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 Hawaiii 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,

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ROY M. TAKUMI, Chair

## State of Hawaii House of Representatives The Twenty-ninth Legislature



## **Record of Votes of the Committee on Consumer Protection & Commerce**

Bill/Resolution No.:  HB 2173, HD1	Committee Referral: LAB, CPC, TUI	Date:	2/15/	100
☐ The committee is reconsidering its previous decision on the measure.				
The recommendation is to:  Pass, unamended (as is) Pass, with amendments (HD) Hold Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. TAKUMI, Roy M. (C)	1			"
2. ICHIYAMA, Linda (VC)		The second second second second		
3. AQUINO, Henry J.C.				
4. ITO, Ken				
5. JOHANSON, Aaron Ling				<b>✓</b>
6. LoPRESTI, Matthew S.				
7. MIZUNO, John M.				
7. 141120110, Julii 141.				
8. SAY, Calvin K.Y.				
9. TOKIOKA, James Kunane			, annimical literate (* + m.) see ein de mendental in institution in 1995 (*)	
10. YAMANE, Ryan I.				
			A Property and the second seco	
11. McDERMOTT, Bob	<i>V</i> .			
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TOTAL (11)	(0)	0	0	1
The recommendation is:  Adopted  If joint referral, did not support recommendation.				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				