
A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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

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

4 "PART . EMPLOYEE PERSONAL SOCIAL MEDIA

5 §378- Employer access to employee or potential employee
6 personal accounts prohibited. (a) An employer shall not:

- 7 (1) Require, request, or coerce an employee or potential
8 employee to disclose the username, password, or any
9 other information for the purpose of accessing the
10 employee's or potential employee's personal account;
- 11 (2) Require, request, or coerce an employee or potential
12 employee to provide access to the employee's or
13 potential employee's personal account in the presence
14 of the employer; or
- 15 (3) Coerce or compel an employee or potential employee to
16 add anyone, including the employer, to the employee's
17 or potential employee's list of contacts associated
18 with a personal account.



- 1 (b) Nothing in this section shall prevent an employer
2 from:
- 3 (1) Accessing information about an employee or potential
4 employee that is publicly available;
- 5 (2) Complying with applicable laws, rules, or regulations;
- 6 (3) Requiring an employee to disclose a username or
7 password or similar authentication information for the
8 purpose of accessing:
- 9 (A) An employer-issued electronic device; or
- 10 (B) An account or service provided by the employer,
11 obtained by virtue of the employee's employment
12 relationship with the employer, or used for the
13 employer's business purposes;
- 14 (4) Conducting an investigation or requiring an employee
15 to cooperate in an investigation, including by
16 requiring an employee to share the content that has
17 been reported to make a factual determination, if the
18 employer has specific information about an
19 unauthorized transfer of the employer's proprietary
20 information, confidential information, or financial
21 data, to an employee's personal account;



1 (5) Prohibiting an employee or potential employee from
2 using a personal account during employment hours,
3 while on employer time, or for business purposes; or

4 (6) Requesting an employee to share specific content
5 regarding a personal account to ensure compliance with
6 applicable laws, regulatory requirements, or
7 prohibitions against work-related employee misconduct.

8 (c) If an employer inadvertently receives the username,
9 password, or any other information that would enable the
10 employer to gain access to the employee's or potential
11 employee's personal account through the use of lawful technology
12 that monitors the employer's network or employer-provided
13 devices for network security or data confidentiality purposes,
14 then the employer is not liable for having that information;
15 provided that the employer:

16 (1) Does not share that information with a person who uses
17 that information to access the employee's or potential
18 employee's personal account;

19 (2) Does not use that information, or enable a third party
20 to use that information, to access the employee's or
21 potential employee's personal account; and



1 (3) Deletes the information as soon as reasonably
2 practicable after becoming aware that the information
3 was received, and makes reasonable efforts to ensure
4 the security and deletion of other information that
5 may be similarly inadvertently received in the future.

6 (d) Nothing in this section shall diminish the authority
7 and obligation of an employer to investigate complaints,
8 allegations, or the occurrence of sexual, racial, or other
9 harassment as provided under this chapter.

10 (e) As used in this section, "personal account" means an
11 account, service, or profile on a social networking website that
12 is used by an employee or potential employee exclusively for
13 personal communications unrelated to any business purposes of
14 the employer.

15 (f) An employer found in violation of this part shall be
16 subject to a fine of not less than \$25 and not more than \$100,
17 to be collected by the director of labor and industrial
18 relations, and the fine shall not be suspended."

19 SECTION 2. This Act shall take effect upon its approval.

Report Title:

Personal Account; Privacy; Employment; Social Media

Description:

Prohibits employers from requiring, requesting, or coercing employees or potential employees to provide access to their personal social media accounts, subject to certain exemptions.
(SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

