

JAN 18 2013

A BILL FOR AN ACT

RELATING TO SOCIAL MEDIA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that existing law
2 generally regulates the conduct of employers in the State.

3 The purpose of this Act is to prohibit an employer from
4 requiring or requesting an employee or applicant for employment
5 to disclose a username or password for the purpose of obtaining
6 access to the employee's or applicant's social media accounts.
7 This Act also prohibits an employer from discharging,
8 disciplining, threatening to discharge or discipline, or
9 otherwise retaliating against an employee or applicant for not
10 complying with a request or demand by the employer that violates
11 these provisions.

12 SECTION 2. Chapter 378, Hawaii Revised Statutes, is
13 amended by adding a new section to Part I to be appropriately
14 designated and to read as follows:

15 "§378- Employer access to employee social media
16 prohibited. (a) An employer shall not require or request an
17 employee or applicant for employment to do any of the following:



1 (1) Disclose a username or password for the purpose of
2 accessing the employee's or applicant's personal
3 social media;

4 (2) Access the employee's or applicant's personal social
5 media in the presence of the employer; or

6 (3) Divulge any personal social media, except as provided
7 in subsection (b).

8 (b) Nothing in this section shall affect an employer's
9 existing rights and obligations to request an employee to
10 divulge personal social media reasonably believed to be relevant
11 to an investigation of allegations of employee misconduct or
12 employee violation of applicable law; provided that the social
13 media is used solely for purposes of that investigation or a
14 related proceeding.

15 (c) Nothing in this section shall preclude an employer
16 from requiring or requesting an employee to disclose a username
17 or password for the purpose of accessing an employer-issued
18 electronic device.

19 (d) An employer shall not discharge, discipline, threaten
20 to discharge or discipline, or retaliate against an employee or
21 applicant for not complying with a request or demand by the
22 employer that violates this section; provided that this section



1 shall not prohibit an employer from terminating or taking an
2 adverse action against an employee or applicant if otherwise
3 permitted by law.

4 (e) As used in this section, "social media" means an
5 electronic service or account or electronic content, including
6 videos, photographs, blogs, video blogs, podcasts, instant and
7 text messages, email, online services or accounts, or internet
8 website profiles or locations."

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 4. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Will Engson

Handwritten signatures:
1. *Richard...*
2. *Andrew...*
3. *FLA Gosh*



S.B. NO. 207

Report Title:

Social Media; Password; Username; Privacy; Employer; Employee;
Employment

Description:

Prohibits employers from requiring employees and applicants for employment from disclosing social media usernames or passwords.

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