

Possible re-write of Oregon social media login legislation
HB 2654, SB 344, SB 499
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DOES NOT include the sections on higher education

(1) It shall be unlawful for any employer to request or require any employee or prospective employee to provide any user name and password, password, or other means of authentication to gain access to the employee's or prospective employee's personal online account.

(2) An employer may request or require an employee to disclose any user name, password, or other means of authentication for accessing:

(A) any electronic communications device supplied or paid for in whole or in part by the employer; or

(B) any accounts or services provided by the employer or by virtue of the employee's employment relationship with the employer or that the employee uses for business purposes.

(3) An employer may not:

(A) discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or otherwise penalize an employee solely for an employee's refusal to disclose any information specified in paragraph (1) of this subsection (b);

(B) fail or refuse to hire any prospective employee as a result of the prospective employee's refusal to disclose any information specified in paragraph (1) of this subsection (b); or

(C) be held liable for failure to request or require that an employee or prospective employee disclose any information specified in paragraph (1) of this subsection (b).

(4) Nothing in this subsection shall prevent an employer from conducting an investigation:

(A) for the purpose of ensuring compliance with applicable laws, regulatory requirements, or prohibitions against

work-related employee misconduct based on the employer's receipt of specific information about activity on a personal online account by an employee or other source;

(B) for the purpose of investigating violations of applicable laws, regulatory requirements, or prohibitions against work-related employee misconduct based on the employer's receipt of specific information about activity on a personal online account by an employee or other source;

(C) for the purpose of protecting the employer's computers, networks, or system from computer fraud, computer tampering or computer contaminants based on the employer's receipt of specific information about activity on a personal online account by an employer or other source;

(D) of an employee's actions based on the receipt of specific information about the unauthorized transfer of an employer's proprietary information, confidential information, or financial data to a personal online account by an employee or other source;

Conducting an investigation as specified in subparagraphs (A) and (B) of this paragraph (4) includes requiring the employee's cooperation to share information that is relevant to making a factual determination concerning the matter that has been reported.

(5) Nothing in this subsection shall limit an employer's right to:

(A) promulgate and maintain lawful workplace policies governing the use of the employer's electronic equipment, including policies regarding Internet use, social networking site use, and electronic mail use; ~~and~~

(B) monitor usage of the employer's electronic equipment and the employer's electronic mail without requesting or requiring any employee or prospective employee to provide any user name and password, password, or other means of authentication to gain access to the employee's or prospective employee's personal online account; and

(C) comply with the requirements of State or Federal statutes, rules or regulations, case law or rules of self-regulatory organizations.

(6) Nothing in this subsection shall prohibit an employer from obtaining about a prospective employee or an employee information that is in the public domain or that is otherwise obtained in compliance with this amendatory Act of the 97th General Assembly.

(7) For the purposes of this subsection:

(A) "Prospective employee" means an applicant for employment.

(B) "Electronic communications device" means any device that uses electronic signals to create, transmit, and receive information, including, without limitation, a computer, telephone, or personal digital assistant.

(C) "Employer" means a person engaged in a business, industry, profession, trade, or other enterprise in this State, or any unit of State or local government. "Employer" includes any agent, representative, or designee of the employer.

(D) "Personal online account" means an account created via bounded system established by an internet-based service that requires a user to input or store access information via an electronic device to view, create, utilize, or edit the user's account information, profile, display, communications, or stored data.

(E) "Computer contaminant" means any data, information, image, program, signal, or sound that is designated or has the capability to: (1) contaminate, corrupt, consume, damage, destroy, disrupt, modify, record, or transmit; or (2) cause to be contaminated, corrupted, consumed, damaged, destroyed, disrupted, modified, recorded, or transmitted, any other data, information, image, program, signal, or sound contained in a computer, system, or network without the knowledge or consent of the person who owns the other data, information, image, program, signal, or sound or the computer, system, or network. "Computer contaminant" includes, without limitation: (1) a virus, worm, or Trojan horse; (2) spyware that tracks computer activity and is capable of recording and transmitting such information to

third parties; or (3) any other similar data, information, image, program, signal, or sound that is designed or has the capability to prevent, impede, delay, or disrupt the normal operation or use of any component, device, equipment, system, or network.

(F) "Network" means a set of related, remotely connected devices and facilities, including more than one system, with the capability to transmit data among any of the devices and facilities. The term includes, without limitation, a local, regional, or global computer network.

(G) "System" means a set of related equipment, whether or not connected, which is used with or for a computer.