

Effective 5/3/2023

Chapter 63
Utah Social Media Regulation Act

Part 1
General Requirements

13-63-101 Definitions.

As used in this chapter:

- (1) "Account holder" means a person who has, or opens, an account or profile to use a social media company's platform.
- (2) "Addiction" means use of a social media platform that:
 - (a) indicates the user's substantial preoccupation or obsession with, or the user's substantial difficulty to cease or reduce use of, the social media platform; and
 - (b) causes physical, mental, emotional, developmental, or material harms to the user.
- (3) "Director" means the director of the Division of Consumer Protection created in Section 13-2-1.
- (4) "Division" means the Division of Consumer Protection created in Section 13-2-1.
- (5) "Educational entity" means a public school, an LEA, a charter school, the Utah Schools for the Deaf and Blind, a private school, a denominational school, a parochial school, a community college, a state college, a state university, or a nonprofit private postsecondary educational institution.
- (6)
 - (a) "Interactive computer service" means an information service, information system, or information access software provider that:
 - (i) provides or enables computer access by multiple users to a computer server; and
 - (ii) provides access to the Internet.
 - (b) "Interactive computer service" includes:
 - (i) a web service;
 - (ii) a web system;
 - (iii) a website;
 - (iv) a web application; or
 - (v) a web portal.
- (7) "Minor" means an individual who is under the age of 18 and:
 - (a) has not been emancipated as that term is defined in Section 80-7-102; or
 - (b) has not been married.
- (8) "Post" means content that an account holder makes available on a social media platform for other account holders or users to view.
- (9) "Social media company" means a person or entity that:
 - (a) provides a social media platform that has at least 5,000,000 account holders worldwide; and
 - (b) is an interactive computer service.
- (10)
 - (a) "Social media platform" means an online forum that a social media company makes available for an account holder to:
 - (i) create a profile;
 - (ii) upload posts;
 - (iii) view the posts of other account holders; and
 - (iv) interact with other account holders or users.

- (b) "Social media platform" does not include an online service, website, or application:
 - (i) where the predominant or exclusive function is:
 - (A) electronic mail;
 - (B) direct messaging consisting of text, photos, or videos that are sent between devices by electronic means, where messages are:
 - (I) shared between the sender and the recipient;
 - (II) only visible to the sender and the recipient; and
 - (III) are not posted publicly;
 - (C) a streaming service that:
 - (I) provides only licensed media in a continuous flow from the service, website, or application to the end user; and
 - (II) does not obtain a license to the media from a user or account holder by agreement to its terms of service;
 - (D) news, sports, entertainment, or other content that is preselected by the provider and not user generated, and any chat, comment, or interactive functionality that is provided incidental to, directly related to, or dependent upon provision of the content;
 - (E) online shopping or e-commerce, if the interaction with other users or account holders is generally limited to:
 - (I) the ability to upload a post and comment on reviews;
 - (II) the ability to display lists or collections of goods for sale or fc6shlists sages are:

(ii) where:

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

- (c) establish requirements for providing confirmation of the receipt of any information provided by a person seeking to verify age under this chapter;
- (d) establish processes or means to confirm that a parent or guardian has provided consent for the minor to open or use an account as required under this section;
- (e) establish requirements for retaining, protecting, and securely disposing of any information obtained by a social media company or its agent as a result of compliance with the requirements of this chapter;
- (f) require that information obtained by a social media company or its agent in order to comply with the requirements of this chapter are only retained for the purpose of compliance and may not be used for any other purpose;
- (g) if the division permits an agent to process verification requirements required by this section, require that the agent have its principal place of business in the United States of America;
- (h) require other applicable state agencies to comply with any rules promulgated under the authority of this section; and
- (i) ensure that the rules are consistent with state and federal law, including Title 13, Chapter 61, Utah Consumer Privacy Act.

Enacted by Chapter 498, 2023 General Session

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

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

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

- (1) Beginning March 1, 2024, a social media company shall prohibit a Utah minor account holder from having access to the Utah minor account holder's account during the hours of 10:30 p.m. to 6:30 a.m., unless the access is modified according to another requirement of this section.
- (2) Time of day under this section shall be calculated based on the Internet protocol address being used by the Utah minor account holder at the time of attempting access.
- (3) A social media company shall provide options for a parent or guardian with access to an account under Section 13-63-104 to:
 - (a) change or eliminate the time-of-day restriction described in Subsection (1); and
 - (b) set a limit on the number of hours per day that a Utah minor account holder may use the account.
- (4) A social media company shall not permit a Utah minor account holder to change or bypass restrictions on access as required by this section.
- (5) Notwithstanding any provision of this section, a social media company shall permit a parent or guardian with access to an account under Section 13-63-104 to access the account without time restrictions.

Enacted by Chapter 498, 2023 General Session

Part 2
Enforcement of General Requirements by Division

13-63-201 Investigative powers of the division.

- (1) The division shall receive consumer complaints alleging a violation of Part 1, General Requirements.
- (2) A person may file a consumer complaint that alleges a violation under Part 1, General Requirements, with the division.
- (3) The division shall investigate a consumer complaint to determine whether a violation of Part 1, General Requirements, occurred.

Enacted by Chapter 498, 2023 General Session

13-63-202 Enforcement powers of the division.

- (1) Except for a private right of action under Section 13-63-301, the division has the exclusive authority to administer and enforce the requirements of Part 1, General Requirements.
- (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) Subject to the ability to cure an alleged violation under Subsection (4):
 - (i) the division director may impose an administrative fine of up to \$2,500 for each violation of Part 1, General Requirements; and
 - (ii) the division may bring an action in a court of competent jurisdiction to enforce a provision of Part 1, General Requirements.
 - (b) In a court action by the division to enforce a provision of Part 1, General Requirements, the court may:
 - (i) declare that the act or practice violates a provision of Part 1, General Requirements;

- (ii) issue an injunction for a violation of Part 1, General Requirements;
 - (iii) order disgorgement of any money received in violation of Part 1, General Requirements;
 - (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 Part 1, General Requirements;
 - (vi) award actual damages to an injured purchaser or consumer; and
 - (vii) award any other relief that the court deems reasonable and necessary.
- (4)
- (a) At least 30 days before the day on which the division initiates an enforcement action against a person that is subject to the requirements of Part 1, General Requirements, the division shall provide the person with:
 - (i) written notice that identifies each alleged violation; and
 - (ii) an explanation of the alleged violation.

- (ii) all administrative fines and civil penalties collected during the year; and
- (iii) the use of funds from the Consumer Protection Education and Training Fund.
- (2) The division may update or correct the report as new information becomes available.
- (3) The division shall submit the report to the Business and Labor Interim Committee on or before the August meeting of each interim period.

Enacted by Chapter 498, 2023 General Session

Part 3

Private Right of Action for Violation of General Requirements

13-63-301 Private right of action.

- (1) Beginning March 1, 2024, a person may bring an action against a person that does not comply with a requirement of Part 1, General Requirements.
- (2) A suit filed under the authority of this section shall be filed in the district court for the district in which a person bringing the action resides.
- (3) If a court finds that a person has violated a provision of Part 1, General Requirements, the person who brings an action under this section is entitled to:
 - (a) an award of reasonable attorney fees and court costs; and
 - (b) an amount equal to the greater of:
 - (i) \$2,500 per each incident of violation; or
 - (ii) actual damages for financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.

Enacted by Chapter 498, 2023 General Session

Part 4

Social Media Design Regulations

13-63-401 Social media platform design regulations -- Enforcement and auditing authority -- Penalties.

- (1) Beginning March 1, 2024:
 - (a) the division shall administer and enforce the provisions of this section; and
 - (b) the division may audit the records of a social media company in order to determine compliance with the requirements of this section or to investigate a complaint, including a random sample of a social media company's records and other audit methods.
- (2) Beginning March 1, 2024, a social media company shall not use a practice, design, or feature on the company's social media platform that the social media company knows, or which by

- (ii) a civil penalty of up to \$2,500 for each Utah minor account holder who is shown to have been exposed to the practice, design, or feature found to have caused addiction under Subsection (3)(a)(i).
- (b) A social media company shall not be subject to a civil penalty for violating this section if the social media company, as an affirmative defense, demonstrates that the social media company:
 - (i) instituted and maintained a program of at least quarterly audits of the social media company's practices, designs, and features to detect practices, designs, or features that have the potential to cause or contribute to the addiction of a minor user; and
 - (ii) corrected, within 30 days of the completion of an audit described in Subsection (3)(b)(i), any practice, design, or feature discovered by the audit to present more than a de minimus risk of violating this section.
- (c) In a court action by the division to enforce this section, the court may, in addition to a civil penalty:
 - (i) declare that the act or practice violates a provision of this section;
 - (ii) issue an injunction for a violation of this section;
 - (iii) award actual damages to an injured purchaser or consumer; and
 - (iv) award any other relief that the court deems reasonable and necessary.
- (4) Nothing in this section may be construed to impose liability for a social media company for any of the following:
 - (a) content that is generated by an account holder, or uploaded to or shared on the platform by an account holder, that may be encountered by another account holder;
 - (b) passively displaying content that is created entirely by a third party;
 - (c) information or content for which the social media company was not, in whole or in part, responsible for creating or developing; or
 - (d) any conduct by a social media company involving a Utah minor account holder who would otherwise be protected by federal or Utah law.
- (5) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:
 - (a) reasonable attorney fees;
 - (b) court costs; and
 - (c) investigative fees.
- (6) Nothing in this section may be construed to negate or limit a cause of action that may have existed or exists against a social media company under the law as it existed before the effective date of this section.
- (7) 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.

Enacted by Chapter 477, 2023 General Session

Part 5
Harm to a Minor by a Social Media Company -- Private Right of Action

13-63-501 Private right of action for harm to a minor -- Rebuttable presumption of harm and causation.

- (1) Beginning March 1, 2024, a person may bring an action under this section against a social media company to recover damages incurred after March 1, 2024 by a Utah minor account holder for any addiction, financial, physical, or emotional harm suffered as a consequence of using or having an account on the social media company's social media platform.
- (2) A suit filed under the authority of this section shall be filed in the district court for the district in which the Utah minor account holder resides.
- (3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder has been harmed as a consequence of using or having an account on the social media company's social media platform, the minor seeking relief under this section is entitled to:
 - (a) an award of reasonable attorney fees and court costs; and
 - (b) an amount equal to the greater of:
 - (i) \$2,500 per each incident of harm; or
 - (ii) actual damages for addiction, financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.
- (4) If a Utah minor account holder seeking recovery of damages under this section is under the age of 16, there shall be a rebuttable presumption that the harm actually occurred and that the harm was a caused as a consequence of using or having an account on the social media company's social media platform.

Enacted by Chapter 477, 2023 General Session

Part 6 Waiver Prohibited

13-63-601 Waiver prohibited.

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

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

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Part 7 Severability

13-63-701 Severability.

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

