

SOCIAL MEDIA REGULATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill enacts provisions related to the regulation of social media companies and 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;
- ▶ requires a social media company to obtain the consent of a parent or guardian before a Utah resident under the age of 18 may maintain or open an account;
- ▶ prohibits a social media company from permitting a person to open an account if that person does not meet age requirements under state or federal law;
- ▶ requires that for accounts held by a Utah resident who is under the age of 18, certain social media companies:
 - shall prohibit direct messaging with certain accounts;
 - may not show a minor's account in search results;
 - may not display advertising;
 - may not collect, share, or use personal information from the account, with certain exceptions;
 - may not target or suggest ads, accounts, or content; and



- 28 • shall limit hours of access, subject to parental or guardian direction;
- 29 ▶ requires a social media company to provide a parent or guardian access to the
- 30 content and interactions of an account held by a Utah resident under the age of 18;
- 31 ▶ directs the Division of Consumer Protection to receive and investigate complaints
- 32 of violations of the requirements established under the act and impose
- 33 administrative fines for violations;
- 34 ▶ authorizes the division to seek enforcement through an injunction, civil penalties,
- 35 and other relief through the judicial process;
- 36 ▶ requires fines and civil penalties to be deposited into the Consumer Protection
- 37 Education and Training Fund;
- 38 ▶ requires an annual report from the division;
- 39 ▶ authorizes a private right of action to collect attorney fees and damages from a
- 40 social media company for harm incurred in relation to a violation of the
- 41 requirements established by the act; and
- 42 ▶ provides a severability clause.

43 **Money Appropriated in this Bill:**

44 None

45 **Other Special Clauses:**

46 This bill provides a special effective date.

47 **Utah Code Sections Affected:**

48 AMENDS:

49 **13-2-1 (Superseded 12/31/23)**, as last amended by Laws of Utah 2022, Chapter 201

50 **13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201, 462

51 ENACTS:

52 **13-63-101**, Utah Code Annotated 1953

53 **13-63-102**, Utah Code Annotated 1953

54 **13-63-103**, Utah Code Annotated 1953

55 **13-63-104**, Utah Code Annotated 1953

56 **13-63-105**, Utah Code Annotated 1953

57 **13-63-201**, Utah Code Annotated 1953

58 **13-63-202**, Utah Code Annotated 1953

- 59 **13-63-203**, Utah Code Annotated 1953
- 60 **13-63-301**, Utah Code Annotated 1953
- 61 **13-63-401**, Utah Code Annotated 1953



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

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

65 **TITLE 13. COMMERCE AND TRADE**

66 **13-2-1 (Superseded 12/31/23). Consumer protection division established --**

67 **Functions.**

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

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

- 71 (a) Chapter 5, Unfair Practices Act;
- 72 (b) Chapter 10a, Music Licensing Practices Act;
- 73 (c) Chapter 11, Utah Consumer Sales Practices Act;
- 74 (d) Chapter 15, Business Opportunity Disclosure Act;
- 75 (e) Chapter 20, New Motor Vehicle Warranties Act;
- 76 (f) Chapter 21, Credit Services Organizations Act;
- 77 (g) Chapter 22, Charitable Solicitations Act;
- 78 (h) Chapter 23, Health Spa Services Protection Act;
- 79 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 80 (j) Chapter 26, Telephone Fraud Prevention Act;
- 81 (k) Chapter 28, Prize Notices Regulation Act;
- 82 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
83 Transaction Information Act;
- 84 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 85 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 86 (o) Chapter 41, Price Controls During Emergencies Act;
- 87 (p) Chapter 42, Uniform Debt-Management Services Act;
- 88 (q) Chapter 49, Immigration Consultants Registration Act;
- 89 (r) Chapter 51, Transportation Network Company Registration Act;

- 90 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 91 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 92 (u) Chapter 54, Ticket Website Sales Act;
- 93 (v) Chapter 56, Ticket Transferability Act; [~~and~~]
- 94 (w) Chapter 57, Maintenance Funding Practices Act[-]; and
- 95 (x) Chapter 63, Utah Social Media Regulation Act.

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

97 **13-2-1 (Effective 12/31/23). Consumer protection division established --**

98 **Functions.**

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

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

- 102 (a) Chapter 5, Unfair Practices Act;
- 103 (b) Chapter 10a, Music Licensing Practices Act;
- 104 (c) Chapter 11, Utah Consumer Sales Practices Act;
- 105 (d) Chapter 15, Business Opportunity Disclosure Act;
- 106 (e) Chapter 20, New Motor Vehicle Warranties Act;
- 107 (f) Chapter 21, Credit Services Organizations Act;
- 108 (g) Chapter 22, Charitable Solicitations Act;
- 109 (h) Chapter 23, Health Spa Services Protection Act;
- 110 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 111 (j) Chapter 26, Telephone Fraud Prevention Act;
- 112 (k) Chapter 28, Prize Notices Regulation Act;
- 113 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
114 Transaction Information Act;
- 115 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 116 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 117 (o) Chapter 41, Price Controls During Emergencies Act;
- 118 (p) Chapter 42, Uniform Debt-Management Services Act;
- 119 (q) Chapter 49, Immigration Consultants Registration Act;
- 120 (r) Chapter 51, Transportation Network Company Registration Act;

- 121 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 122 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 123 (u) Chapter 54, Ticket Website Sales Act;
- 124 (v) Chapter 56, Ticket Transferability Act;
- 125 (w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]
- 126 (x) Chapter 61, Utah Consumer Privacy Act[-]; and
- 127 (y) Chapter 63, Utah Social Media Regulation Act.

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

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

130 **Part 1. General Requirements**

131 **13-63-101. Definitions.**

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

133 (a) a currently valid driver license;

134 (b) a birth certificate;

135 (c) a currently valid passport; or

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

137 (i) a state; or

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

139 (2) "Account holder" means a person who has, or opens, an account to use a social
140 media platform.

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

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

144 (5) "Friending" means the process of two account holders mutually agreeing to allow
145 each other to access, view, or interact with the posts on the other account holder's account at a
146 level of engagement that is higher than that allowed for account holders who have not made
147 such a mutual agreement.

148 (6) (a) "Interactive computer service" means any information service, information
149 system, or information access software provider that:

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

151 (ii) provides access to the Internet.

152 (b) "Interactive computer service" includes:

153 (i) a web service;

154 (ii) a web system;

155 (iii) a website;

156 (iv) a web application; or

157 (v) a web portal.

158 (7) "Minor" means an individual who is under the age of 18 and has not been

159 emancipated as that term is defined in Section [80-7-102](#).

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

162 (9) "Social media company" means any domestic business entity or foreign business
163 entity that:

164 (a) provides a social media platform that has at least 10,000,000 account holders; and

165 (b) is an interactive computer service.

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

168 (i) create a profile;

169 (ii) upload posts;

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

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

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

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

174 (A) electronic mail;

175 (B) direct messaging;

176 (C) a streaming service that:

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

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

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

183 (I) the ability to post and comment on reviews;
 184 (II) the ability to display lists or collections of goods for sale or wish lists; and
 185 (III) other functions that are focused on online shopping or e-commerce rather than
 186 interaction between users or account holders;

187 (E) business to business software that is not accessible to the general public;
 188 (F) cloud storage or shared document collaboration;
 189 (G) providing access to or interacting with data visualization platforms, libraries, or
 190 hubs;

191 (H) to permit comments on a digital news website, if the news content is posted only
 192 by the provider of the digital news website; or

193 (I) for the purpose of providing or obtaining technical support for the social media
 194 platform;

195 (ii) where:

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

198 (B) the ability to chat, comment, or interact with other account holders is directly
 199 related to the provider's content; or

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

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

204 (12) (a) "Utah account holder" means a person that is a Utah resident and an account
 205 holder.

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

207 (13) "Utah minor account holder" means a Utah account holder who is a minor.

208 (14) "Utah resident" means a person who resides or operates in Utah and:

209 (a) if the person is an individual, has their primary residence in Utah; or

210 (b) if the person is a business entity or organization, has a principal place of business or
 211 principal location in Utah.

212 Section 4. Section **13-63-102** is enacted to read:

213 **13-63-102. Age verification for use of social media platform -- Age limits --**

214 **Parental consent requirements -- Verification standards -- Retention and use restrictions.**

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

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

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

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

222 (a) using a third party verification service that meets the requirements of Subsection
223 (2)(b); or

224 (b) requiring submission of:

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

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

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

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

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

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

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

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

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

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

243 (3) Notwithstanding any provision of this chapter, a social media company may not
244 permit a Utah resident who is a minor to hold or open an account on a social media platform if

245 the minor is ineligible to hold or open an account under any other provision of state or federal
246 law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

271 **13-63-103. Prohibition on data collection for certain accounts -- Prohibition on**
272 **advertising -- Use of information -- Search results -- Directed content.**

273 Beginning January 1, 2024, a social media company, for a social media platform
274 account held by a Utah minor account holder:

275 (1) shall prohibit direct messaging between the account and any other user that is not

276 linked to the account through friending;

277 (2) may not show the account in search results for any user that is not linked to the
278 account through friending;

279 (3) shall prohibit the display of any advertising in the account;

280 (4) shall not collect or use any personal information from the posts, content, messages,
281 text, or usage activities of the account other than information that is necessary to comply with,
282 and to verify compliance with, state or federal law, which information includes a parent or
283 guardian's name, a birth date, and any other information required to be submitted under this
284 section; and

285 (5) shall prohibit the use of targeted or suggested groups, services, products, posts,
286 accounts, or users in the account.

287 Section 6. Section **13-63-104** is enacted to read:

288 **13-63-104. Parental access to social media account.**

289 Beginning January 1, 2024, a social media company shall provide a parent or guardian
290 who has given parental consent for a Utah minor account holder under Section [13-63-102](#) with
291 a password or other means for the parent or guardian to access the account, which shall allow
292 the parent or guardian to view:

293 (1) all posts the Utah minor account holder makes under the social media platform
294 account; and

295 (2) all responses and messages sent to or by the Utah minor account holder in the social
296 media platform account.

297 Section 7. Section **13-63-105** is enacted to read:

298 **13-63-105. Limited hours of access for minors -- Parental access and options.**

299 (1) Beginning January 1, 2024, a social media company shall prohibit a Utah minor
300 account holder from having access to the Utah minor account holder's account during the hours
301 of 10:30 p.m. to 6:30 a.m., subject to the other provisions of this section.

302 (2) Time of day under this section shall be calculated based on the Internet protocol
303 address being used by the Utah minor account holder at the time of attempting access.

304 (3) A social media company shall provide options for a parent or guardian with access
305 to the account under Section [13-63-104](#) to:

306 (a) change or eliminate the time-of-day restriction described in Subsection (1); and

307 (b) set a limit on the number of hours per day that a Utah minor account holder may
308 use the account.

309 (4) A social media company shall not permit a Utah minor account holder to change or
310 bypass restrictions on access under this section.

311 (5) Notwithstanding any provision of this section, a social media company shall permit
312 a parent or guardian with access to an account under Section 13-63-104 to access the account
313 without time restrictions.

314 Section 8. Section 13-63-201 is enacted to read:

315 **Part 2. Enforcement by Division**

316 **13-63-201. Investigative powers of the division.**

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

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

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

323 Section 9. Section 13-63-202 is enacted to read:

324 **13-63-202. Enforcement powers of the division.**

325 (1) Except for a private right of action under Section 13-63-301, the division has the
326 exclusive authority to administer and enforce the requirements of Part 1, General
327 Requirements.

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

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

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

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

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

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

338 (ii) issue an injunction for a violation of Part 1, General Requirements;
339 (iii) order disgorgement of any money received in violation of Part 1, General
340 Requirements;
341 (iv) order payment of disgorged money to an injured purchaser or consumer;
342 (v) impose a civil penalty of up to \$2,500 for each violation of Part 1, General
343 Requirements;
344 (vi) award actual damages to an injured purchaser or consumer; and
345 (vii) award any other relief that the court deems reasonable and necessary.
346 (4) (a) At least 30 days before the day on which the division initiates an enforcement
347 action against a person that is subject to the requirements of Part 1, General Requirements, the
348 division shall provide the person with:
349 (i) written notice that identifies each alleged violation; and
350 (ii) an explanation of the basis for each allegation.
351 (b) Except as provided under Subsection (4)(c), the division may not initiate an action
352 if the person:
353 (i) cures the noticed violation within 30 days after the day on which the person receives
354 the written notice described in Subsection (4)(a); and
355 (ii) provides the division with a written statement that:
356 (A) the person has cured the violation; and
357 (B) no further violation will occur.
358 (c) The division may initiate a civil action against a person that:
359 (i) fails to cure a violation after receiving the notice described in Subsection (4)(a); or
360 (ii) after curing a noticed violation and providing a written statement in accordance
361 with Subsection (4)(b), commits another violation of the same provision.
362 (5) If a court of competent jurisdiction grants judgment or injunctive relief to the
363 division, the court shall award the division:
364 (a) reasonable attorney fees;
365 (b) court costs; and
366 (c) investigative fees.
367 (6) (a) A person who violates an administrative or court order issued for a violation of
368 Part 1, General Requirements, is subject to a civil penalty of no more than \$5,000 for each

369 violation.

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

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

375 Section 10. Section **13-63-203** is enacted to read:

376 **13-63-203. Division report.**

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

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

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

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

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

383 (c) an accounting of:

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

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

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

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

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

391 Section 11. Section **13-63-301** is enacted to read:

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

393 **13-63-301. Private right of action.**

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

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

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

- 400 (a) an award of reasonable attorney fees and court costs; and
401 (b) an amount equal to the greater of:
402 (i) \$2,500 per each incident of violation; or
403 (ii) actual damages for financial, physical, and emotional harm incurred by the person
404 bringing the action, if the court determines that the harm is a direct consequence of the
405 violation or violations.

406 Section 12. Section ~~13-63-401~~ is enacted to read:

407 **Part 4. Severability**

408 **13-63-401. Severability.**

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

413 Section 13. **Effective date.**

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