

Honolulu, Hawaii

February 16, 2018

RE: H.B. No. 2173
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 2173, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ONLINE ACCOUNT PRIVACY,"

begs leave to report as follows:

The purpose of this measure is to protect employee and student privacy by prohibiting employers and educational institutions from requiring employees, students, and prospective employees and students to provide protected personal online account information, and authorizes private civil actions against violators.

The Department of Education, University of Hawaii, and an individual testified in support of this measure. The Chamber of Commerce Hawaii and American Civil Liberties Union of Hawai'i provided comments.

Your Committee has amended this measure by:

- (1) Clarifying that educational institutions and employers do not include independent contractors;
- (2) Excluding mere requests for an employee or student to disclose or access login information from liability;



- (3) Clarifying that adverse actions may be taken against an employee or student for failure or refusal to comply with requirements or requests made under narrow statutory circumstances;
- (4) Clarifying that an employer or educational institution may request access to content based on allegations about an employee's or student's protected personal online account;
- (5) Allowing an employer or educational institution to retain login information acquired by lawful technology for the purposes of an anticipated or ongoing civil action so long as the employer or educational institution makes a reasonable effort to keep the login information secure and dispose of it after completion of the civil action; and
- (6) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2173, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Judiciary in the form attached hereto as H.B. No. 2173, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ROY M. TAKUMI, Chair



