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Arkansas Becomes Second State To Enact Social Media Restrictions for Minors



Less than one month after Utah adopted the nation's first [law](#) restricting the use of social media platforms by minors under 18, Arkansas last week enacted its Social Media Safety Act (the Act), [SB396](#). The Act, which goes into effect on September 1, 2023, similarly bars minors from holding accounts on social media platforms without parental consent and requires social media companies to complete "reasonable age verification" via a third-party vendor.

Reasonable age verification methods include any one of the following:

- Digitized ID card (including a digital copy of a driver's license).
- Government-issued identification.
- Any commercially reasonable age verification method.

## **Applicability**

The Act applies to each "social media company" that provides a "social media platform" generating at least \$100 million and more than 25% of company revenues.

"Social media company" is defined as an online forum that a company makes available for an account holder to do the following:

1. Create a public profile, establish an account, or register as a user for the primary purpose of interacting socially with other profiles and accounts.
2. Upload or create posts or content.
3. View posts or content of other account holders.

4. Interact with other account holders or users, including without limitation establishing mutual connections through request and acceptance.

"Social media platform" is defined as a public or semi-public internet service or application with users in Arkansas where a substantial function of the platform is to connect users in order to allow them to interact socially within the service or application.

Both the "social media company" and "social media platform" definitions exclude several types of online services and applications, including, for example, email, direct messaging, licensed media streamers, business-to-business (B2B) software, and online shopping.

## **Enforcement**

Arkansas prosecutors may initiate enforcement actions against social media companies that fail to perform reasonable age verification. A private right of action is also available, with penalties of \$2,500 per violation or damages and reasonable attorney's fees as court ordered.

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While SB396 will likely be challenged in court prior to enforcement, the law's effective date is just under five months away. Given the compressed timeline, companies in scope may wish to expedite consideration of how the Act may affect their business.

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