

SOCIAL MEDIA USAGE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts the Utah Digital Expression Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires public disclosure of certain information by social media platforms;
- ▶ requires social media platforms to establish a complaint process and procedures related to content removal and account restrictions;
- ▶ prohibits viewpoint-based censorship on social media platforms, with certain exceptions;
- ▶ authorizes the Division of Consumer Protection to investigate complaints and enforce provisions of the Utah Digital Expression Act; and
- ▶ allows a private right of action for violations.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Superseded 05/02/24), as last amended by Laws of Utah 2023, Chapters 31,



28 36, 377, 458, 477, 498, and 509

29 **13-2-1 (Effective 05/02/24)**, as last amended by Laws of Utah 2023, Chapters 31, 36,

30 377, 458, 477, 498, 509, and 536

31 ENACTS:

32 **13-70-101**, Utah Code Annotated 1953

33 **13-70-201**, Utah Code Annotated 1953

34 **13-70-202**, Utah Code Annotated 1953

35 **13-70-301**, Utah Code Annotated 1953

36 **13-70-302**, Utah Code Annotated 1953

37 **13-70-401**, Utah Code Annotated 1953

38 **13-70-501**, Utah Code Annotated 1953

39 **13-70-502**, Utah Code Annotated 1953

40 **13-70-503**, Utah Code Annotated 1953

41 **13-70-504**, Utah Code Annotated 1953

42 **13-70-505**, Utah Code Annotated 1953

43 **13-70-601**, Utah Code Annotated 1953

44

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

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 Section **13-2-1 (Superseded 05/02/24)** is amended to read:

47 **13-2-1 (Superseded 05/02/24). Consumer protection division established --**

48 **Functions.**

49 (1) There is established within the Department of Commerce the Division of Consumer
50 Protection.

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

52 (a) Chapter 10a, Music Licensing Practices Act;

53 (b) Chapter 11, Utah Consumer Sales Practices Act;

54 (c) Chapter 15, Business Opportunity Disclosure Act;

55 (d) Chapter 20, New Motor Vehicle Warranties Act;

56 (e) Chapter 21, Credit Services Organizations Act;

57 (f) Chapter 22, Charitable Solicitations Act;

58 (g) Chapter 23, Health Spa Services Protection Act;

- 59 (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 60 (i) Chapter 26, Telephone Fraud Prevention Act;
- 61 (j) Chapter 28, Prize Notices Regulation Act;
- 62 (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
- 63 Transaction Information Act;
- 64 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
- 65 (m) Chapter 41, Price Controls During Emergencies Act;
- 66 (n) Chapter 42, Uniform Debt-Management Services Act;
- 67 (o) Chapter 49, Immigration Consultants Registration Act;
- 68 (p) Chapter 51, Transportation Network Company Registration Act;
- 69 (q) Chapter 52, Residential Solar Energy Disclosure Act;
- 70 (r) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 71 (s) Chapter 54, Ticket Website Sales Act;
- 72 (t) Chapter 56, Ticket Transferability Act;
- 73 (u) Chapter 57, Maintenance Funding Practices Act;
- 74 (v) Chapter 61, Utah Consumer Privacy Act;
- 75 (w) Chapter 63, Utah Social Media Regulation Act;
- 76 (x) Chapter 64, Vehicle Value Protection Agreement Act;
- 77 (y) Chapter 65, Utah Commercial Email Act; [~~and~~]
- 78 (z) Chapter 67, Online Dating Safety Act[~~;~~]; and
- 79 (aa) Chapter 70, Utah Digital Expression Act.

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

81 **13-2-1 (Effective 05/02/24). Consumer protection division established --**

82 **Functions.**

83 (1) There is established within the Department of Commerce the Division of Consumer
84 Protection.

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

- 86 (a) Chapter 10a, Music Licensing Practices Act;
- 87 (b) Chapter 11, Utah Consumer Sales Practices Act;
- 88 (c) Chapter 15, Business Opportunity Disclosure Act;
- 89 (d) Chapter 20, New Motor Vehicle Warranties Act;

- 90 (e) Chapter 21, Credit Services Organizations Act;
- 91 (f) Chapter 22, Charitable Solicitations Act;
- 92 (g) Chapter 23, Health Spa Services Protection Act;
- 93 (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 94 (i) Chapter 26, Telephone Fraud Prevention Act;
- 95 (j) Chapter 28, Prize Notices Regulation Act;
- 96 (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
- 97 Transaction Information Act;
- 98 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
- 99 (m) Chapter 41, Price Controls During Emergencies Act;
- 100 (n) Chapter 42, Uniform Debt-Management Services Act;
- 101 (o) Chapter 49, Immigration Consultants Registration Act;
- 102 (p) Chapter 51, Transportation Network Company Registration Act;
- 103 (q) Chapter 52, Residential Solar Energy Disclosure Act;
- 104 (r) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 105 (s) Chapter 54, Ticket Website Sales Act;
- 106 (t) Chapter 56, Ticket Transferability Act;
- 107 (u) Chapter 57, Maintenance Funding Practices Act;
- 108 (v) Chapter 61, Utah Consumer Privacy Act;
- 109 (w) Chapter 63, Utah Social Media Regulation Act;
- 110 (x) Chapter 64, Vehicle Value Protection Agreement Act;
- 111 (y) Chapter 65, Utah Commercial Email Act;
- 112 (z) Chapter 67, Online Dating Safety Act; ~~[and]~~
- 113 (aa) Chapter 68, Lawyer Referral Consultants Registration Act~~[-];~~ and
- 114 (bb) Chapter 70, Utah Digital Expression Act.

115 Section 3. Section **13-70-101** is enacted to read:

116 **CHAPTER 70. UTAH DIGITAL EXPRESSION ACT**

117 **Part 1. General Provisions**

118 **13-70-101. Definitions.**

119 As used in this chapter:

- 120 (1) "Adverse action" means a social media platform's decision:

- 121 (a) to suspend, lock, or disable a user's account;
122 (b) to ban a user from the social media platform;
123 (c) to remove content;
124 (d) to demonetize content;
125 (e) to deprioritize content;
126 (f) to add an assessment to content, such as a fact check or other disclaimer regarding
127 the accuracy of the content without fully disclosing the basis for and sources supporting the
128 assessment; or
129 (g) to take any other action related to a user's account or content in accordance with the
130 social media platform's acceptable use policy that relates or is in response to the viewpoints
131 expressed by the user.
- 132 (2) "Censor" or "censorship" means to block, ban, remove, deplatform, de-boost,
133 restrict, deny equal access or visibility to, or otherwise discriminate against expression.
- 134 (3) "Director" means the director of the Division of Consumer Protection created in
135 Section [13-2-1](#).
- 136 (4) "Division" means the Division of Consumer Protection created in Section [13-2-1](#).
- 137 (5) "Expression" means any word, music, sound, still or moving image, number, or
138 other perceivable communication.
- 139 (6) "Receive" means, with respect to an expression, to read, hear, look at, access, or
140 gain access to the expression.
- 141 (7) (a) "Social media platform" means an Internet website or application:
142 (i) that is open to the public;
143 (ii) that allows users to create an account; and
144 (iii) whose primary purpose is to enable users to disseminate information to and
145 communicate with other users through the posting of comments, messages, video, images, or
146 other media.
- 147 (b) "Social media platform" does not include:
148 (i) an Internet service provider;
149 (ii) electronic mail; or
150 (iii) an online service, application, or website:
151 (A) that consists primarily of content that is not user generated but is preselected by the

152 provider, regardless of the type of content; and

153 (B) for which any chat, comment, or interactive functionality is incidental to, directly
154 related to, or dependent on the provider's content described in Subsection (7)(b)(iii)(A).

155 (8) "Unlawful expression" means an expression that is unlawful under state or federal
156 law, including expression that constitutes a tort under state or federal law.

157 (9) (a) "User" means a Utah resident who posts, uploads, transmits, shares, or
158 otherwise publishes or receives content through a social media platform.

159 (b) "User" includes a person who has a social media platform account that the social
160 media platform has disabled or locked.

161 (10) "Utah resident" means a person who resides or operates in Utah and:

162 (a) if the person is an individual, has their primary residence in Utah; or

163 (b) if the person is a business entity or organization, has a principal place of business or
164 principal location in Utah.

165 (11) "Viewpoint" means a specific motivating ideology, opinion, or perspective.

166 Section 4. Section **13-70-201** is enacted to read:

167 **Part 2. Disclosure and Acceptable Use Policy**

168 **13-70-201. Public disclosures.**

169 (1) In accordance with this section, a social media platform shall publicly disclose
170 accurate information regarding the social media platform's content management, data
171 management, and business practices, including specific information regarding the manner in
172 which the social media platform:

173 (a) curates and targets content to users;

174 (b) places and promotes content, services, and products, including the social media
175 platform's own content, services, and products;

176 (c) moderates content;

177 (d) uses search, ranking, or other algorithms or procedures that determine results on the
178 social media platform; and

179 (e) provides users with performance data on the use of the platform and the social
180 media platform's products and services.

181 (2) A social media platform is not required to include in a public disclosure trade
182 secrets and commercial or financial information that is protected from disclosure by federal

183 law.

184 (3) A social media platform shall ensure that a public disclosure:

185 (a) is sufficient to enable users to make an informed choice regarding the purchase or
186 use of access to or services from the platform; and

187 (b) is made available on an Internet website that is easily accessible to the public.

188 Section 5. Section **13-70-202** is enacted to read:

189 **13-70-202. Acceptable use policy.**

190 (1) A social media platform shall publish an acceptable use policy in a location on the
191 social media platform that is easily accessible to a user.

192 (2) A social media platform shall ensure that an acceptable use policy:

193 (a) reasonably informs a user about the types of content that the social media platform
194 prohibits;

195 (b) explains the steps the social media platform takes to ensure content complies with
196 the policy;

197 (c) explains the process by which a user may submit a complaint under Section
198 13-70-301; and

199 (d) includes a copy of the biannual transparency report as described in Section
200 13-70-302, including a description of any adverse action the social media platform has taken to
201 enforce the policy.

202 Section 6. Section **13-70-301** is enacted to read:

203 **Part 3. Complaints and Reporting**

204 **13-70-301. Illegal activity or content -- Adverse actions -- Complaint system and**
205 **procedures - Appeals.**

206 (1) A social media platform shall:

207 (a) provide an easily accessible complaint system that enables a user to submit a
208 complaint about the social media platform; and

209 (b) track the status of the complaint, including a complaint regarding:

210 (i) content that potentially violates the social media platform's acceptable use policy;

211 (ii) illegal activity or illegal content; and

212 (iii) the social media platform's decision to take an adverse action.

213 (2) (a) If a social media platform receives a complaint of illegal content or illegal

214 activity, the social media platform shall, no later than two business days after the date on which
215 the social media platform receives the complaint, make a good faith effort to evaluate the
216 legality of the content or activity.

217 (b) If the social media platform determines that the alleged illegal content or illegal
218 activity suggests that the user who posted the content or conducted the activity poses an
219 imminent threat to themselves or others, the social media platform shall immediately notify an
220 appropriate law enforcement agency.

221 (3) Except as provided in Subsection (5), if a social media platform takes an adverse
222 action based on a violation of the platform's acceptable use policy under Section [13-70-202](#), the
223 social media platform shall, concurrently with the action:

224 (a) notify the user who posted the content of any content removal and explain the
225 reason for the adverse action;

226 (b) allow the user to appeal the decision; and

227 (c) provide written notice to the user of the right to appeal the action and the process
228 for an appeal.

229 (4) Within 30 days after receiving an appeal of an adverse action taken by a social
230 media platform, a social media platform shall:

231 (a) review the appeal;

232 (b) make a determination regarding the appeal; and

233 (c) provide the written notice, that includes:

234 (i) the determination the social media platform reached regarding the appeal; and

235 (ii) in the case of a reversal of the social media platform's decision, the reason for the
236 reversal.

237 (5) A social media platform is not required to provide a user with notice or an
238 opportunity to appeal under Subsection (3) if the social media platform:

239 (a) is unable to contact the user after taking reasonable steps to make contact;

240 (b) reports the user's content or activity to a law enforcement agency; or

241 (c) knows the user's content relates to an ongoing law enforcement agency
242 investigation.

243 (6) If a social media platform receives a user complaint regarding an adverse action,
244 the social media platform shall, no later than 14 business days after the date on which the social

245 media platform receives the complaint:

- 246 (a) review the content that is subject to the adverse action;
- 247 (b) determine whether the content adheres to the platform's acceptable use policy;
- 248 (c) take appropriate steps based on the determination; and
- 249 (d) notify the user regarding the determination and steps taken under this Subsection
- 250 (6).

251 Section 7. Section **13-70-302** is enacted to read:

252 **13-70-302. Biannual transparency report.**

253 (1) A social media platform shall publish a biannual transparency report that includes,
254 with respect to the preceding six-month period:

255 (a) the total number of instances in which the social media platform was informed of
256 illegal content, illegal activity, or policy-violating content by means of:

- 257 (i) a user complaint;
- 258 (ii) an employee of or a person contracting with the social media platform; or
- 259 (iii) an internal automated detection tool;

260 (b) the number of instances in which the social media platform took adverse action
261 with respect to illegal content, illegal activity, or potentially policy-violating content, each
262 instance of which shall be categorized by:

- 263 (i) the rule violated;
- 264 (ii) the source for the alert of illegal content, illegal activity, or potentially

265 policy-violating content, including:

- 266 (A) a government;
- 267 (B) a user;
- 268 (C) an internal automated detection tool;
- 269 (D) coordination with other social media platforms; or
- 270 (E) persons employed by or contracting with the platform; and
- 271 (iii) the country of the user who is responsible for the content;

272 (c) the number of coordinated efforts related to illegal content, illegal activity, or
273 potentially policy-violating content, if applicable;

274 (d) (i) the number of instances in which a user appealed an adverse action under
275 Section [13-63-301](#); and

276 (ii) the percentage of appeals that resulted in the social media platform restoring
277 content; and

278 (e) a description of each tool, practice, action, or technique the social media platform
279 uses to enforce the acceptable use policy.

280 (2) A social media platform shall publish each biannual transparency report:

281 (a) with an open license;

282 (b) in a machine-readable and open format; and

283 (c) in a location that is easily accessible to users.

284 Section 8. Section 13-70-401 is enacted to read:

285 **Part 4. Censorship Prohibited.**

286 **13-70-401. Censorship prohibited.**

287 (1) (a) Except as provided in Subsection (2), and to the extent that a social media
288 platform allows users to engage in expression regarding certain content, the social media
289 platform may not censor a user, a user's expression, or a user's ability to receive the expression
290 of another user based on:

291 (i) the user's particular viewpoint; or

292 (ii) the user's particular viewpoint represented in the user's expression.

293 (b) Censorship based on viewpoint shall be considered an action taken in bad faith.

294 (2) A social media platform may censor expression that:

295 (a) the social media platform is specifically authorized to censor under state or federal
296 law;

297 (b) is the subject of a referral or request from an organization with the purpose of
298 preventing the sexual exploitation of children and protecting survivors of sexual abuse from
299 ongoing harassment;

300 (c) directly incites criminal activity or consists of direct threats of violence or illegal
301 activity targeted against a specific individual or group;

302 (d) is unlawful expression; or

303 (e) a court of competent jurisdiction has ordered the social media platform to remove.

304 (3) Nothing in this section shall prohibit a social media platform from prohibiting
305 entire categories of content, provided that the prohibition of the category does not constitute
306 viewpoint discrimination.

307 (4) This section may not be construed to prohibit or restrict a social media platform
308 from authorizing or facilitating a user's ability to censor specific expression on the user's
309 platform or page at the request of that user.

310 (5) This section applies only to expression that is shared or received in this state.

311 Section 9. Section **13-70-501** is enacted to read:

312 **Part 5. Enforcement by Division.**

313 **13-70-501. Investigative powers of the division.**

314 (1) The division shall receive consumer complaints alleging a failure to comply with a
315 requirement of this chapter.

316 (2) A person may file a consumer complaint with the division that alleges a person's
317 failure to comply with a requirement of this chapter.

318 (3) The division shall investigate a consumer complaint to determine whether a person
319 subject to the requirements of this chapter has failed to comply with a requirement of this
320 chapter.

321 Section 10. Section **13-70-502** is enacted to read:

322 **13-70-502. Enforcement powers of the division.**

323 (1) The division has the authority to administer and enforce the requirements of this
324 chapter.

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

327 (3) (a) Subject to the ability to cure an alleged failure to comply with a provision of this
328 chapter under Subsection (4):

329 (i) the division director may impose an administrative fine of up to \$2,500 for each
330 instance of a failure to comply with a provision of this chapter; and

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

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

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

336 (ii) issue an injunction against a person who has failed to comply with a provision of
337 this chapter;

338 (iii) order disgorgement of any money received as a result of failure to comply with a
339 provision of this chapter;

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

341 (v) impose a civil penalty of up to \$2,500 for each instance of a failure to comply with
342 a provision of this chapter;

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

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

345 (4) (a) At least 30 days before the day on which the division initiates an enforcement
346 action against a person that is subject to the requirements of this chapter, the division shall
347 provide the person with:

348 (i) written notice that identifies each alleged failure to comply with a requirement of
349 this chapter; and

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

351 (b) Except as provided under Subsection (4)(c), the division may not initiate an action
352 if the person, within 30 days after the day on which the person receives the notice described in
353 Subsection (4)(a):

354 (i) cures the noticed failure to comply; and

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

356 (A) is now in compliance with the applicable provision of this chapter; and

357 (B) will remain in compliance with the applicable provision.

358 (c) The division may initiate a civil action against a person that:

359 (i) fails to remedy the person's failure to comply with a requirement of this chapter
360 after receiving the notice described in Subsection (4)(a); or

361 (ii) after coming into compliance and providing a written statement in accordance with
362 Subsection (4)(b), fails to comply with the same provision again.

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

365 (a) reasonable attorney fees;

366 (b) court costs; and

367 (c) investigative fees.

368 (6) (a) A person who violates an administrative or court order issued for failure to

369 comply with a provision of this chapter is subject to a civil penalty of no more than \$5,000 for
370 each incident of noncompliance.

371 (b) A civil penalty authorized under this chapter may be imposed by the court in any
372 civil action brought by the division, or by the attorney general on behalf of the division.

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

376 Section 11. Section 13-70-503 is enacted to read:

377 **13-70-503. Private right of action.**

378 (1) A user may bring an action against a person that does not comply with the
379 requirements of this chapter.

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

382 (3) If a court finds that a person has failed to comply with a provision of this chapter,
383 the user who brings an action under this section is entitled to:

384 (a) injunctive relief;

385 (b) declaratory relief;

386 (c) court costs and reasonable attorney fees; and

387 (d) an amount equal to the greater of:

388 (i) actual damages; or

389 (ii) \$2,500 per each incident of demonstrated noncompliance.

390 (4) A user may bring an action under this section regardless of whether another court
391 has enjoined the division or the attorney general from enforcing this chapter or declared any
392 provision of this chapter unconstitutional, unless that court decision is binding on the court in
393 which the action is brought.

394 (5) Non-mutual issue preclusion and non-mutual claim preclusion are not defenses to
395 an action brought under this section.

396 Section 12. Section 13-70-504 is enacted to read:

397 **13-70-504. Waiver prohibited.**

398 Notwithstanding any contract or choice-of-law provision in a contract, a waiver or
399 purported waiver of any of the following is void as unlawful, is against public policy, and a

400 court or arbitrator may not enforce or give effect to:

401 (1) a protection or requirement provided under this chapter;

402 (2) the right to cooperate with the division or to file a complaint with the division;

403 (3) the right to a private right of action as provided under this chapter; or

404 (4) the right to recover actual damages, statutory damages, civil penalties, costs, or fees
405 as allowed by this chapter.

406 Section 13. Section **13-70-505** is enacted to read:

407 **13-70-505. Limitation of effect of chapter -- Damages and remedies.**

408 This chapter does not subject a social media platform to damages or other legal
409 remedies to the extent that the social media platform is protected from those remedies under
410 federal law.

411 Section 14. Section **13-70-601** is enacted to read:

412 **Part 6. Severability.**

413 **13-70-601. Severability.**

414 If any provision of this chapter or the application of any provision to any person or
415 circumstance is held invalid by a final decision of a court of competent jurisdiction, the
416 remainder of this chapter shall be given effect without the invalid provision or application.

417 Section 15. **Effective date.**

418 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

419 (2) The actions affecting Section [13-2-1](#) (Effective 05/02/2024) take effect on May 2,
420 2024.