

HOUSE BILL NO. 706

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FUNDERBURK.

1676L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 285, RSMo, by adding thereto one new section relating to employee password protection.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 285, RSMo, is amended by adding thereto one new section, to be
2 known as section 285.045, to read as follows:

**285.045. 1. This section shall be known and may be cited as "The Password
2 Privacy Protection Act".**

3 2. As used in this section, the following terms shall mean:

4 (1) "Applicant", any person applying for employment;

**5 (2) "Electronic communications device", any device that uses electronic signals to
6 create, transmit, and receive information which shall include, but not be limited to,
7 computers, telephones, personal digital assistants, and other similar devices;**

**8 (3) "Employee", any person performing work or service of any kind or character
9 for hire within the state of Missouri, including independent contractors;**

**10 (4) "Employer", any person or entity employing any person for hire within the
11 state of Missouri, including a public employer;**

**12 (5) "Employment", the act of employing or state of being employed, engaged, or
13 hired to perform work or services of any kind or character within the state of Missouri;**

**14 (6) "Personal online account", an online account that is used by an employee or
15 applicant exclusively for personal communications unrelated to any business purposes of
16 the employer. Such account shall not include any account created, maintained, used, or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 accessed by an employee or applicant for business related communications or for a
18 business purpose of the employer;

19 (7) "Personal online service", an online service that is used by an employee or
20 applicant exclusively for personal communication or use unrelated to any business
21 purposes of the employer. Such service shall not include any service maintained, used, or
22 accessed by an employee or applicant for business related communications or uses or for
23 a business purpose of the employer;

24 (8) "Political subdivision", any agency of the state, county, city, town, township,
25 village, special district or subdistrict, or any unit of the state authorized to levy taxes;

26 (9) "Public employer", every department, agency, or instrumentality of the state
27 or political subdivision of the state;

28 (10) "Work", any job, task, labor, services, or any other activity for which
29 compensation is provided, expected, or due.

30 3. Subject to the exceptions provided in subsection 4 of this section, an employer
31 shall not request or require an employee or applicant to disclose any user name, password,
32 or other authentication means for accessing any personal online account or personal online
33 service.

34 4. An employer may request or require an employee to disclose any user name,
35 password, or other authentication means for accessing:

36 (1) Any electronic communications device supplied by or paid for in whole or in
37 part by the employer;

38 (2) Any accounts or services provided by the employer;

39 (3) Any accounts or services the employee uses for business purposes; or

40 (4) Any accounts or services used as a result of the employee's employment
41 relationship with the employer.

42 5. An employer shall not:

43 (1) Discharge, discipline, or otherwise penalize or threaten to discharge, discipline,
44 or otherwise penalize an employee solely for an employee's refusal to disclose any
45 information specified in subsection 3 of this section;

46 (2) Fail or refuse to hire any applicant as a result of the applicant's refusal to
47 disclose any information specified in subsection 3 of this section; or

48 (3) Be held liable for failure to request or require that an applicant or employee
49 disclose any information specified in subsection 3 of this section.

50 6. An employee shall not transfer an employer's proprietary or confidential
51 information or financial data to an employee's personal online account or personal online
52 service without the employer's authorization.

53 **7. This section shall not be construed to prevent an employer from engaging in any**
54 **of the following activities:**

55 **(1) Conducting an investigation for the purposes of ensuring compliance with**
56 **applicable laws or regulations against work-related employee misconduct based on the**
57 **receipt of specific information about activity on a personal online account or personal**
58 **online service by an employee or other source;**

59 **(2) Conducting an investigation of an employee's actions based on the receipt of**
60 **specific information about the unauthorized transfer of an employer's proprietary**
61 **information, confidential information or financial data to a personal online account or**
62 **personal online service by an employee or other source;**

63 **(3) Conducting an investigation as specified in subdivision (1) or (2) of this**
64 **subsection that requires the employee's cooperation to share the content that has been**
65 **reported in order to make a factual determination;**

66 **(4) Disciplining or discharging an employee for transferring the employer's**
67 **proprietary or confidential information or financial data to an employee's personal**
68 **internet account without the employer's authorization;**

69 **(5) Restricting or prohibiting an employee's access to certain websites while using**
70 **an electronic communications device that is paid for in whole or in part by the employer**
71 **or while using an employer's network or resources, in compliance with state and federal**
72 **law; or**

73 **(6) Monitoring, reviewing, accessing, or blocking electronic data stored on an**
74 **electronic communications device that is paid for in whole or in part by the employer, or**
75 **such data that is traveling through or stored on an employer's network, in compliance with**
76 **state and federal law.**

77 **8. This section shall not prohibit or restrict any employer from viewing, accessing,**
78 **or utilizing information about any employee or applicant that can be obtained without the**
79 **information specified in subsection 3 of this section or that is available to the public.**

80 **9. This section shall not be construed to prevent an employer from complying with**
81 **state or federal laws or regulations or the rules of self-regulatory organizations as that term**
82 **is defined in 15 U.S.C. Section 78c(a)(26).**

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