
A BILL FOR AN ACT

RELATING TO SOCIAL MEDIA.

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

11 (b) Except as otherwise provided in this section, no
12 employer shall require or request an employee or potential
13 employee to do any of the following:

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

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



1 (3) Disclose information from any personal account, except
2 as provided in subsection (c).

3 (c) Nothing in this section shall preclude an employer
4 from conducting an investigation:

5 (1) For the purposes of ensuring compliance with
6 applicable laws, rules, regulations, or prohibitions
7 against work-related employee misconduct based on the
8 receipt of specific information relating to a specific
9 personal account; or

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

15 An investigation as described in paragraphs (1) and (2) may
16 include requiring the employee to disclose content from a
17 personal account in order to enable the employer to make a
18 factual determination.

19 (d) Nothing in this section shall be construed to prevent
20 an employer from complying with the requirements of state or



1 federal statutes, rules, regulations, or case law, or rules of
2 self-regulatory organizations.

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

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

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

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

18 (g) Nothing in this section shall diminish the authority
19 and obligation of an employer to investigate complaints,
20 allegations, or the occurrence of sexual, racial, or other
21 harassment prohibited under chapter 378.



1 (h) An employer shall not discharge, discipline, threaten
2 to discharge or discipline, or retaliate against an employee or
3 potential employee for not complying with a request or demand by
4 the employer that violates this section.

5 **§378- Penalties.** An employer who violates this section
6 shall be fined not less than \$500, but not more than \$5,000 for
7 each violation. A civil fine ordered pursuant to this section
8 shall be deposited with the director of finance to the credit of
9 the general fund of the State.

10 **§378- Civil actions for injunctive relief or damages.** A
11 person who alleges a violation of this section may bring a civil
12 action for appropriate injunctive relief or actual damages, or
13 both, within ninety days after the occurrence of the alleged
14 violation."

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

18 SECTION 3. This Act shall take effect on January 7, 2059.



Report Title:

Personal Account; Privacy; Employment; Social Media

Description:

Prohibits employers from requiring or requesting employees and potential employees to grant access to personal account usernames or passwords. Provides civil penalties and allows a civil action for injunctive relief or actual damages, or both. Effective 1/7/2059. (SD1)

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