

SOCIAL MEDIA MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill changes when the provisions of the Utah Social Media Regulation Act become effective.

Highlighted Provisions:

This bill:

- ▶ delays the effective date for provisions of the Utah Social Media Regulation Act applicable to social media companies from March 1, 2024, to October 1, 2024.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-63-102, as enacted by Laws of Utah 2023, Chapter 498

13-63-103, as enacted by Laws of Utah 2023, Chapter 498

13-63-104, as enacted by Laws of Utah 2023, Chapter 498

13-63-105, as enacted by Laws of Utah 2023, Chapter 498

13-63-301, as enacted by Laws of Utah 2023, Chapter 498

13-63-401, as enacted by Laws of Utah 2023, Chapter 477

13-63-501, as enacted by Laws of Utah 2023, Chapter 477

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

30 Section 1. Section 13-63-102 is amended to read:

31 **13-63-102. Age requirements for use of social media platform -- Parental consent**
32 **-- Rulemaking authority of division.**

33 (1) Beginning [~~March 1, 2024~~] October 1, 2024, a social media company may not
34 permit a Utah resident who is a minor to be an account holder on the social media company's
35 social media platform unless the Utah resident has the express consent of a parent or guardian.

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

40 (3) (a) Beginning [~~March~~] October 1, 2024, a social media company shall verify the
41 age of an existing or new Utah account holder and, if the existing or new account holder is a
42 minor, confirm that a minor has consent as required under Subsection (1):

- 43 (i) for a new account, at the time the Utah resident opens the account; or
- 44 (ii) for a Utah account holder who has not provided age verification as required under
45 this section, within 14 calendar days of the Utah account holder's attempt to access the account.

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

- 48 (i) upon the expiration of the time period; and
- 49 (ii) until all verification requirements are met.

50 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
51 division, with consideration of stakeholder input, shall make rules to:

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

54 (b) establish acceptable forms or methods of identification, which may not be limited
55 to a valid identification card issued by a government entity;

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

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

60 (e) establish requirements for retaining, protecting, and securely disposing of any
61 information obtained by a social media company or its agent as a result of compliance with the
62 requirements of this chapter;

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

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

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

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

73 Section 2. Section **13-63-103** is amended to read:

74 **13-63-103. Prohibition on data collection for certain accounts -- Prohibition on**
75 **advertising -- Use of information -- Search results -- Directed content.**

76 Beginning [~~March~~] October 1, 2024, a social media company, for a social media
77 platform account held by a Utah minor account holder:

78 (1) shall prohibit direct messaging between the account and any other user that is not
79 linked to the account through friending;

80 (2) may not show the account in search results for any user that is not linked to the
81 account through friending;

82 (3) shall prohibit the display of any advertising in the account;

83 (4) shall not collect or use any personal information from the posts, content, messages,
84 text, or usage activities of the account other than information that is necessary to comply with,
85 and to verify compliance with, state or federal law, which information includes a parent or

86 guardian's name, a birth date, and any other information required to be submitted under this
87 section; and

88 (5) shall prohibit the use of targeted or suggested groups, services, products, posts,
89 accounts, or users in the account.

90 Section 3. Section **13-63-104** is amended to read:

91 **13-63-104. Parental access to social media account.**

92 Beginning [~~March~~] October 1, 2024, a social media company shall provide a parent or
93 guardian who has given parental consent for a Utah minor account holder under Section
94 **13-63-102** with a password or other means for the parent or guardian to access the account,
95 which shall allow the parent or guardian to view:

96 (1) all posts the Utah minor account holder makes under the social media platform
97 account; and

98 (2) all responses and messages sent to or by the Utah minor account holder in the social
99 media platform account.

100 Section 4. Section **13-63-105** is amended to read:

101 **13-63-105. Limited hours of access for minors -- Parental access and options.**

102 (1) Beginning [~~March~~] October 1, 2024, a social media company shall prohibit a Utah
103 minor account holder from having access to the Utah minor account holder's account during the
104 hours of 10:30 p.m. to 6:30 a.m., unless the access is modified according to another
105 requirement of this section.

106 (2) Time of day under this section shall be calculated based on the Internet protocol
107 address being used by the Utah minor account holder at the time of attempting access.

108 (3) A social media company shall provide options for a parent or guardian with access
109 to an account under Section **13-63-104** to:

110 (a) change or eliminate the time-of-day restriction described in Subsection (1); and

111 (b) set a limit on the number of hours per day that a Utah minor account holder may
112 use the account.

113 (4) A social media company shall not permit a Utah minor account holder to change or

114 bypass restrictions on access as required by this section.

115 (5) Notwithstanding any provision of this section, a social media company shall permit
116 a parent or guardian with access to an account under Section 13-63-104 to access the account
117 without time restrictions.

118 Section 5. Section 13-63-301 is amended to read:

119 **13-63-301. Private right of action.**

120 (1) Beginning [~~March~~] October 1, 2024, a person may bring an action against a person
121 that does not comply with a requirement of Part 1, General Requirements.

122 (2) A suit filed under the authority of this section shall be filed in the district court for
123 the district in which a person bringing the action resides.

124 (3) If a court finds that a person has violated a provision of Part 1, General
125 Requirements, the person who brings an action under this section is entitled to:

126 (a) an award of reasonable attorney fees and court costs; and

127 (b) an amount equal to the greater of:

128 (i) \$2,500 per each incident of violation; or

129 (ii) actual damages for financial, physical, and emotional harm incurred by the person
130 bringing the action, if the court determines that the harm is a direct consequence of the
131 violation or violations.

132 Section 6. Section 13-63-401 is amended to read:

133 **13-63-401. Social media platform design regulations -- Enforcement and auditing**
134 **authority -- Penalties.**

135 (1) Beginning [~~March~~] October 1, 2024:

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

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

140 (2) Beginning [~~March~~] October 1, 2024, a social media company shall not use a
141 practice, design, or feature on the company's social media platform that the social media

142 company knows, or which by the exercise of reasonable care should know, causes a Utah minor
143 account holder to have an addiction to the social media platform.

144 (3) Beginning [~~March~~] October 1, 2024:

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

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

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

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

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

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

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

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

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

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

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

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

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

- 170 (b) passively displaying content that is created entirely by a third party;
- 171 (c) information or content for which the social media company was not, in whole or in
- 172 part, responsible for creating or developing; or
- 173 (d) any conduct by a social media company involving a Utah minor account holder
- 174 who would otherwise be protected by federal or Utah law.
- 175 (5) If a court of competent jurisdiction grants judgment or injunctive relief to the
- 176 division, the court shall award the division:
 - 177 (a) reasonable attorney fees;
 - 178 (b) court costs; and
 - 179 (c) investigative fees.
- 180 (6) Nothing in this section may be construed to negate or limit a cause of action that
- 181 may have existed or exists against a social media company under the law as it existed before
- 182 the effective date of this section.
- 183 (7) All money received for the payment of a fine or civil penalty imposed under this
- 184 section shall be deposited into the Consumer Protection Education and Training Fund
- 185 established in Section 13-2-8.
- 186 Section 7. Section 13-63-501 is amended to read:
- 187 **13-63-501. Private right of action for harm to a minor -- Rebuttable presumption**
- 188 **of harm and causation.**
- 189 (1) Beginning [~~March~~] October 1, 2024, a person may bring an action under this
- 190 section against a social media company to recover damages incurred after [~~March~~] October 1,
- 191 2024 by a Utah minor account holder for any addiction, financial, physical, or emotional harm
- 192 suffered as a consequence of using or having an account on the social media company's social
- 193 media platform.
- 194 (2) A suit filed under the authority of this section shall be filed in the district court for
- 195 the district in which the Utah minor account holder resides.
- 196 (3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder
- 197 has been harmed as a consequence of using or having an account on the social media

198 company's social media platform, the minor seeking relief under this section is entitled to:

199 (a) an award of reasonable attorney fees and court costs; and

200 (b) an amount equal to the greater of:

201 (i) \$2,500 per each incident of harm; or

202 (ii) actual damages for addiction, financial, physical, and emotional harm incurred by
203 the person bringing the action, if the court determines that the harm is a direct consequence of
204 the violation or violations.

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

209 **Section 8. Effective date.**

210 If approved by two-thirds of all the members elected to each house, this bill takes effect
211 upon approval by the governor, or the day following the constitutional time limit of Utah
212 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
213 the date of veto override.