



General Assembly

January Session, 2015

Committee Bill No. 426

LCO No. 3212



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING EMPLOYEE ONLINE PRIVACY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015*) (a) For purposes of this
2 section:

3 (1) "Applicant" means any person actively seeking employment
4 from an employer;

5 (2) "Employee" means any person engaged in service to an employer
6 in the business of his or her employer;

7 (3) "Employer" means any person engaged in business who has
8 employees, including the state and any political subdivision thereof,
9 except "employer" shall not include any state or municipal law
10 enforcement agency conducting a preemployment investigation or
11 review of law enforcement personnel;

12 (4) "Electronic communications device" means any electronic device
13 that is capable of transmitting, accepting or processing data, including,
14 but not limited to, a computer, computer network and computer

15 system, as those terms are defined in section 53a-250 of the general
16 statutes, and a cellular or wireless telephone;

17 (5) "Personal online account" means any online account that is used
18 by an employee or applicant exclusively for personal purposes and
19 unrelated to any business purpose of such employee's or applicant's
20 employer or prospective employer, including, but not limited to,
21 electronic mail, social media and retail-based Internet web sites.
22 "Personal online account" does not include any account created,
23 maintained, used or accessed by an employee or applicant for a
24 business purpose of such employee's or applicant's employer or
25 prospective employer.

26 (b) Except as provided in subsection (c) of this section, no employer
27 shall:

28 (1) Request or require that an employee or applicant provide such
29 employer with a user name and password, password or any other
30 authentication means for accessing a personal online account;

31 (2) Request or require that an employee or applicant authenticate or
32 access a personal online account in the presence of such employer;

33 (3) Request or require that an employee or applicant invite such
34 employer to join a group affiliated with any personal online account of
35 the employee or applicant;

36 (4) Discharge, discipline, discriminate against, retaliate against or
37 otherwise penalize any employee who (A) refuses or declines to
38 provide such employer with a user name and password, password or
39 any other authentication means for accessing his or her personal online
40 account, (B) refuses or declines to authenticate or access a personal
41 online account in the presence of such employer, (C) refuses to invite
42 such employer to join a group affiliated with any personal online
43 account of the employee, or (D) files, or causes to be filed, any
44 complaint, whether verbally or in writing, with a public or private

45 body or court concerning such employer's violation of this subdivision
46 and subdivisions (1) to (3), inclusive, of this subsection; or

47 (5) Fail or refuse to hire any applicant as a result of his or her refusal
48 to (A) provide such employer with a user name and password,
49 password or any other authentication means for accessing a personal
50 online account, (B) authenticate or access a personal online account in
51 the presence of such employer, or (C) invite such employer to join a
52 group affiliated with any personal online account of the applicant.

53 (c) (1) An employer may request or require that an employee or
54 applicant provide such employer with a user name and password,
55 password or any other authentication means for accessing (A) any
56 account or service provided by such employer or by virtue of the
57 employee's employment relationship with such employer or that the
58 employee uses for such employer's business purposes, or (B) any
59 electronic communications device supplied or paid for, in whole or in
60 part, by such employer.

61 (2) No employer shall be prohibited from discharging, disciplining
62 or otherwise penalizing an employee or applicant that has transferred,
63 without such employer's permission, such employer's proprietary
64 information, confidential information or financial data to or from such
65 employee or applicant's personal online account.

66 (d) Nothing in this section shall prevent an employer from:

67 (1) (A) Conducting an investigation for the purpose of ensuring
68 compliance with applicable state or federal laws, regulatory
69 requirements or prohibitions against work-related employee
70 misconduct based on the receipt of specific information about activity
71 on an employee or applicant's personal online account, or (B)
72 conducting an investigation based on the receipt of specific
73 information about an employee or applicant's unauthorized transfer of
74 such employer's proprietary information, confidential information or
75 financial data to or from a personal online account operated by an

76 employee, applicant or other source. Any employer conducting an
77 investigation pursuant to this subdivision may require an employee or
78 applicant to allow such employer to access his or her personal online
79 account for the purpose of conducting such investigation, provided
80 such employer shall not require such employee or applicant to disclose
81 the user name and password, password or other authentication means
82 for accessing such personal online account; or

83 (2) Monitoring, reviewing, accessing or blocking electronic data
84 stored on an electronic communications device paid for, in whole or in
85 part, by an employer, or traveling through or stored on an employer's
86 network, in compliance with state and federal law.

87 (e) Nothing in this section shall be construed to prevent an
88 employer from complying with the requirements of state or federal
89 statutes, rules or regulations, case law or rules of self-regulatory
90 organizations.

91 (f) Any employee or applicant may file a complaint with the Labor
92 Commissioner alleging violations of subsection (b) of this
93 section. Upon receipt of the complaint, the commissioner shall
94 investigate such complaint and may hold a hearing. After the hearing,
95 the commissioner shall send each party a written copy of his or her
96 decision. Any employee or applicant who prevails in such hearing
97 shall be awarded reasonable attorney's fees and costs.

98 (g) If the commissioner finds an employee has been aggrieved by an
99 employer's violation of subdivision (1), (2), (3) or (4) of subsection (b)
100 of this section, the commissioner may (1) levy against the employer a
101 civil penalty of up to five hundred dollars for the first violation and
102 one thousand dollars for each subsequent violation, and (2) award
103 such employee all appropriate relief including rehiring or
104 reinstatement to his or her previous job, payment of back wages,
105 reestablishment of employee benefits or any other remedies that the
106 commissioner may deem appropriate.

107 (h) If the commissioner finds an applicant has been aggrieved by an
108 employer's violation of subdivision (1), (2), (3) or (5) of subsection (b)
109 of this section, the commissioner may levy against the employer a civil
110 penalty of up to twenty-five dollars for the first violation and five
111 hundred dollars for each subsequent violation.

112 (i) Any party aggrieved by the decision of the commissioner may
113 appeal the decision to the Superior Court in accordance with the
114 provisions of chapter 54 of the general statutes.

115 (j) The commissioner may request the Attorney General to bring an
116 action in the Superior Court to recover the penalties levied pursuant to
117 subsections (f) and (h) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	New section

Statement of Purpose:

To protect employee privacy by barring employers or potential employers from (1) requesting or requiring employees or potential employees to provide passwords or usernames to their personal online accounts as a condition of employment, and (2) requesting or requiring employees or potential employees to invite the employer or potential employer to join their personal online account network.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

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