

HB0311S03 compared with HB0311

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LONG TITLE

General Description:

This bill regulates ~~{interactive computer services}~~ social media companies and the use and design of social media platforms.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts the Utah Social Media Regulation Act;
- ~~{~~ → requires a social media company to verify the age of Utah residents;
- prohibits a Utah resident who is under the age of 16 from holding an account for the use of certain social media platforms;
- requires a social media company to obtain the consent of a parent or guardian before a Utah resident under the age of 18 may open or continue to use an account on a social media platform;
- prohibits a Utah resident who is a minor from entering into a contract online unless the minor's parent or legal guardian consents;
- ‡ ▶ prohibits a social media company from using a design or feature that ~~{the company knows }~~ causes a minor to ~~{become addicted}~~ have an addiction to ~~{a}~~ the company's social media platform;
- ▶ ~~{directs}~~ grants the Division of Consumer Protection ~~{to receive and investigate complaints of violations of the requirements established under the act and impose administrative fines for violations;~~
- authorizes the division to seek enforcement through an injunction, civil penalties, and other relief through the judicial process;
- requires fines and civil penalties to be deposited into the Consumer Protection Education and Training Fund;

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~~requires an annual report from the division~~ enforcement and auditing authority to enforce requirements under the act;

- ▶ authorizes a private right of action to collect attorney fees and damages from a social media company for harm incurred ~~{in relation to a violation of the requirements established by the act;~~

~~by a minor's use of the company's social media platform;~~ by a minor's use of the company's social media platform;

- ▶ creates a rebuttable presumption that harm and causation occurred in some circumstances;
- ▶ prohibits certain waivers;
- ▶ provides a severability clause; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Superseded 12/31/23), as last amended by Laws of Utah 2022, Chapter 201

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

ENACTS:

13-63-101, Utah Code Annotated 1953

~~{ 13-63-102, Utah Code Annotated 1953~~

~~13-63-103, Utah Code Annotated 1953~~

~~‡ 13-63-201, Utah Code Annotated 1953~~

~~{ 13-63-202, Utah Code Annotated 1953~~

~~13-63-203, Utah Code Annotated 1953~~

~~‡ 13-63-301, Utah Code Annotated 1953~~

13-63-401, Utah Code Annotated 1953

13-63-501, Utah Code Annotated 1953

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

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

TITLE 13. COMMERCE AND TRADE

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

Functions.

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

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

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 41, Price Controls During Emergencies Act;
- (p) Chapter 42, Uniform Debt-Management Services Act;
- (q) Chapter 49, Immigration Consultants Registration Act;
- (r) Chapter 51, Transportation Network Company Registration Act;
- (s) Chapter 52, Residential Solar Energy Disclosure Act;
- (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (u) Chapter 54, Ticket Website Sales Act;
- (v) Chapter 56, Ticket Transferability Act; ~~and~~
- (w) Chapter 57, Maintenance Funding Practices Act~~[-];~~ and

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

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

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

Functions.

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

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

(a) Chapter 5, Unfair Practices Act;

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

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

(d) Chapter 15, Business Opportunity Disclosure Act;

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

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

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

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

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter

Transaction Information Act;

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

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

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

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

(q) Chapter 49, Immigration Consultants Registration Act;

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

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

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

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act;

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

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

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

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

CHAPTER 63. UTAH SOCIAL MEDIA REGULATION ACT

Part 1. General Requirements

13-63-101. Definitions.

As used in this chapter:

~~{ (1) "Acceptable form of identification" means:~~

~~— (a) a currently valid driver license;~~

~~— (b) a birth certificate;~~

~~— (c) a currently valid passport; or~~

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

~~— (i) a state; or~~

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

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

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

~~{~~ (4) "Addiction" means use of ~~one or more~~ a social media ~~platforms~~ platform that:

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

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

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

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

(7) "Educational entity" means a public school, an LEA, a charter school, the Utah Schools for the Deaf and Blind, a private school, a denominational school, a parochial school, a community college, a state college, a state university, or a nonprofit private postsecondary

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educational institution.

~~(7)6~~ (a) "Interactive computer service" means ~~any~~ an information service, information system, or information access software provider that:

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

(ii) provides access to the Internet.

(b) "Interactive computer service" includes:

(i) a web service;

(ii) a web system;

(iii) a website;

(iv) a web application; or

(v) a web portal.

~~(8)7~~ "Minor" means an individual who is under the age of 18 and:

(a) has not been emancipated as that term is defined in Section 80-7-102; or

(b) has not been married.

~~(9)8~~ "Post" means content that an account holder makes available on ~~the account holder's account~~ a social media platform for other account holders or users to view.

~~(10)9~~ "Social media company" means ~~any domestic business entity~~ a person or ~~foreign business~~ entity that:

(a) provides a social media platform that:

~~(a) } has at least ~~(10)5~~ 5,000,000 account holders~~ worldwide; and

(b) is an interactive computer service.

~~(11)10~~ (a) "Social media platform" means an online forum that a social media company makes available for an account holder to:

(i) create a profile;

(ii) upload posts;

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

(iv) interact with other account holders or users.

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

(i) where the predominant or exclusive function is:

(A) electronic mail;

(B) direct messaging consisting of text, photos, or videos that are sent between devices

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by electronic means, where messages are:

(I) shared between the sender and the recipient;

(II) only visible to the sender and the recipient; and

(III) are not posted publicly;

(C) a streaming service that:

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

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

(D) news, sports, entertainment, or other content that is preselected by the provider and not user generated, and any chat, comment, or interactive functionality that is provided incidental to, directly related to, or dependent upon provision of the content;

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

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

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

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

(~~E~~)F) interactive gaming, virtual gaming, or an online service, that allows the creation and uploading of content for the purpose of interactive gaming, edutainment, or associated entertainment, and the communication related to that content;

(G) photo editing that has an associated photo hosting service, if the interaction with other users or account holders is generally limited to liking or commenting;

(H) a professional creative network for showcasing and discovering artistic content, if the content is required to be non-pornographic;

(I) single-purpose community groups for public safety if:

(I) the interaction with other users or account holders is generally limited to that single purpose; and

(II) the community group has guidelines or policies against illegal content;

(J) providing career development opportunities, including professional networking, job skills, learning certifications, and job posting and application services;

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(K) business to business software ~~that is not accessible to the general public;~~

~~(F);~~

(L) a teleconferencing or videoconferencing service that allows reception and transmission of audio and video signals for real time communication;

(M) cloud storage ~~for~~;

(N) shared document collaboration;

(O) cloud computing services, which may include cloud storage and shared document collaboration;

~~(G)P~~ providing access to or interacting with data visualization platforms, libraries, or hubs;

~~(H)Q~~ to permit comments on a digital news website, if the news content is posted only by the provider of the digital news website; ~~for~~

~~(H)R~~ ~~for the purpose of~~ providing or obtaining technical support for ~~the social media~~ a platform, product, or service;

(S) academic or scholarly research; or

(T) genealogical research; or

(ii) where:

(A) the majority of the content that is posted or created is posted or created by the provider of the online service, website, or application; and

(B) the ability to chat, comment, or interact with other users is directly related to the provider's content; ~~for~~

(iii) that is a classified ad service that only permits the sale of goods and prohibits the solicitation of personal services; or

(iv) that is used by and under the direction of an educational entity, including:

(A) a learning management system;

(B) a student engagement program; and

(C) a subject or skill-specific program.

~~(12)11~~ "User" means a person who has access to view all, or some of, the posts on a social media platform, but is not an account holder.

~~(13)12~~ (a) "Utah account holder" means a person who is a Utah resident and an account holder.

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(b) "Utah account holder" includes a Utah minor account holder.

~~{14}~~13 "Utah minor account holder" means a Utah account holder who is a minor.

~~{15}~~14 "Utah resident" means ~~fa person who resides or operates in Utah and:~~

~~— (a) if the person is }an individual{, has their primary residence in Utah; or~~

~~— (b) if the person is a business entity or organization, has a principal place of business or principal location} who currently resides in Utah.~~

Section 4. Section ~~{13-63-102}~~13-63-201 is enacted to read:

~~{13-63-102. Age verification for use of social media platform -- Age limits -- Parental consent requirements -- Verification standards -- Retention and use restrictions:~~

~~(1) Beginning January 1, 2024, a social media company may not permit a Utah resident who is under the age of 16 to be an account holder on the social media company's social media platform.~~

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

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

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

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

~~(a) using a third party verification service that meets the requirements of Subsection (3)(b); or~~

~~(b) requiring submission of:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(7) A social media company shall keep, or maintain access to, a record of any~~

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~~submissions provided under the requirements of this section and:~~

- ~~(a) shall maintain that information in a secure manner; and~~
- ~~(b) may not share, allow access to, or use the information for any purpose other than:
 - ~~(i) as a record of compliance with the requirements of this section; or~~
 - ~~(ii) to verify age in accordance with the access requirements of this section.~~~~

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

~~13-63-103. Social media contracts -- Consent for minors.~~

- ~~(1) Beginning January 1, 2024, a Utah resident who is a minor is prohibited from entering into a contract with an interactive computer service unless a parent or legal guardian consents to the minor's acceptance of the contract by unambiguously indicating voluntary and informed agreement to allowing the minor to enter into the contract.~~
- ~~(2) An interactive computer service shall provide a reasonably accessible means by which a parent or legal guardian may provide consent under Subsection (1):~~

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

~~Part 2. Enforcement by Division~~

~~13-63-201. Investigative powers of the division.~~

- ~~(1) The division shall receive consumer complaints alleging a violation of Part 1, General Requirements:~~
- ~~(2) A person may file a consumer complaint that alleges a violation under Part 1, General Requirements, with the division.~~
- ~~(3) The division shall investigate a consumer complaint to determine whether a violation of Part 1, General Requirements, occurred.~~

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

~~13-63-202. Enforcement powers of the division.~~

- ~~(1) Except for a private right of action under Section 13-63-301, the division has the exclusive authority to administer and enforce the requirements of Part 1, General Requirements:~~
- ~~(2) The attorney general, upon request, shall give legal advice to, and act as counsel for, the division in the exercise of the division's responsibilities under this part.~~
- ~~(3) (a) Subject to the ability to cure an alleged violation under Subsection (4):
 - ~~(i) the division director may impose an administrative fine of up to \$2,500 for each~~~~

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~~violation of Part 1, General Requirements; and~~

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

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

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

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

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

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

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

~~(vi) award actual damages to an injured purchaser or consumer; and~~

~~(vii) award any other relief that the court deems reasonable and necessary.~~

~~(4) (a) At least 30 days before the day on which the division initiates an enforcement action against a person that is subject to the requirements of Part 1, General Requirements, the division shall provide the person with:~~

~~(i) written notice that identifies each alleged violation; and~~

~~(ii) an explanation of the basis for each allegation.~~

~~(b) Except as provided under Subsection (4)(c), the division may not initiate an action if the person:~~

~~(i) cures the noticed violation within 30 days after the day on which the person receives the notice described in Subsection (4)(a); and~~

~~(ii) provides the division with a written statement that:~~

~~(A) the person has cured the violation; and~~

~~(B) no further violation will occur.~~

~~(c) The division may initiate a civil action against a person that:~~

~~(i) fails to cure a violation after receiving the notice described in Subsection (4)(a); or~~

~~(ii) after curing a noticed violation and providing a written statement in accordance with Subsection (4)(b), commits another violation of the same provision.~~

~~(5) If a court of competent jurisdiction grants judgment or injunctive relief to the~~

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~~division, the court shall award the division:~~

~~(a) reasonable attorney fees;~~

~~(b) court costs; and~~

~~(c) investigative fees.~~

~~(6) (a) A person who violates an administrative or court order issued for a violation of Part 1, General Requirements, is subject to a civil penalty of no more than \$5,000 for each violation.~~

~~(b) A civil penalty authorized under this section may be imposed in any civil action brought by the division, or by the attorney general on behalf of the division.~~

~~(7) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund established in Section 13-2-8.~~

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

~~13-63-203. Division report.~~

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

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

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

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

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

~~(c) an accounting of:~~

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

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

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

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

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

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

~~Part 3. Private Right of Action~~

~~13-63-301. Private right of action.~~

~~(1) A person may bring an action against a person that does not comply with the~~

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requirements of Part 1, General Requirements:

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

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

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

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

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

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

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

~~Part 4~~**Part 2**. Social Media Design Regulations

~~13-63-401~~**13-63-201**. Social media platform design regulations -- **Enforcement and auditing authority** -- Penalties.

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

~~(b)~~ **The division may audit the records of a social media company in order to determine compliance with the requirements of this section or to investigate a complaint, including a random sample of a social media company's records and other audit methods.**

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

(3) **Beginning March 1, 2024:**

(a) Subject to Subsection (3)(b), a social media company ~~that violates this section~~ is subject to:

~~(i) a civil penalty not to exceed \$250,000 per violation~~**of \$250,000 for each practice, design, or feature shown to have caused addiction; and**

~~(ii) a civil penalty of up to \$2,500 for each Utah minor account holder who is shown to have been exposed to the practice, design, or feature found to have caused addiction under Subsection (3)(a)(i).~~

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

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

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

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

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

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

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

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

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

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

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

(c) information or content for which the social media company was not, in whole or in part, responsible for creating or developing; or

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

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

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

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

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the effective date of this section.

(7) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund established in Section 13-2-8.

Section ~~{11}5~~. Section ~~{13-63-501}~~13-63-301 is enacted to read:

Part 3. Harm to a Minor by a Social Media Company -- Private Right of Action

13-63-301. Private right of action for harm to a minor -- Rebuttable presumption of harm and causation.

(1) Beginning March 1, 2024, a person may bring an action under this section against a social media company to recover damages incurred after March 1, 2024 by a Utah minor account holder for any addiction, financial, physical, or emotional harm suffered as a consequence of using or having an account on the social media company's social media platform.

(2) A suit filed under the authority of this section shall be filed in the district court for the district in which the Utah minor account holder resides.

(3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder has been harmed as a consequence of using or having an account on the social media company's social media platform, the minor seeking relief under this section is entitled to:

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

(b) an amount equal to the greater of:

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

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

(4) If a Utah minor account holder seeking recovery of damages under this section is under the age of 16, there shall be a rebuttable presumption that the harm actually occurred and that the harm was caused as a consequence of using or having an account on the social media company's social media platform.

Section 6. Section 13-63-401 is enacted to read:

Part 4. Waiver Prohibited

13-63-401. Waiver prohibited.

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A waiver or limitation, or a purported waiver or limitation, of any of the following is void as unlawful, is against public policy, and a court or arbitrator may not enforce or give effect to the waiver, notwithstanding any contract or choice-of-law provision in a contract:

- (1) a protection or requirement provided under this chapter;
- (2) the right to cooperate with the division or to file a complaint with the division; or
- (3) the right to a private right of action as provided under this chapter.

Section 7. Section 13-63-501 is enacted to read:

Part 5. Severability

13-63-501. Severability.

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

Section ~~{12}~~8. **Effective date.**

~~{This}~~(1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023 ~~with the exception of~~.

(2) The actions affecting Section 13-2-1 (Effective ~~{12/31/23}~~12/31/2023) ~~which~~ takes ~~take~~ effect on ~~{12/31/2023}~~December 31, 2023.