

Honolulu, Hawaii

FEB 15 2013

RE: S.B. No. 207  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Technology and the Arts, to which was referred S.B. No. 207 entitled:

"A BILL FOR AN ACT RELATING TO SOCIAL MEDIA,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit employers from requiring employees and applicants for employment to disclose their personal social media usernames or passwords, divulge information in personal social media, or access personal social media in the presence of the employer.

Your Committee received testimony in support of this measure from the Hawaii Civil Rights Commission, American Civil Liberties Union of Hawaii, Ililani Media, and three individuals. Your Committee received testimony in opposition to this measure from the American Council of Life Insurers. Your Committee received comments on this measure from The Chamber of Commerce of Hawaii.

Your Committee finds that a growing number of employers are asking their employees or job applicants to disclose their user names and passwords for private internet or web-based accounts. This measure prohibits this practice and protects the privacy rights for applicants and employees with regard to their personal social media accounts. Your Committee finds that private activities that would never be intruded upon offline should not receive less privacy protection simply because they take place online.



Your Committee has amended this measure by:

- (1) Substituting the phrase "personal media" for "social media";
- (2) Substituting the phrase "personal account" for "personal social media" and adding a definition for "personal account";
- (3) Providing an exception for employers who have received specific information about an employee's use of a personal account for business purposes to ensure compliance with applicable laws, regulatory requirements, or prohibitions against business-related employee misconduct;
- (4) Providing an exception for employers who have specific information about the unauthorized transfer of the employers' proprietary information, confidential information, or financial data to an employee's personal account;
- (5) Providing immunity for employers from any liability resulting from their failure to request or require that an employee or applicant disclose a username or password for the purpose of accessing the employee's or applicant's personal account; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Technology and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 207, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 207, S.D. 1, and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on  
behalf of the members of the  
Committee on Technology and the  
Arts,

  
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GLENN WAKAI, Chair



