

Chapter 234

(House Bill 964)

AN ACT concerning

Labor and Employment – User Name and Password Privacy Protection and Exclusions

FOR the purpose of prohibiting an employer from requesting or requiring that an employee or applicant disclose any user name, password, or other means for accessing a personal account or service through certain electronic communications devices; prohibiting an employer from taking, or threatening to take, certain disciplinary actions for an employee's refusal to disclose certain password and related information; prohibiting an employer from failing or refusing to hire an applicant as a result of the applicant's refusal to disclose certain password and related information; prohibiting an employee from downloading certain unauthorized information or data to certain Web sites or Web-based accounts; providing that an employer, based on the receipt of certain information regarding the use of certain Web sites or certain Web-based accounts, is not prevented from conducting certain investigations for certain purposes; defining certain terms; and generally relating to employment and privacy protection.

BY adding to

Article – Labor and Employment

Section 3–712

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

3–712.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “APPLICANT” MEANS AN APPLICANT FOR EMPLOYMENT.

(3) (I) “ELECTRONIC COMMUNICATIONS DEVICE” MEANS ANY DEVICE THAT USES ELECTRONIC SIGNALS TO CREATE, TRANSMIT, AND RECEIVE INFORMATION.

(II) “ELECTRONIC COMMUNICATIONS DEVICE” INCLUDES COMPUTERS, TELEPHONES, PERSONAL DIGITAL ASSISTANTS, AND OTHER SIMILAR DEVICES.

(4) (I) “EMPLOYER” MEANS:

1. A PERSON ENGAGED IN A BUSINESS, AN INDUSTRY, A PROFESSION, A TRADE, OR OTHER ENTERPRISE IN THE STATE; OR

2. A UNIT OF STATE OR LOCAL GOVERNMENT.

(II) “EMPLOYER” INCLUDES AN AGENT, A REPRESENTATIVE, AND A DESIGNEE OF THE EMPLOYER.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN EMPLOYER MAY NOT REQUEST OR REQUIRE THAT AN EMPLOYEE OR APPLICANT DISCLOSE ANY USER NAME, PASSWORD, OR OTHER MEANS FOR ACCESSING A PERSONAL ACCOUNT OR SERVICE THROUGH AN ELECTRONIC COMMUNICATIONS DEVICE.

(2) AN EMPLOYER MAY REQUIRE AN EMPLOYEE TO DISCLOSE ANY USER NAME, PASSWORD, OR OTHER MEANS FOR ACCESSING NONPERSONAL ACCOUNTS OR SERVICES THAT PROVIDE ACCESS TO THE EMPLOYER’S INTERNAL COMPUTER OR INFORMATION SYSTEMS.

(C) AN EMPLOYER MAY NOT:

(1) DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE OR THREATEN TO DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE AN EMPLOYEE FOR AN EMPLOYEE’S REFUSAL TO DISCLOSE ANY INFORMATION SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION; OR

(2) FAIL OR REFUSE TO HIRE ANY APPLICANT AS A RESULT OF THE APPLICANT’S REFUSAL TO DISCLOSE ANY INFORMATION SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION.

(D) AN EMPLOYEE MAY NOT DOWNLOAD UNAUTHORIZED EMPLOYER PROPRIETARY INFORMATION OR FINANCIAL DATA TO AN EMPLOYEE’S PERSONAL WEB SITE, AN INTERNET WEB SITE, A WEB-BASED ACCOUNT, OR A SIMILAR ACCOUNT.

(E) THIS SECTION DOES NOT PREVENT AN EMPLOYER:

(1) BASED ON THE RECEIPT OF INFORMATION ABOUT THE USE OF A PERSONAL WEB SITE, INTERNET WEB SITE, WEB-BASED ACCOUNT, OR SIMILAR ACCOUNT BY AN EMPLOYEE FOR BUSINESS PURPOSES, FROM CONDUCTING AN INVESTIGATION FOR THE PURPOSE OF ENSURING COMPLIANCE WITH APPLICABLE SECURITIES OR FINANCIAL LAW, OR REGULATORY REQUIREMENTS; OR

(2) BASED ON THE RECEIPT OF INFORMATION ABOUT THE UNAUTHORIZED DOWNLOADING OF AN EMPLOYER'S PROPRIETARY INFORMATION OR FINANCIAL DATA TO A PERSONAL WEB SITE, INTERNET WEB SITE, WEB-BASED ACCOUNT, OR SIMILAR ACCOUNT BY AN EMPLOYEE, FROM INVESTIGATING AN EMPLOYEE'S ACTIONS UNDER SUBSECTION (D) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.