

A-Engrossed
Senate Bill 185

Ordered by the Senate February 27
Including Senate Amendments dated February 27

Sponsored by Senator BOQUIST (at the request of Peggy Boquist) (Pre-session 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.

Establishes unlawful employment practice of employer requiring employee or applicant for employment to establish and maintain personal social media account or to authorize employer to advertise on personal social media account of employee or applicant.

A BILL FOR AN ACT

1
2 Relating to social media accounts in employment; amending ORS 659A.330.

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

4 **SECTION 1.** ORS 659A.330 is amended to read:

5 659A.330. (1) It is an unlawful employment practice for an employer to:

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

10 **(b) Require an employee or an applicant for employment to authorize the employer to**
11 **advertise on the personal social media account of the employee or applicant;**

12 [(b)] (c) Compel an employee or applicant for employment to add the employer or an employment
13 agency to the employee's or applicant's list of contacts associated with a social media website;

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

19 [(d)] (e) Take, or threaten to take, any action to discharge, discipline or otherwise penalize an
20 employee for the employee's refusal to:

21 **(A) Establish or maintain a personal social media account;**

22 **(B) Disclose, or [to] provide access through, the employee's user name and password, password**
23 **or other means of authentication that is associated with a personal social media account[, to];**

24 **(C) Add the employer to the employee's list of contacts associated with a social media website**
25 **[or to]; or**

26 **(D) Access a personal social media account as described in paragraph [(c)] (d) of this subsection;**
27 **or**

28 [(e)] (f) Fail or refuse to hire an applicant for employment because the applicant refused to:

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 **(A) Establish or maintain a personal social media account;**

2 **(B)** Disclose, or *[to]* provide access through, the applicant’s user name and password, password
3 or other means of authentication that is associated with a personal social media account^[, to];

4 **(C)** Add the employer to the applicant’s list of contacts associated with a social media website
5 *[or to]*; **or**

6 **(D)** Access a personal social media account as described in paragraph *[(c)]* **(d)** of this subsection.

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

10 (3) An employer may not be held liable for the failure to request or require an employee or ap-
11 plicant to disclose the information specified in subsection (1)(a) of this section.

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

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

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

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

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

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

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

37 **(7) As used in this section:**

38 **(a) “Personal social media account” means a social media account that is used by an**
39 **employee or applicant for employment exclusively for personal purposes unrelated to any**
40 **business purpose of the employer or prospective employer and that is not provided by or paid**
41 **for by the employer or prospective employer.**

42 **(b) “Social media” means an electronic medium that allows users to create, share and**
43 **view user-generated content, including, but not limited to, uploading or downloading videos,**
44 **still photographs, blogs, video blogs, podcasts, instant messages, electronic mail or Internet**
45 **website profiles or locations.**

