

# SB0194S01 compared with SB0194

~~deleted text~~ shows text that was in SB0194 but was deleted in SB0194S01.

inserted text shows text that was not in SB0194 but was inserted into SB0194S01.

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Senator Michael K. McKell proposes the following substitute bill:

## SOCIAL MEDIA REGULATION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill enacts provisions related to age ~~verification~~assurance and protecting minors in the Utah Minor Protection in Social Media Act (Act).

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires social media companies to verify a new account holder's age using an approved system;
- ▶ requires a social media service to:
  - enable maximum default privacy settings on a Utah minor account holder's account;
  - provide supervisory tools and verifiable parental consent mechanisms on a Utah

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minor account holder's account; and

- provide confidentiality protections for minors' data;
- ▶ establishes the Division of Consumer Protection's enforcement powers relating to the Act;
- ▶ provides compliance safe harbors when social media companies implement approved systems for age ~~{verification}~~assurance and verifiable parental consent; and
- ▶ contains a severability clause.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**13-2-1 (Effective 05/02/24)**, as last amended by Laws of Utah 2023, Chapters 31, 36, 377, 458, 477, 498, 509, and 536

ENACTS:

**13-71-101**, Utah Code Annotated 1953

**13-71-102**, Utah Code Annotated 1953

**13-71-201**, Utah Code Annotated 1953

**13-71-202**, Utah Code Annotated 1953

**13-71-203**, Utah Code Annotated 1953

**13-71-204**, Utah Code Annotated 1953

**13-71-301**, Utah Code Annotated 1953

**13-71-302**, Utah Code Annotated 1953

**13-71-401**, Utah Code Annotated 1953

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

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

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

**Functions.**

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

Transaction Information Act;

- (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
- (m) Chapter 41, Price Controls During Emergencies Act;
- (n) Chapter 42, Uniform Debt-Management Services Act;
- (o) Chapter 49, Immigration Consultants Registration Act;
- (p) Chapter 51, Transportation Network Company Registration Act;
- (q) Chapter 52, Residential Solar Energy Disclosure Act;
- (r) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (s) Chapter 54, Ticket Website Sales Act;
- (t) Chapter 56, Ticket Transferability Act;
- (u) Chapter 57, Maintenance Funding Practices Act;
- (v) Chapter 61, Utah Consumer Privacy Act;
- (w) Chapter 63, Utah Social Media Regulation Act;
- (x) Chapter 64, Vehicle Value Protection Agreement Act;
- (y) Chapter 65, Utah Commercial Email Act;
- (z) Chapter 67, Online Dating Safety Act; **[and]**
- (aa) Chapter 68, Lawyer Referral Consultants Registration Act[-]; and

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(bb) Chapter 71, Utah Minor Protection in Social Media Act.

Section 2. Section 13-71-101 is enacted to read:

### CHAPTER 71. UTAH MINOR PROTECTION IN SOCIAL MEDIA ACT

#### Part 1. General Provisions

##### 13-71-101. Definitions.

(1) "Account holder" means a person who has, creates, or opens an account or profile to use a social media service.

(2) "Age ~~verification~~ assurance system" means measures reasonably calculated to enable a social media company to identify whether a ~~user~~ current or prospective Utah account holder is a minor with an accuracy rate of at least 95%.

(3) "Connected account" means an account on the social media service that is directly connected to:

(a) the minor account holder's account; or

(b) an account that is directly connected to an account directly connected to the minor account holder's account.

(4) "Content" means any information, visual depictions, tools, features, links, software, or other materials that appear on or are available or enabled through a social media service.

(5) "Directly connected" means an account on the social media service that is connected to another account by:

(a) sending a request to connect to another account holder and having the request to connect accepted by the other account holder; or

(b) receiving a request to connect from another account holder and accepting the request to connect.

(6) "Director" means the director of the division.

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

(8) "Minor" means an individual under 18 years old that:

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

(b) has not been married.

(9) "Parent" includes a legal guardian.

(10) (a) "Personal information" means information that is linked or can be reasonably linked to an identified individual or an identifiable individual.

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(b) "Personal information" includes a person's:

(i) first and last name;

(ii) date of birth;

(iii) home or physical address, including street name and city;

(iv) screen or user name that reveals an individual's email address, first name, or last name;

(v) telephone number;

(vi) Social Security number;

(vii) photograph, video, or audio file containing a person's image or voice;

(viii) geolocation information sufficient to identify street name and city; and

(ix) any other identifier that a person may use to contact a specific individual.

(11) "Resident" means the same as that term is defined in Section 53-3-102.

(12) "Social media company" means an entity that owns or operates a social media service.

(13) (a) "Social media service" means a website or application that:

(i) is open to the public and consists primarily of content that is user-generated and not produced by the social media company;

(ii) permits an individual to register as an account holder, establish an account, or create a profile that is made visible to the general public or a set of other users defined by the account holder for the **primary** purpose of allowing account holders to create, share, and view user-generated content through such an account or profile;

(iii) **primarily** allows account holders to post content and interact with content generated by other account holders; and

(iv) enables account holders to create online communities or groups and communicate with account holders.

(b) "Social media service" does not include:

(i) email;

(ii) cloud storage; or

(iii) document viewing, sharing, or collaboration services.

(14) "User" means an individual who accesses or uses a social media service.

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

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holder.

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

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

(17) "Verifiable parental consent" means authorization from a parent for a social media service to collect, use, and disclose personal information of a Utah minor account holder, that complies with the following verifiability requirements:

(a) the social media service shall provide advance notice to the parent describing information practices related to the minor account holder's personal information; and

(b) the social media service shall receive confirmation that the parent received the notice described in Subsection (17)(a).

Section 3. Section **13-71-102** is enacted to read:

### **13-71-102. Legislative findings.**

The Legislature finds that:

(1) the state has a compelling interest in safeguarding the well-being and privacy of minors in the state;

(2) the proliferation of social media services has led to the widespread collection and utilization of personal information, exposing minors to potential privacy and identity related harms;

(3) the addictive design features of certain social media services contribute to excessive use of a social media service by minors, impacting sleep patterns, academic performance, and overall health;

(4) social media services are designed without sufficient tools to allow adequate parental oversight, exposing minors to risks that could be mitigated with proper parental involvement and control;

(5) the state has enacted safeguards around products and activities that pose risks to minors, including regulations on motor vehicles, medications, and products and services targeted to children;

(6) prolonged and unregulated social media use has been linked to adverse effects on the mental health of minors, including increased rates of anxiety, depression, and social isolation;

(7) existing measures employed by social media companies to protect minors have

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proven insufficient; and

(8) the state should ensure that minors' personal data is given special protection, as minors may have less awareness of the risks, consequences, and safeguards related to a social media company's processing of minors' personal data.

Section 4. Section **13-71-201** is enacted to read:

### **Part 2. General Requirements**

#### **13-71-201. Age ~~{verification}~~assurance required.**

(1) A social media company shall implement an age ~~{verification}~~assurance system to determine whether a ~~{person seeking to register a new}~~current or prospective Utah account ~~{for profile}~~holder on the social media company's social media service is a minor.

(2) A Utah account holder that the social media company identifies as a minor through the use of an age ~~{verification}~~assurance system is subject to the requirements in Sections 13-71-202 and 13-71-203.

(3) A social media company shall:

(a) implement a review process allowing account holders to appeal the account holder's age designation by submitting documentary evidence to establish the account holder's age range; and

(b) review evidence submitted by the account holder and make a determination within 30 days of submission of the evidence.

(4) A social media company shall segregate any personal information gathered specifically within the age ~~{verification}~~assurance system and shall not use the personal information for any other purposes except for the purposes listed in Subsections 13-71-204(4)(a) ~~through~~ (g).

Section 5. Section **13-71-202** is enacted to read:

#### **13-71-202. Requirements for Utah minor account holders.**

A social media company shall, for Utah minor account holders on the social media service:

(1) set default privacy settings to prioritize maximum privacy, including settings that:

(a) restrict the visibility of a Utah minor account holder's account to only connected accounts;

(b) limit the Utah minor account holder's ability to share content to only connected

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accounts;

(c) restrict any data collection and sale of data from a Utah minor account holder's account that is not required for core functioning of the social media service;

(d) disable search engine indexing of Utah minor account holder profiles;

(e) restrict a Utah minor account holder's direct messaging capabilities to only allow direct messaging to connected accounts; and

(f) allow a Utah minor account holder to download a file with all information associated with the Utah minor account holder's account;

(2) implement and maintain reasonable security measures, including data encryption, to protect the confidentiality, security, and integrity of personal information collected from a Utah minor account holder;

(3) provide an easily accessible and understandable notice that:

(a) describes any information the social media company collects from a Utah minor account holder; and

(b) explains how the information may be used or disclosed;

(4) upon request of a Utah minor account holder:

(a) delete the personal information of the Utah minor account holder, unless the information is required to be retained under Section 13-61-203, or a different provision of state or federal law; and

(b) remove any information or material the Utah minor account holder made publicly available through the social media service; and

(5) disable the following features that prolong user engagement:

(a) autoplay functions that continuously play content without user interaction;

(b) scroll or pagination that loads additional content as long as the user continues scrolling; and

(c) except for direct messages from connected accounts, push notifications prompting repeated user engagement.

Section 6. Section **13-71-203** is enacted to read:

### **13-71-203. Supervisory tools.**

(1) A social media company shall offer supervisory tools for a Utah minor account holder that the Utah minor account holder may decide to activate.



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(2) The supervisory tools described in Subsection (1) shall include capabilities for an individual selected by the Utah minor account holder to:

(a) set time limits for the Utah minor account holder's daily social media service usage across devices;

(b) schedule mandatory breaks for the Utah minor account holder during selected days and times across devices;

(c) view:

(i) data detailing the Utah minor account holder's total and average daily time spent on the social media service across devices;

(ii) a list of connected accounts;

(iii) a list of accounts blocked by the Utah minor account holder;

(iv) the Utah minor account holder's:

(A) privacy settings;

(B) content sensitivity settings; and

(C) direct messaging settings and permissions; and

(d) receive notifications when the Utah minor account holder changes an account setting described in this Subsection (2).

Section 7. Section **13-71-204** is enacted to read:

### **13-71-204. Parental consent -- Data privacy for Utah minor accounts.**

(1) A social media company may not allow a Utah minor account holder to change the default data privacy setting described in Subsection 13-71-202(1) without first obtaining verifiable parental consent.

(2) A social media company's terms of service related to a Utah minor account holder shall be presumed to include an assurance of confidentiality for the Utah minor account holder's personal information.

(3) The presumption of confidentiality in Subsection (2) may be overcome if the social media company obtains verifiable parental consent.

(4) The presumption of confidentiality in Subsection (2) does not apply to a social media company's internal use or external sharing of a Utah minor account holder's personal information if the use or sharing is necessary to:

(a) maintain or analyze functioning of the social media service;

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(b) enable network communications;

(c) personalize the user's experience based on the user's age and location;

(d) display a username chosen by the Utah minor account holder;

(e) obtain age ~~verification~~ assurance information as required under Section 13-71-201; or

(f) comply with the requirements of this chapter or other federal or state laws.

Section 8. Section **13-71-301** is enacted to read:

### **Part 3. Division Enforcement Powers**

#### **13-71-301. Enforcement powers.**

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

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

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

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

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

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

(ii) enjoin actions that violate this chapter;

(iii) order disgorgement of any money received in violation of this chapter;

(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 this chapter;

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

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

(c) If a court grants judgment or injunctive relief to the division, the court shall award the division:

(i) reasonable attorney fees;

(ii) court costs; and

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(iii) investigative fees.

(4) (a) A person who violates an administrative or court order issued for a violation of this chapter 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.

(5) 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 9. Section **13-71-302** is enacted to read:

**13-71-302. Age ~~{verification}~~assurance and verifiable parental consent safe harbor.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) to establish processes and means by which a social media company may:

(~~{a}~~i) ~~{verify}~~assure whether an account holder is a minor in accordance with Section 13-71-201; and

(~~{b}~~ii) obtain verifiable parental consent in accordance with Section 13-71-203~~{,}~~; and

(b) to establish criteria a social media company may use to determine whether the social media company's age assurance system is 95% accurate.

(2) A social media company is not subject to an enforcement action for a violation of Section 13-71-201 if the social media company implements and maintains an age ~~{verification}~~assurance system that complies with rules made by the division as described in Subsection (1)(a)(i).

(3) A social media company is considered to have obtained verifiable parental consent if the social media company obtains parental consent through a mechanism that complies with the rules made by the division as described in Subsection (1)(~~{b}~~a)(ii).

Section 10. Section **13-71-401** is enacted to read:

**13-71-401. Severability.**

(1) 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.

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(2) The provisions of this chapter are severable.

(3) Nothing in this chapter shall displace any other available remedies or rights authorized under the laws of this state or the United States.

Section 11. **Effective date.**

This bill takes effect on October 1, 2024.