

A-Engrossed
House Bill 2654

Ordered by the House April 11
Including House Amendments dated April 11

Sponsored by Representative DOHERTY (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 [*compelling*] **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. 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.

[Prohibits certain educational institutions from compelling student or prospective student to provide access to personal social media account or to add coach, teacher, administrator or other employee or volunteer of educational institution to social media contact list. Prohibits retaliation by educational institutions against student or prospective student for refusal to provide access to accounts or to add certain persons to contact list. Authorizes civil action for violation.]

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) Take, or threaten to take, any action to discharge, discipline or otherwise penalize**
13 **an employee for the employee's refusal to disclose, or to provide access through, the**
14 **employee's user name and password, password or other means of authentication that is as-**
15 **sociated with a personal social media account, or to add the employer to the employee's list**
16 **of contacts associated with a social media website; or**

17 **(d) Fail or refuse to hire an applicant for employment because the applicant refused to**
18 **disclose, or to provide access through, the applicant's user name and password, password or**
19 **other means of authentication that is associated with a personal social media account, or to**
20 **add the employer to the applicant's list of contacts associated with a social media website.**

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

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

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

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

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

15 **(c) Complying with state and federal laws, rules and regulations and the rules of self-**
16 **regulatory organizations.**

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

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

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

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