

JAN 29 2015

A BILL FOR AN ACT

RELATING TO SOCIAL MEDIA.

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

SECTION 1. Chapter 378, part I, Hawaii Revised Statutes,
is amended by adding a new section to be appropriately
designated and to read as follows:

"§378- Employer access to employee or potential
employee personal accounts prohibited. (a) An employer shall
be prohibited from requiring or requesting an employee or
potential employee to do any of the following:

(1) Disclose a username and password for the purpose of
accessing the employee or potential employee's
personal account;

(2) Access the employee or potential employee's personal
account in the presence of the employer; or

(3) Divulge information from any personal account, except
as provided in subsection (b).

(b) Nothing in this section shall preclude an employer
from conducting an investigation:



1 (1) For the purposes of ensuring compliance with
2 applicable laws, regulatory requirements, or
3 prohibitions against work-related employee misconduct
4 based on the receipt of specific information about
5 activity on a personal online account or service by an
6 employee or other source; or

7 (2) Of an employee's actions based on the receipt of
8 specific information about the unauthorized transfer
9 of an employer's proprietary information, confidential
10 information, or financial data to a personal online
11 account or personal online service by an employee or
12 other source.

13 Conducting an investigation as specified in paragraphs (1) and
14 (2) includes requiring the employee's cooperation to share the
15 content that has been reported in order to make a factual
16 determination.

17 (c) Nothing in this section shall be construed to prevent
18 an employer from complying with the requirements of state or
19 federal statutes, rules, regulations, or case law, or rules of
20 self-regulatory organizations.



1 (d) Nothing in this section shall preclude an employer
2 from requiring or requesting an employee to disclose a username
3 or password for the purpose of accessing:

4 (1) Any electronic communications device supplied or paid
5 for in whole or in part by the employer; or

6 (2) Any accounts or services provided by the employer or
7 by virtue of the employee's employment relationship
8 with the employer or that the employee uses for
9 business purposes.

10 (e) An employer shall not be liable for failure to request
11 or require that an employee or potential employee disclose any
12 information specified in subsection (a)(1) of this section.

13 (f) Nothing in this section shall prohibit an employer
14 from monitoring, reviewing, accessing, or blocking electronic
15 data stored on an electronic communications device paid for in
16 whole or in part by the employer, or traveling through or stored
17 on an employer's network, in compliance with state and federal
18 law.

19 (g) An employer shall not discharge, discipline, threaten
20 to discharge or discipline, or retaliate against an employee or
21 potential employee for not complying with a request or demand by



1 the employer that violates this section; provided that this
2 section shall not prohibit an employer from terminating or
3 taking an adverse action against an employee or potential
4 employee if otherwise permitted by law.

5 (h) As used in this section, "personal account" means an
6 account, service, or profile on a social networking website that
7 is used by an employee or potential employee exclusively for
8 personal communications unrelated to any business purposes of
9 the employer. This definition shall not apply to any account,
10 service, profile, or electronic mail created, maintained, used,
11 or accessed by an employee or potential employee for business
12 purposes of the employer or to engage in business-related
13 communications."

14 SECTION 2. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 3. New statutory material is underscored.

18 SECTION 4. This Act shall take effect on July 1, 2015.

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S.B. NO. 1269

Report Title:

Personal Account; Privacy; Employment

Description:

Prohibits employers from requiring or requesting employees and potential employees to grant access to personal account usernames and passwords.

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