

**Representative Jordan D. Teuscher** proposes the following substitute bill:

**SOCIAL MEDIA USAGE AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jordan D. Teuscher**

Senate Sponsor: Kirk A. Cullimore

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**LONG TITLE**

**General Description:**

This bill regulates interactive computer services and the use and design of 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 open or continue to use an account on a social media platform;
- ▶ provides that a contract entered into between a minor and an interactive computer service is invalid unless the minor's parent or legal guardian consents to the contract;
- ▶ prohibits a social media company from using a design or feature that the company knows causes a minor to have an addiction to a social media platform;
- ▶ directs the Division of Consumer Protection to receive and investigate complaints of violations of the requirements established under the act and impose



- 26 administrative fines for violations;
- 27       ▶ authorizes the Division of Consumer Protection to seek enforcement through an
- 28 injunction, civil penalties, and other relief through the judicial process;
- 29       ▶ requires fines and civil penalties to be deposited into the Consumer Protection
- 30 Education and Training Fund;
- 31       ▶ requires an annual report from the division;
- 32       ▶ authorizes a private right of action to collect attorney fees and damages from a
- 33 social media company for harm incurred or for non-compliance with requirements
- 34 established by the act;
- 35       ▶ provides a severability clause; and
- 36       ▶ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38       None

39 **Other Special Clauses:**

40       This bill provides a special effective date.

41 **Utah Code Sections Affected:**

42 AMENDS:

43       **13-2-1 (Superseded 12/31/23)**, as last amended by Laws of Utah 2022, Chapter 201

44       **13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201, 462

45 ENACTS:

46       **13-63-101**, Utah Code Annotated 1953

47       **13-63-102**, Utah Code Annotated 1953

48       **13-63-103**, Utah Code Annotated 1953

49       **13-63-201**, Utah Code Annotated 1953

50       **13-63-202**, Utah Code Annotated 1953

51       **13-63-203**, Utah Code Annotated 1953

52       **13-63-301**, Utah Code Annotated 1953

53       **13-63-401**, Utah Code Annotated 1953

54       **13-63-501**, Utah Code Annotated 1953

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

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

58 **13-2-1 (Superseded 12/31/23). Consumer protection division established --**

59 **Functions.**

60 (1) There is established within the Department of Commerce the Division of Consumer  
61 Protection.

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

63 (a) Chapter 5, Unfair Practices Act;

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

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

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

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

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

69 (g) Chapter 22, Charitable Solicitations Act;

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

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

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

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

74 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter  
75 Transaction Information Act;

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

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

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

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

80 (q) Chapter 49, Immigration Consultants Registration Act;

81 (r) Chapter 51, Transportation Network Company Registration Act;

82 (s) Chapter 52, Residential Solar Energy Disclosure Act;

83 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;

84 (u) Chapter 54, Ticket Website Sales Act;

85 (v) Chapter 56, Ticket Transferability Act; [~~and~~]

86 (w) Chapter 57, Maintenance Funding Practices Act[~~;~~]; and

87 (x) Chapter 63, Utah Social Media Regulation Act.

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

89 **13-2-1 (Effective 12/31/23). Consumer protection division established --**

90 **Functions.**

91 (1) There is established within the Department of Commerce the Division of Consumer

92 Protection.

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

94 (a) Chapter 5, Unfair Practices Act;

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

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

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

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

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

100 (g) Chapter 22, Charitable Solicitations Act;

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

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

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

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

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

106 Transaction Information Act;

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

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

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

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

111 (q) Chapter 49, Immigration Consultants Registration Act;

112 (r) Chapter 51, Transportation Network Company Registration Act;

113 (s) Chapter 52, Residential Solar Energy Disclosure Act;

114 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;

115 (u) Chapter 54, Ticket Website Sales Act;

116 (v) Chapter 56, Ticket Transferability Act;

117 (w) Chapter 57, Maintenance Funding Practices Act; ~~and~~

118 (x) Chapter 61, Utah Consumer Privacy Act[-]; and

119 (y) Chapter 63, Utah Social Media Regulation Act.

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

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

122 **Part 1. General Requirements**

123 **13-63-101. Definitions.**

124 As used in this chapter:

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

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

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

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

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

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

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

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

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

140 (ii) provides access to the Internet.

141 (b) "Interactive computer service" includes:

142 (i) a web service;

143 (ii) a web system;

144 (iii) a website;

145 (iv) a web application; or

146 (v) a web portal.

147 (7) "Minor" means an individual who is under the age of 18 and has not been  
148 emancipated as that term is defined in Section [80-7-102](#).

149 (8) "Post" means content that an account holder makes available on the account

150 holder's account for other account holders or users to view.

151 (9) "Social media company" means any person or entity that provides a social media  
152 platform that:

153 (a) has at least 10,000,000 account holders; and

154 (b) is an interactive computer service.

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

157 (i) create a profile;

158 (ii) upload posts;

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

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

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

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

163 (A) electronic mail;

164 (B) direct messaging consisting of messages, photos, or videos that are sent between  
165 devices by electronic means, where messages are:

166 (I) shared between the sender and the recipient;

167 (II) only visible to the sender and the recipient; and

168 (III) are not posted publicly;

169 (C) a streaming service that:

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

172 (II) does not obtain a license to the media from a user or account holder by agreement  
173 to its terms of service;

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

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

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

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

181 (III) other functions that are focused on online shopping or e-commerce rather than  
182 interaction between users or account holders;  
183 (F) business to business software that is not accessible to the general public;  
184 (G) cloud storage;  
185 (H) shared document collaboration;  
186 (I) providing access to or interacting with data visualization platforms, libraries, or  
187 hubs;  
188 (J) to permit comments on a digital news website, if the news content is posted only by  
189 the provider of the digital news website;  
190 (K) for the purpose of providing or obtaining technical support for the social media  
191 company's platform, products, or services; or  
192 (L) academic or scholarly research;  
193 (ii) where:  
194 (A) the majority of the content that is posted or created is posted or created by the  
195 provider of the online service, website, or application; and  
196 (B) the ability to chat, comment, or interact with other users is directly related to the  
197 provider's content;  
198 (iii) that is a classified ad service that only permits the sale of goods and prohibits the  
199 solicitation of personal services; or  
200 (iv) that is used by and under the direction of an educational entity, including:  
201 (A) a learning management system;  
202 (B) a student engagement program; and  
203 (C) a subject or skill-specific program.  
204 (11) "User" means a person who has access to view all, or some of, the posts on a  
205 social media platform, but is not an account holder.  
206 (12) (a) "Utah account holder" means a person who is a Utah resident and an account  
207 holder.  
208 (b) "Utah account holder" includes a Utah minor account holder.  
209 (13) "Utah minor account holder" means a Utah account holder who is a minor.  
210 (14) "Utah resident" means an individual who currently resides in Utah.  
211 Section 4. Section **13-63-102** is enacted to read:

212 13-63-102. Age requirements for use of social media platform -- Parental consent  
213 -- Rulemaking authority of division.

214 (1) Beginning January 1, 2024, a social media company may not permit a Utah resident  
215 who is a minor to be an account holder on the social media company's social media platform  
216 unless the Utah resident has the express consent of a parent or guardian.

217 (2) Notwithstanding any provision of this chapter, a social media company may not  
218 permit a Utah resident who is a minor to hold or open an account on a social media platform if  
219 the minor is ineligible to hold or open an account under any other provision of state or federal  
220 law.

221 (3) (a) Beginning January 1, 2024, a social media company shall verify the age of an  
222 existing or new account holder and, if the existing or new account holder is a minor, confirm  
223 that a minor has consent as required under Subsection (1):

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

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

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

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

231 (ii) until all verification requirements are met.

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

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

236 (b) establish acceptable forms or methods of identification;

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

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

241 (e) establish requirements for retaining, protecting, and securely disposing of any  
242 information obtained by a social media company or its agent as a result of compliance with the



243 requirements of this chapter;

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

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

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

252 (i) ensure that the rules are consistent with state and federal law, including Title 13,  
253 Chapter 61, Utah Consumer Privacy Act.

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

255 **13-63-103. Online contracts -- Consent for minors.**

256 (1) Beginning January 1, 2024, and notwithstanding the requirements of Title 15,  
257 Chapter 2, Legal Capacity of Children, any contract entered into between a Utah resident who  
258 is a minor and an interactive computer service is unenforceable unless a parent or legal  
259 guardian unambiguously indicates voluntary consent to the minor entering into the contract.

260 (2) (a) An interactive computer service shall provide a means by which a parent or  
261 legal guardian may provide consent required under Subsection (1).

262 (b) An interactive computer service meets the requirements of this section by:

263 (i) if the interactive computer service does not have reason to know the age of the  
264 person seeking to enter into the contract, providing a means for the person to indicate that they  
265 are a minor; and

266 (ii) if the interactive computer service has reason to know that the person seeking to  
267 enter the contract is a minor or if the person indicates that they are a minor, providing a means  
268 for the minor's parent or guardian to indicate that they are the parent or guardian of the minor  
269 and that they consent to the minor entering into the contract.

270 (c) An interactive computer service is not required to obtain proof of age or proof of  
271 parent or guardian status in order to comply with the requirements of this section.

272 Section 6. Section **13-63-201** is enacted to read:

273 **Part 2. Enforcement by Divison**

274 **13-63-201. Investigative powers of the division.**

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

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

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

281 Section 7. Section **13-63-202** is enacted to read:

282 **13-63-202. Enforcement powers of the division.**

283 (1) Except for a private right of action under Section [13-63-301](#), the division has the  
284 exclusive authority to administer and enforce the requirements of Part 1, General  
285 Requirements.

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

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

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

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

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

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

296 (ii) issue an injunction for a violation of Part 1, General Requirements;

297 (iii) order disgorgement of any money received in violation of Part 1, General  
298 Requirements;

299 (iv) order payment of disgorged money to an injured purchaser or consumer;

300 (v) impose a civil penalty of up to \$2,500 for each violation of Part 1, General  
301 Requirements;

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

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

304 (4) (a) At least 30 days before the day on which the division initiates an enforcement

305 action against a person that is subject to the requirements of Part 1, General Requirements, the  
306 division shall provide the person with:

307 (i) written notice that identifies each alleged violation; and

308 (ii) an explanation of the basis for each allegation.

309 (b) Except as provided under Subsection (4)(c), the division may not initiate an action  
310 if the person:

311 (i) cures the noticed violation within 30 days after the day on which the person receives  
312 the notice described in Subsection (4)(a); and

313 (ii) provides the division with a written statement that:

314 (A) the person has cured the violation; and

315 (B) no further violation will occur.

316 (c) The division may impose an administrative fine and initiate a civil action against a  
317 person that:

318 (i) fails to cure a violation after receiving the notice described in Subsection (4)(a); or

319 (ii) after curing a noticed violation and providing a written statement in accordance  
320 with Subsection (4)(b), commits another violation of the same provision.

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

323 (a) reasonable attorney fees;

324 (b) court costs; and

325 (c) investigative fees.

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

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

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

334 Section 8. Section **13-63-203** is enacted to read:

335 **13-63-203. Division report.**

- 336 (1) The division shall compile an annual report:  
337 (a) evaluating the liability and enforcement provisions of this chapter, including:  
338 (i) the effectiveness of the division's efforts to enforce this chapter; and  
339 (ii) any recommendations for changes to this chapter;  
340 (b) summarizing the consumer interactions that are protected and not protected by this  
341 chapter, including a list of alleged violations the division has received; and  
342 (c) that provides an accounting of:  
343 (i) all administrative fines and civil penalties assessed under this chapter during the  
344 year;  
345 (ii) all administrative fines and civil penalties collected under this chapter during the  
346 year; and  
347 (iii) the use of funds from the Consumer Protection Education and Training Fund in  
348 connection with this chapter.  
349 (2) The division may update or correct the report as new information becomes  
350 available.  
351 (3) The division shall submit the report to the Business and Labor Interim Committee  
352 on or before the August meeting of each interim period.

353 Section 9. Section **13-63-301** is enacted to read:

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

355 **13-63-301. Private right of action -- Rebuttable presumption.**

- 356 (1) A person may bring an action under this section against:  
357 (a) a person that does not comply with the requirements of Part 1, General  
358 Requirements; or  
359 (b) a social media company to recover damages for any financial, physical, or  
360 emotional harm suffered as a consequence of using or having an account on the social media  
361 company's social media platform.  
362 (2) A suit filed under the authority of this section shall be filed in the district court for  
363 the district in which a person bringing the action resides.  
364 (3) Notwithstanding Subsection (4), if a court finds that a person has violated a  
365 provision of this chapter, the person who brings an action under this section is entitled to:  
366 (a) an award of reasonable attorney fees and court costs; and

367 (b) an amount equal to the greater of:  
 368 (i) \$2,500 per each incident of violation; or  
 369 (ii) actual damages for financial, physical, and emotional harm incurred by the person  
 370 bringing the action, if the court determines that the harm is a direct consequence of the  
 371 violation or violations.

372 (4) If a person seeking recovery of damages under this section is under the age of 16,  
 373 there shall be a rebuttable presumption that the harm occurred.

374 Section 10. Section **13-63-401** is enacted to read:

375 **Part 4. Social Media Design Regulations**

376 **13-63-401. Social media platform design regulations -- Penalties.**

377 (1) The division shall administer and enforce the provisions of this section.

378 (2) A social media company shall not use a practice, design, or feature on the  
 379 company's social media platform that the social media company knows, or which by the  
 380 exercise of reasonable care should know, causes a Utah minor account holder to have an  
 381 addiction to the social media platform.

382 (3) (a) Subject to Subsection (3)(b), a social media company that violates this section is  
 383 subject to a civil penalty not to exceed \$250,000 per violation.

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

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

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

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

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

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

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

- 398 (iv) award any other relief that the court deems reasonable and necessary.  
399 (4) Nothing in this section may be construed to impose liability for a social media  
400 company for any of the following:  
401 (a) content that is generated by an account holder, or uploaded to or shared on the  
402 platform by an account holder, that may be encountered by another account holder;  
403 (b) passively displaying content that is created entirely by a third party;  
404 (c) information or content for which the social media company was not, in whole or in  
405 part, responsible for creating or developing; or  
406 (d) any conduct by a social media company involving a Utah account holder who is a  
407 minor that would otherwise be protected by federal or Utah law.  
408 (5) If a court of competent jurisdiction grants judgment or injunctive relief to the  
409 division, the court shall award the division:  
410 (a) reasonable attorney fees;  
411 (b) court costs; and  
412 (c) investigative fees.  
413 (6) Nothing in this section may be construed to negate or limit a cause of action that  
414 may have existed or exists against a social media company under the law as it existed before  
415 the effective date of this section.

416 Section 11. Section **13-63-501** is enacted to read:

417 **Part 5. Severability**

418 **13-63-501. Severability.**

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

423 Section 12. **Effective date.**

424 This bill takes effect on May 3, 2023, with the exception of 13-2-1 (Effective 12/31/23)  
425 which takes effect on December 31, 2023.