

SOCIAL MEDIA USAGE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill regulates social media companies and the use and design of social media platforms.

Highlighted Provisions:

This bill:

- 28 ▶ defines terms;
- 29 ▶ enacts the Utah Social Media Regulation Act;
- 30 ▶ prohibits a social media company from using a design or feature that causes a minor
- 31 to have an addiction to the company's social media platform;
- 32 ▶ grants the Division of Consumer Protection enforcement and auditing authority to
- 33 enforce requirements under the act;
- 34 ▶ authorizes a private right of action to collect attorney fees and damages from a
- 35 social media company for harm incurred by a minor's use of the company's social
- 36 media platform;
- 37 ▶ creates a rebuttable presumption that harm and causation occurred in some
- 38 circumstances;
- 39 ▶ prohibits certain waivers;
- 40 ▶ provides a severability clause; and
- 41 ▶ makes technical and conforming changes.

42 Money Appropriated in this Bill:

43 None

44 Other Special Clauses:

45 This bill provides a special effective date.

46 Utah Code Sections Affected:

47 AMENDS:

48 **13-2-1 (Superseded 12/31/23)**, as last amended by Laws of Utah 2022, Chapter 201

49 **13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201, 462

50 ENACTS:

51 **13-63-101**, Utah Code Annotated 1953

52 **13-63-201**, Utah Code Annotated 1953

53 **13-63-301**, Utah Code Annotated 1953

54 **13-63-401**, Utah Code Annotated 1953

55 **13-63-501**, Utah Code Annotated 1953

56

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

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 Section **13-2-1 (Superseded 12/31/23)** is amended to read:

59 **TITLE 13. COMMERCE AND TRADE**

60 **13-2-1 (Superseded 12/31/23). Consumer protection division established --**

61 **Functions.**

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

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

65 (a) Chapter 5, Unfair Practices Act;

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

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

68 (d) Chapter 15, Business Opportunity Disclosure Act;

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

70 (f) Chapter 21, Credit Services Organizations Act;

71 (g) Chapter 22, Charitable Solicitations Act;

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

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

74 (j) Chapter 26, Telephone Fraud Prevention Act;

75 (k) Chapter 28, Prize Notices Regulation Act;

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

77 Transaction Information Act;

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

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

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

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

- 82 (q) Chapter 49, Immigration Consultants Registration Act;
- 83 (r) Chapter 51, Transportation Network Company Registration Act;
- 84 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 85 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 86 (u) Chapter 54, Ticket Website Sales Act;
- 87 (v) Chapter 56, Ticket Transferability Act; [~~and~~]
- 88 (w) Chapter 57, Maintenance Funding Practices Act[-]; and
- 89 (x) Chapter 63, Utah Social Media Regulation Act.

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

91 **13-2-1 (Effective 12/31/23). Consumer protection division established --**

92 **Functions.**

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

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

- 96 (a) Chapter 5, Unfair Practices Act;
- 97 (b) Chapter 10a, Music Licensing Practices Act;
- 98 (c) Chapter 11, Utah Consumer Sales Practices Act;
- 99 (d) Chapter 15, Business Opportunity Disclosure Act;
- 100 (e) Chapter 20, New Motor Vehicle Warranties Act;
- 101 (f) Chapter 21, Credit Services Organizations Act;
- 102 (g) Chapter 22, Charitable Solicitations Act;
- 103 (h) Chapter 23, Health Spa Services Protection Act;
- 104 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 105 (j) Chapter 26, Telephone Fraud Prevention Act;
- 106 (k) Chapter 28, Prize Notices Regulation Act;
- 107 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
108 Transaction Information Act;

- 109 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 110 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 111 (o) Chapter 41, Price Controls During Emergencies Act;
- 112 (p) Chapter 42, Uniform Debt-Management Services Act;
- 113 (q) Chapter 49, Immigration Consultants Registration Act;
- 114 (r) Chapter 51, Transportation Network Company Registration Act;
- 115 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 116 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 117 (u) Chapter 54, Ticket Website Sales Act;
- 118 (v) Chapter 56, Ticket Transferability Act;
- 119 (w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]
- 120 (x) Chapter 61, Utah Consumer Privacy Act[-:]; and
- 121 (y) Chapter 63, Utah Social Media Regulation Act.

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

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

124 **Part 1. General Requirements**

125 **13-63-101. Definitions.**

126 As used in this chapter:

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

129 (2) "Addiction" means use of a social media platform that:

130 (a) indicates the user's substantial preoccupation or obsession with, or the user's
131 substantial difficulty to cease or reduce use of, the social media platform; and

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

133 (3) "Director" means the director of the Division of Consumer Protection created in
134 Section [13-2-1](#).

135 (4) "Division" means the Division of Consumer Protection created in Section [13-2-1](#).

136 (5) "Educational entity" means a public school, an LEA, a charter school, the Utah
137 Schools for the Deaf and Blind, a private school, a denominational school, a parochial school, a
138 community college, a state college, a state university, or a nonprofit private postsecondary
139 educational institution.

140 (6) (a) "Interactive computer service" means an information service, information
141 system, or information access software provider that:

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

143 (ii) provides access to the Internet.

144 (b) "Interactive computer service" includes:

145 (i) a web service;

146 (ii) a web system;

147 (iii) a website;

148 (iv) a web application; or

149 (v) a web portal.

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

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

152 (b) has not been married.

153 (8) "Post" means content that an account holder makes available on a social media
154 platform for other account holders or users to view.

155 (9) "Social media company" means a person or entity that:

156 (a) provides a social media platform that has at least 5,000,000 account holders
157 worldwide; and

158 (b) is an interactive computer service.

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

161 (i) create a profile;

162 (ii) upload posts;

- 163 (iii) view the posts of other account holders; and
- 164 (iv) interact with other account holders or users.
- 165 (b) "Social media platform" does not include an online service, website, or application:
- 166 (i) where the predominant or exclusive function is:
- 167 (A) electronic mail;
- 168 (B) direct messaging consisting of text, photos, or videos that are sent between devices
- 169 by electronic means, where messages are:
- 170 (I) shared between the sender and the recipient;
- 171 (II) only visible to the sender and the recipient; and
- 172 (III) are not posted publicly;
- 173 (C) a streaming service that:
- 174 (I) provides only licensed media in a continuous flow from the service, website, or
- 175 application to the end user; and
- 176 (II) does not obtain a license to the media from a user or account holder by agreement
- 177 to its terms of service;
- 178 (D) news, sports, entertainment, or other content that is preselected by the provider and
- 179 not user generated, and any chat, comment, or interactive functionality that is provided
- 180 incidental to, directly related to, or dependent upon provision of the content;
- 181 (E) online shopping or e-commerce, if the interaction with other users or account
- 182 holders is generally limited to:
- 183 (I) the ability to upload a 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 (F) interactive gaming, virtual gaming, or an online service, that allows the creation
- 188 and uploading of content for the purpose of interactive gaming, edutainment, or associated
- 189 entertainment, and the communication related to that content;

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

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

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

200 (K) business to business software;

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

203 (M) cloud storage;

204 (N) shared document collaboration;

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

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

209 (Q) 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 (R) providing or obtaining technical support for a platform, product, or service;

212 (S) academic or scholarly research; or

213 (T) genealogical research; or

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 (11) "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 (12) (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 (13) "Utah minor account holder" means a Utah account holder who is a minor.

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

232 Section 4. Section **13-63-201** is enacted to read:

233 **Part 2. Social Media Design Regulations**

234 **13-63-201. Social media platform design regulations -- Enforcement and auditing**
235 **authority -- Penalties.**

236 (1) Beginning March 1, 2024:

237 (a) the division shall administer and enforce the provisions of this section; and

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

241 (2) Beginning March 1, 2024, a social media company shall not use a practice, design,
242 or feature on the company's social media platform that the social media company knows, or
243 which by the exercise of reasonable care should know, causes a Utah minor account holder to

244 have an addiction to the social media platform.

245 (3) Beginning March 1, 2024:

246 (a) Subject to Subsection (3)(b), a social media company is subject to:

247 (i) a civil penalty of \$250,000 for each practice, design, or feature shown to have
248 caused addiction; and

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

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

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

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

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

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

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

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

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

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

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

271 (b) passively displaying content that is created entirely by a third party;
272 (c) information or content for which the social media company was not, in whole or in
273 part, responsible for creating or developing; or
274 (d) any conduct by a social media company involving a Utah minor account holder
275 who would otherwise be protected by federal or Utah law.
276 (5) If a court of competent jurisdiction grants judgment or injunctive relief to the
277 division, the court shall award the division:
278 (a) reasonable attorney fees;
279 (b) court costs; and
280 (c) investigative fees.
281 (6) Nothing in this section may be construed to negate or limit a cause of action that
282 may have existed or exists against a social media company under the law as it existed before
283 the effective date of this section.
284 (7) All money received for the payment of a fine or civil penalty imposed under this
285 section shall be deposited into the Consumer Protection Education and Training Fund
286 established in Section [13-2-8](#).
287 Section 5. Section **13-63-301** is enacted to read:
288 **Part 3. Harm to a Minor by a Social Media Company -- Private Right of Action**
289 **13-63-301. Private right of action for harm to a minor -- Rebuttable presumption**
290 **of harm and causation.**
291 (1) Beginning March 1, 2024, a person may bring an action under this section against a
292 social media company to recover damages incurred after March 1, 2024 by a Utah minor
293 account holder for any addiction, financial, physical, or emotional harm suffered as a
294 consequence of using or having an account on the social media company's social media
295 platform.
296 (2) A suit filed under the authority of this section shall be filed in the district court for
297 the district in which the Utah minor account holder resides.

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

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

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

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

312 **Part 4. Waiver Prohibited**

313 **13-63-401. Waiver prohibited.**

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

- 317 (1) a protection or requirement provided under this chapter;
318 (2) the right to cooperate with the division or to file a complaint with the division;
319 (3) the right to a private right of action as provided under this chapter; or
320 (4) the right to recover actual damages, statutory damages, civil penalties, costs, or fees
321 as allowed by this chapter.

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

323 **Part 5. Severability**

324 **13-63-501. Severability.**

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

329 Section 8. **Effective date.**

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

331 (2) The actions affecting Section [13-2-1](#) (Effective 12/31/2023) take effect on
332 December 31, 2023.