

B-Engrossed
House Bill 2654

Ordered by the Senate May 9
Including House Amendments dated April 11 and Senate Amendments
dated May 9

Sponsored by Representative DOHERTY, Senators KNOPP, STARR; Senators BURDICK, STEINER HAYWARD
(Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits employer from requiring or requesting employee or applicant for employment to provide access to personal social media account, [or] to add employer to social media contact list **or to allow employer to view employee's or applicant's personal social media account**. Prohibits retaliation by employer against employee or applicant for refusal to provide access to accounts or to add employer to contact list.

Exempts employer from liability for inadvertently obtaining access to social media account of employee.

A BILL FOR AN ACT

1
2 Relating to compelled access to social media accounts.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 659A.**

5 **SECTION 2. (1) It is an unlawful employment practice for an employer to:**

6 **(a) Require or request an employee or an applicant for employment to disclose or to**
7 **provide access through the employee's or applicant's user name and password, password or**
8 **other means of authentication that provides access to a personal social media account;**

9 **(b) Compel an employee or applicant for employment to add the employer or an employ-**
10 **ment agency to the employee's or applicant's list of contacts associated with a social media**
11 **website;**

12 **(c) Except as provided in subsection (4)(b) of this section, compel an employee or appli-**
13 **cant for employment to access a personal social media account in the presence of the em-**
14 **ployer and in a manner that enables the employer to view the contents of the personal social**
15 **media account that are visible only when the personal social media account is accessed by**
16 **the account holder's user name and password, password or other means of authentication;**

17 **(d) Take, or threaten to take, any action to discharge, discipline or otherwise penalize**
18 **an employee for the employee's refusal to disclose, or to provide access through, the**
19 **employee's user name and password, password or other means of authentication that is as-**
20 **sociated with a personal social media account, to add the employer to the employee's list of**
21 **contacts associated with a social media website or to access a personal social media account**
22 **as described in paragraph (c) of this subsection; or**

23 **(e) Fail or refuse to hire an applicant for employment because the applicant refused to**
24 **disclose, or to provide access through, the applicant's user name and password, password or**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 other means of authentication that is associated with a personal social media account, to add
2 the employer to the applicant's list of contacts associated with a social media website or to
3 access a personal social media account as described in paragraph (c) of this subsection.

4 (2) An employer may require an employee to disclose any user name and password,
5 password or other means for accessing an account provided by, or on behalf of, the employer
6 or to be used on behalf of the employer.

7 (3) An employer may not be held liable for the failure to request or require an employee
8 or applicant to disclose the information specified in subsection (1)(a) of this section.

9 (4) Nothing in this section prevents an employer from:

10 (a) Conducting an investigation, without requiring an employee to provide a user name
11 and password, password or other means of authentication that provides access to a personal
12 social media account of the employee, for the purpose of ensuring compliance with applicable
13 laws, regulatory requirements or prohibitions against work-related employee misconduct
14 based on receipt by the employer of specific information about activity of the employee on
15 a personal online account or service.

16 (b) Conducting an investigation permitted under this subsection that requires an em-
17 ployee, without providing a user name and password, password or other means of
18 authentication that provides access to a personal social media account of the employee, to
19 share content that has been reported to the employer that is necessary for the employer to
20 make a factual determination about the matter.

21 (c) Complying with state and federal laws, rules and regulations and the rules of self-
22 regulatory organizations.

23 (5) Nothing in this section prohibits an employer from accessing information available to
24 the public about the employee or applicant that is accessible through an online account.

25 (6) If an employer inadvertently receives the user name and password, password or other
26 means of authentication that provides access to a personal social media account of an em-
27 ployee through the use of an electronic device or program that monitors usage of the
28 employer's network or employer-provided devices, the employer is not liable for having the
29 information but may not use the information to access the personal social media account
30 of the employee.

31 (7) As used in this section, "social media" means an electronic medium that allows users
32 to create, share and view user-generated content, including, but not limited to, uploading or
33 downloading videos, still photographs, blogs, video blogs, podcasts, instant messages, elec-
34 tronic mail or Internet website profiles or locations.

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