

Senator Michael K. McKell proposes the following substitute bill:

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 a Utah resident seeking to maintain or open a social media account;
- ▶ 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 Utah resident 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 minor, certain social media companies:
 - shall prohibit direct messaging with certain accounts;
 - may not show the minor's account in search results;
 - may not display advertising;
 - may not collect, share, or use personal information from the account, with



- 26 certain exceptions;
- 27 • 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;
 - 42 ▶ prohibits certain waivers; and
 - 43 ▶ provides a severability clause.

44 **Money Appropriated in this Bill:**

45 None

46 **Other Special Clauses:**

47 This bill provides a special effective date.

48 **Utah Code Sections Affected:**

49 AMENDS:

50 **13-2-1 (Superseded 12/31/23)**, as last amended by Laws of Utah 2022, Chapter 201

51 **13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201, 462

52 ENACTS:

53 **13-63-101**, Utah Code Annotated 1953

54 **13-63-102**, Utah Code Annotated 1953

55 **13-63-103**, Utah Code Annotated 1953

56 **13-63-104**, Utah Code Annotated 1953

- 57 [13-63-105](#), Utah Code Annotated 1953
- 58 [13-63-201](#), Utah Code Annotated 1953
- 59 [13-63-202](#), Utah Code Annotated 1953
- 60 [13-63-203](#), Utah Code Annotated 1953
- 61 [13-63-301](#), Utah Code Annotated 1953
- 62 [13-63-401](#), Utah Code Annotated 1953
- 63 [13-63-501](#), Utah Code Annotated 1953



64

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

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 Section **13-2-1 (Superseded 12/31/23)** is amended to read:

67 **TITLE 13. COMMERCE AND TRADE**

68 **13-2-1 (Superseded 12/31/23). Consumer protection division established --**

69 **Functions.**

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

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

- 73 (a) Chapter 5, Unfair Practices Act;
- 74 (b) Chapter 10a, Music Licensing Practices Act;
- 75 (c) Chapter 11, Utah Consumer Sales Practices Act;
- 76 (d) Chapter 15, Business Opportunity Disclosure Act;
- 77 (e) Chapter 20, New Motor Vehicle Warranties Act;
- 78 (f) Chapter 21, Credit Services Organizations Act;
- 79 (g) Chapter 22, Charitable Solicitations Act;
- 80 (h) Chapter 23, Health Spa Services Protection Act;
- 81 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 82 (j) Chapter 26, Telephone Fraud Prevention Act;
- 83 (k) Chapter 28, Prize Notices Regulation Act;
- 84 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
85 Transaction Information Act;
- 86 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 87 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;

- 88 (o) Chapter 41, Price Controls During Emergencies Act;
- 89 (p) Chapter 42, Uniform Debt-Management Services Act;
- 90 (q) Chapter 49, Immigration Consultants Registration Act;
- 91 (r) Chapter 51, Transportation Network Company Registration Act;
- 92 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 93 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 94 (u) Chapter 54, Ticket Website Sales Act;
- 95 (v) Chapter 56, Ticket Transferability Act; [~~and~~]
- 96 (w) Chapter 57, Maintenance Funding Practices Act[-]; and
- 97 (x) Chapter 63, Utah Social Media Regulation Act.

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

99 **13-2-1 (Effective 12/31/23). Consumer protection division established --**

100 **Functions.**

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

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

- 104 (a) Chapter 5, Unfair Practices Act;
- 105 (b) Chapter 10a, Music Licensing Practices Act;
- 106 (c) Chapter 11, Utah Consumer Sales Practices Act;
- 107 (d) Chapter 15, Business Opportunity Disclosure Act;
- 108 (e) Chapter 20, New Motor Vehicle Warranties Act;
- 109 (f) Chapter 21, Credit Services Organizations Act;
- 110 (g) Chapter 22, Charitable Solicitations Act;
- 111 (h) Chapter 23, Health Spa Services Protection Act;
- 112 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 113 (j) Chapter 26, Telephone Fraud Prevention Act;
- 114 (k) Chapter 28, Prize Notices Regulation Act;
- 115 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
116 Transaction Information Act;
- 117 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 118 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;

- 119 (o) Chapter 41, Price Controls During Emergencies Act;
- 120 (p) Chapter 42, Uniform Debt-Management Services Act;
- 121 (q) Chapter 49, Immigration Consultants Registration Act;
- 122 (r) Chapter 51, Transportation Network Company Registration Act;
- 123 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 124 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 125 (u) Chapter 54, Ticket Website Sales Act;
- 126 (v) Chapter 56, Ticket Transferability Act;
- 127 (w) Chapter 57, Maintenance Funding Practices Act; [and]
- 128 (x) Chapter 61, Utah Consumer Privacy Act[-]; and
- 129 (y) Chapter 63, Utah Social Media Regulation Act.

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

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

132 **Part 1. General Requirements**

133 **13-63-101. Definitions.**

134 As used in this chapter:

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

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

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

140 (4) "Educational entity" means a public school, an LEA, a charter school, the Utah
141 Schools for the Deaf and Blind, a private school, a denominational school, a parochial school, a
142 community college, a state college, a state university, or a nonprofit private postsecondary
143 educational institution.

144 (5) (a) "Interactive computer service" means an 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 (6) "Minor" means an individual who is under the age of 18 and:
- 155 (a) has not been emancipated as that term is defined in Section [80-7-102](#); or
- 156 (b) has not been married.
- 157 (7) "Post" means content that an account holder makes available on a social media
- 158 platform for other account holders or users to view.
- 159 (8) "Social media company" means a person or entity that:
- 160 (a) provides a social media platform that has at least 5,000,000 account holders
- 161 worldwide; and
- 162 (b) is an interactive computer service.
- 163 (9) (a) "Social media platform" means an online forum that a social media company
- 164 makes available for an account holder to:
- 165 (i) create a profile;
- 166 (ii) upload posts;
- 167 (iii) view the posts of other account holders; and
- 168 (iv) interact with other account holders or users.
- 169 (b) "Social media platform" does not include an online service, website, or application:
- 170 (i) where the predominant or exclusive function is:
- 171 (A) electronic mail;
- 172 (B) direct messaging consisting of text, photos, or videos that are sent between devices
- 173 by electronic means, where messages are:
- 174 (I) shared between the sender and the recipient;
- 175 (II) only visible to the sender and the recipient; and
- 176 (III) are not posted publicly;
- 177 (C) a streaming service that:
- 178 (I) provides only licensed media in a continuous flow from the service, website, or
- 179 application to the end user; and
- 180 (II) does not obtain a license to the media from a user or account holder by agreement

181 to its terms of service;

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

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

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

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

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

191 (F) interactive video gaming or a gaming service that allows users to create and upload
192 content for the purpose of interactive virtual gaming entertainment and communication related
193 to that content;

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

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

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

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

200 (I) business to business software;

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

203 (K) cloud storage;

204 (L) shared document collaboration;

205 (M) cloud computing services, which may include cloud storage and shared document
206 collaboration;

207 (N) providing access to or interacting with data visualization platforms, libraries, or
208 hubs;

209 (O) to permit comments on a digital news website, if the news content is posted only
210 by the provider of the digital news website;

211 (P) providing or obtaining technical support for a platform, product, or service;

212 (Q) academic or scholarly research; or

213 (R) genealogical research;

214 (ii) where:

215 (A) the majority of the content that is posted or created is posted or created by the

216 provider of the online service, website, or application; and

217 (B) the ability to chat, comment, or interact with other users is directly related to the

218 provider's content;

219 (iii) that is a classified ad service that only permits the sale of goods and prohibits the

220 solicitation of personal services; or

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

222 (A) a learning management system;

223 (B) a student engagement program; and

224 (C) a subject or skill-specific program.

225 (10) "User" means a person who has access to view all, or some of, the posts on a

226 social media platform, but is not an account holder.

227 (11) (a) "Utah account holder" means a person who is a Utah resident and an account

228 holder.

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

230 (12) "Utah minor account holder" means a Utah account holder who is a minor.

231 (13) "Utah resident" means an individual who currently resides in Utah.

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

233 **13-63-102. Age requirements for use of social media platform -- Parental consent**

234 **-- Rulemaking authority of division.**

235 (1) Beginning March 1, 2024, a social media company may not permit a Utah resident

236 who is a minor to be an account holder on the social media company's social media platform

237 unless the Utah resident has the express consent of a parent or guardian.

238 (2) Notwithstanding any provision of this chapter, a social media company may not

239 permit a Utah resident who is a minor to hold or open an account on a social media platform if

240 the minor is ineligible to hold or open an account under any other provision of state or federal

241 law.

242 (3) (a) Beginning March 1, 2024, a social media company shall verify the age of an

243 existing or new Utah account holder and, if the existing or new account holder is a minor,
244 confirm that a minor has consent as required under Subsection (1):

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

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

248 (b) If a Utah account holder fails to meet the verification requirements of this section
249 within the required time period, the social media company shall deny access to the account:

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

251 (ii) until all verification requirements are met.

252 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
253 division, with consideration of stakeholder input, shall make rules to:

254 (a) establish processes or means by which a social media company may meet the age
255 verification requirements of this chapter;

256 (b) establish acceptable forms or methods of identification, which may not be limited
257 to a valid identification card issued by a government entity;

258 (c) establish requirements for providing confirmation of the receipt of any information
259 provided by a person seeking to verify age under this chapter;

260 (d) establish processes or means to confirm that a parent or guardian has provided
261 consent for the minor to open or use an account as required under this section;

262 (e) establish requirements for retaining, protecting, and securely disposing of any
263 information obtained by a social media company or its agent as a result of compliance with the
264 requirements of this chapter;

265 (f) require that information obtained by a social media company or its agent in order to
266 comply with the requirements of this chapter are only retained for the purpose of compliance
267 and may not be used for any other purpose;

268 (g) if the division permits an agent to process verification requirements required by this
269 section, require that the agent have its principal place of business in the United States of
270 America;

271 (h) require other applicable state agencies to comply with any rules promulgated under
272 the authority of this section; and

273 (i) ensure that the rules are consistent with state and federal law, including Title 13,

274 Chapter 61, Utah Consumer Privacy Act.

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

276 **13-63-103. Prohibition on data collection for certain accounts -- Prohibition on**
277 **advertising -- Use of information -- Search results -- Directed content.**

278 Beginning March 1, 2024, a social media company, for a social media platform account
279 held by a Utah minor account holder:

280 (1) shall prohibit direct messaging between the account and any other user that is not
281 linked to the account through friending;

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

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

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

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

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

293 **13-63-104. Parental access to social media account.**

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

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

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

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

303 **13-63-105. Limited hours of access for minors -- Parental access and options.**

304 (1) Beginning March 1, 2024, a social media company shall prohibit a Utah minor

305 account holder from having access to the Utah minor account holder's account during the hours
306 of 10:30 p.m. to 6:30 a.m., unless the access is modified according to another requirement of
307 this section.

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

310 (3) A social media company shall provide options for a parent or guardian with access
311 to an account under Section 13-63-104 to:

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

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

315 (4) A social media company shall not permit a Utah minor account holder to change or
316 bypass restrictions on access as required by this section.

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

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

321 **Part 2. Enforcement of General Requirements by Division**

322 **13-63-201. Investigative powers of the division.**

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

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

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

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

330 **13-63-202. Enforcement powers of the division.**

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

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

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

367 with Subsection (4)(b), commits another violation of the same provision.

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

370 (a) reasonable attorney fees;

371 (b) court costs; and

372 (c) investigative fees.

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

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

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

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

382 **13-63-203. Division report.**

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

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

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

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

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

389 (c) an accounting of:

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

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

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

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

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

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

398 **Part 3. Private Right of Action for Violation of General Requirements**

399 **13-63-301. Private right of action.**

400 (1) Beginning March 1, 2024, a person may bring an action against a person that does
401 not comply with a requirement of Part 1, General Requirements.

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

404 (3) If a court finds that a person has violated a provision of Part 1, General
405 Requirements, the person who brings an action under this section is entitled to:

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

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

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

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

412 Section 12. Section **13-63-401** is enacted to read:

413 **Part 4. Waiver Prohibited**

414 **13-63-401. Waiver prohibited.**

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

418 (1) a protection or requirement provided under this chapter;

419 (2) the right to cooperate with the division or to file a complaint with the division; or

420 (3) the right to a private right of action as provided under this chapter.

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

422 **Part 5. Severability**

423 **13-63-501. Severability.**

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

428 Section 14. **Effective date.**

429 (1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

430 (2) The actions affecting Section [13-2-21](#) (Effective 12/31/2023) take effect on

431 December 31, 2023.