



Utah state lawmakers are poised to change how (and when) minors who reside in Utah can use social media. Introduced in January, [S.B. 152](#) and [H.B. 311](#) recently cleared the Utah legislature and both bills have been sent to Governor Spencer Cox, who [dismissed industry concerns](#) that the bills would pose privacy risks, impede minors' independence, and violate the First Amendment. If signed, the bills would go into effect on March 1, 2024.

## **Applicability**

The bills would apply to companies that provide "social media platforms" to at least 5 million users worldwide. "Social media platforms" are defined as online forums that enable users to create profiles, upload posts, view

posts from others, and interact with other users. A number of services are excluded from the law, such as online services, websites, and applications where the predominant or exclusive function is email, direct messaging, news and entertainment streaming, video conferencing, online shopping, or interactive and virtual gaming. The term "predominant" is not defined and will likely be subject to interpretation.

## Notable Requirements

Under S.B. 152, in regard to Utah residents, social media companies must:

- **Verify** the age of all existing or new account holders.
- **Obtain parental/guardian consent** to open or maintain accounts for minors (or confirm that they already have obtained such consent).
- **Prohibit access** to minors' accounts between 10:30 p.m. and 6:30 a.m. MT.
  
- **Prohibit minors' accounts from:**
  - Direct messaging with nonfriend accounts.
  - Appearing in search results for nonfriend accounts.
  - Displaying advertising in the account.
  - Collecting or using personal information from the posts, content, messages, text, or usage activities of the account other than information necessary to comply with or verify compliance with state or federal law.
  - Using targeted or suggested groups, services, products, posts, accounts, or users in the account.
  
- **Provide the parent/guardian who provided consent for the account the right to access minors' accounts.**

Under H.B. 311, in regard to Utah residents, social media companies must:

- **Avoid using a practice, design, or feature on the social media platform that the company knows, or should know, causes addiction**, which is defined as use of a social media platform that indicates preoccupation or obsession and causes physical, mental, emotional, developmental, or other material harm.

## Enforcement

The Utah Division of Consumer Protection is charged with enforcing both bills and would be authorized to seek a variety of relief including injunctions, disgorgement, actual damages, and civil penalties, subject to a 30-day right to cure. H.B. 311 also provides for an affirmative defense against addiction claims for companies that audit their social media platforms and correct any features or services that pose more than a de minimis risk of addiction. Both bills also include private rights of action.

\* \* \*

The Utah social media bills would join a growing expanse of legislation aimed at protecting minors online. Most prominently, California has enacted an [Age-Appropriate Design Code](#) (CA AADC) to mirror the United Kingdom's. While the CA AADC and the Utah social media bills have similar goals, they seek to tackle them in very different ways—for example, the CA AADC requires that businesses provide an obvious signal to minors

when their parents/guardians are allowed to monitor their online activity, while S.B. 152 would require social media platforms to give parents/guardians access to their children's social media account content, without any similar requirement to notify the child. Businesses in scope will have to navigate these differences as they wait for guidance through regulations from the Utah Division of Consumer Protection (DCP) and a report from the California Children's Data Protection Working Group.

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