

CONSUMER REVIEW FAIRNESS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Curtis S. Bramble

LONG TITLE

Committee Note:

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 8 voting for 5 voting against 8 absent

General Description:

This bill prohibits certain restrictions in consumer contracts.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a party from offering a form contract that contains a clause that prohibits a consumer from creating or sharing a consumer review; and
- ▶ provides enforcement and penalties related to a violation of this bill.

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13-2-1 (Superseded 05/02/24), as last amended by Laws of Utah 2023, Chapters 31, 36, 377, 458, 477, 498, and 509

13-2-1 (Effective 05/02/24), as last amended by Laws of Utah 2023, Chapters 31, 36,



28 377, 458, 477, 498, 509, and 536

29 ENACTS:

30 **13-70-101**, Utah Code Annotated 1953

31 **13-70-201**, Utah Code Annotated 1953

32 **13-70-202**, Utah Code Annotated 1953

33 **13-70-203**, Utah Code Annotated 1953

34 **13-70-301**, Utah Code Annotated 1953



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

37 Section 1. Section **13-2-1 (Superseded 05/02/24)** is amended to read:

38 **13-2-1 (Superseded 05/02/24). Consumer protection division established --**

39 **Functions.**

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

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

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

44 (b) Chapter 11, Utah Consumer Sales Practices Act;

45 (c) Chapter 15, Business Opportunity Disclosure Act;

46 (d) Chapter 20, New Motor Vehicle Warranties Act;

47 (e) Chapter 21, Credit Services Organizations Act;

48 (f) Chapter 22, Charitable Solicitations Act;

49 (g) Chapter 23, Health Spa Services Protection Act;

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

51 (i) Chapter 26, Telephone Fraud Prevention Act;

52 (j) Chapter 28, Prize Notices Regulation Act;

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

54 Transaction Information Act;

55 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;

56 (m) Chapter 41, Price Controls During Emergencies Act;

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

58 (o) Chapter 49, Immigration Consultants Registration Act;

- 59 (p) Chapter 51, Transportation Network Company Registration Act;
 60 (q) Chapter 52, Residential Solar Energy Disclosure Act;
 61 (r) Chapter 53, Residential, Vocational and Life Skills Program Act;
 62 (s) Chapter 54, Ticket Website Sales Act;
 63 (t) Chapter 56, Ticket Transferability Act;
 64 (u) Chapter 57, Maintenance Funding Practices Act;
 65 (v) Chapter 61, Utah Consumer Privacy Act;
 66 (w) Chapter 63, Utah Social Media Regulation Act;
 67 (x) Chapter 64, Vehicle Value Protection Agreement Act;
 68 (y) Chapter 65, Utah Commercial Email Act; [~~and~~]
 69 (z) Chapter 67, Online Dating Safety Act[~~;~~]; and
 70 (aa) Chapter 70, Utah Consumer Review Fairness Act.

71 Section 2. Section 13-2-1 (Effective 05/02/24) is amended to read:

72 **13-2-1 (Effective 05/02/24). Consumer protection division established --**

73 **Functions.**

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

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

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

89 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;

- 90 (m) Chapter 41, Price Controls During Emergencies Act;
- 91 (n) Chapter 42, Uniform Debt-Management Services Act;
- 92 (o) Chapter 49, Immigration Consultants Registration Act;
- 93 (p) Chapter 51, Transportation Network Company Registration Act;
- 94 (q) Chapter 52, Residential Solar Energy Disclosure Act;
- 95 (r) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 96 (s) Chapter 54, Ticket Website Sales Act;
- 97 (t) Chapter 56, Ticket Transferability Act;
- 98 (u) Chapter 57, Maintenance Funding Practices Act;
- 99 (v) Chapter 61, Utah Consumer Privacy Act;
- 100 (w) Chapter 63, Utah Social Media Regulation Act;
- 101 (x) Chapter 64, Vehicle Value Protection Agreement Act;
- 102 (y) Chapter 65, Utah Commercial Email Act;
- 103 (z) Chapter 67, Online Dating Safety Act; **[and]**
- 104 (aa) Chapter 68, Lawyer Referral Consultants Registration Act[-]; and
- 105 (bb) Chapter 70, Utah Consumer Review Fairness Act.

106 Section 3. Section **13-70-101** is enacted to read:

107 **CHAPTER 70. UTAH CONSUMER REVIEW FAIRNESS ACT**

108 **Part 1. General Provisions**

109 **13-70-101. Definitions.**

110 As used in this chapter:

111 (1) (a) "Consumer review" means an individual's evaluation of a person's good, service,
112 or conduct after the individual purchases, uses, or experiences the good, service, or conduct.

113 (2) (a) "Form contract" means a contract with standardized terms that a person:

114 (i) uses in the course of selling or leasing the person's goods or services; and

115 (ii) imposes on an individual without a meaningful opportunity for the individual to
116 negotiate the standardized terms.

117 (b) "Form contract" does not include:

118 (i) an employer-employee contract; or

119 (ii) an independent contractor contract.

120 Section 4. Section **13-70-201** is enacted to read:

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Part 2. Prohibited Practices

13-70-201. Unenforceable clauses in form contracts.

(1) Except as provided in Section 13-70-203, a person may not offer to an individual a form contract containing a clause that:

(a) prohibits or restricts the individual from creating or sharing a consumer review; or

(b) imposes a penalty or fee on the individual for creating or sharing a consumer review.

(2) Any clause in a form contract described in Subsection (1) is void.

Section 5. Section 13-70-202 is enacted to read:

13-70-202. Construction.

Nothing in this chapter affects:

(1) any duty of confidentiality imposed by law;

(2) any civil cause of action for defamation, libel, or slander, or any similar cause of action; or

(3) a person's right to remove or refuse to display publicly a consumer review on a website that the person owns, operates, or otherwise controls.

Section 6. Section 13-70-203 is enacted to read:

13-70-203. Exceptions.

The provisions of this chapter do not apply to a clause in a form contract that prohibits or restricts an individual's ability to create or share a consumer review containing:

(1) a trade secret, commercial information, or financial information considered privileged or confidential;

(2) an individual's personnel, medical, or similar information;

(3) information compiled for a law enforcement purpose; or

(4) unlawful content.

Section 7. Section 13-70-301 is enacted to read:

Part 3. Enforcement

13-70-301. Administration and enforcement -- Powers -- Legal counsel -- Fees.

(1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

(2) The attorney general, upon request, shall give legal advice to, and act as counsel

152 for, the division in the exercise of the division's responsibilities under this chapter.

153 (3) (a) In addition to the division's enforcement powers under Chapter 2, Division of
154 Consumer Protection:

155 (i) the division may impose an administrative fine of up to \$2,500 for each violation of
156 this chapter; and

157 (ii) the division may bring an action in a court of competent jurisdiction to enforce a
158 provision of this chapter.

159 (b) In a court action by the division to enforce a provision of this chapter, the court
160 may:

161 (i) declare that an act or practice violates a provision of this chapter;

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

163 (iii) impose a fine of up to \$2,500 for each violation of this chapter; or

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

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

167 (a) reasonable attorney fees;

168 (b) court costs; and

169 (c) investigative fees.

170 (5) (a) A person who violates an administrative or court order issued for a violation of
171 this chapter is subject to a civil penalty of no more than \$5,000 for each violation.

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

174 (6) All money received for the payment of a fine or civil penalty imposed under this
175 section shall be deposited into the Consumer Protection Education and Training Fund created
176 in Section [13-2-8](#).

177 **Section 8. Effective date.**

178 This bill takes effect on May 1, 2024, with the exception of Section [13-2-1](#) (Effective
179 05/02/24) which takes effect on May 2, 2024.