platform by an account holder, that may be encountered by another account holder;

398 (b) passively displaying content that is created entirely by a third party;

399 (c) information or content for which the social media company was not, in whole or in

400 part, responsible for creating or developing; or

401 (d) any conduct by a social media company involving a Utah account holder who is a
402 minor that would otherwise be protected by federal or Utah law.

403 (5) If a court of competent jurisdiction grants judgment or injunctive relief to the
404 division, the court shall award the division:

405 (a) reasonable attorney fees;

406 (b) court costs; and

407 (c) investigative fees.

408 (6) Nothing in this section may be construed to negate or limit a cause of action that
409 may have existed or exists against a social media company under the law as it existed before
410 the effective date of this section.

411 Section 11. Section **13-63-501** is enacted to read:

412 **Part 5. Severability**

413 **13-63-501. Severability.**

414 If any provision of this chapter or the application of any provision to any person or
415 circumstance is held invalid by a final decision of a court of competent jurisdiction, the
416 remainder of this chapter shall be given effect without the invalid provision or application. The
417 provisions of this chapter are severable.

418 Section 12. **Effective date.**

419 This bill takes effect on May 3, 2023 with the exception of [13-2-1](#) (Effective 12/31/23)
420 which takes effect on 12/31/2023.