

# FINAL BILL REPORT

## SSB 5211

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Synopsis as Enacted

**Brief Description:** Concerning personal social networking accounts.

**Sponsors:** Senate Committee on Commerce & Labor (originally sponsored by Senators Hobbs, Eide, Kline, Ranker, Hatfield, Harper, Billig, Hasegawa, Kohl-Welles, Shin, Keiser, Frockt, Rolfes, Hill, Conway and Nelson).

**Senate Committee on Commerce & Labor**  
**House Committee on Labor & Workforce Development**

**Background:** State law does not prohibit an employer from requiring an employee or prospective employee to submit social media passwords or other account information as a condition of employment or continued employment.

**Summary:** An employer cannot:

- request, require, or otherwise coerce an employee or applicant to (1) disclose login information for personal social networking accounts; or (2) access their account in the employer's presence in a manner that enables the employer to observe the contents of the account;
- compel or coerce an employee or applicant to add a person to the list of contacts associated with the account;
- request or require an employee or applicant to alter the settings on the account that affect a third party's ability to view the contents of the account; or
- take adverse action against an employee or applicant for refusal to provide login information, access the account in the employer's presence, add a person to contact lists, or alter the account settings.

Employers do have the ability to require an employee to share content from personal social networking accounts if:

- the employer requests or requires the content to make a factual determination in the course of an investigation;
- the investigation is undertaken in response to receipt of information about the employee's activity on personal social networking accounts;
- the purpose of the investigation is either (1) to ensure compliance with laws, regulatory requirements, or prohibitions against work-related employee misconduct;

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- or (2) to investigate an allegation of an unauthorized transfer of the employer's proprietary information, confidential information, or financial data; and
- the employer does not request or require the employee to provide login information.

The employer prohibitions on accessing employee social network accounts do not apply to a social network, intranet, or other technology platform intended primarily to facilitate work-related information exchange, collaboration, or communication.

The legislation does not prohibit an employer from requesting or requiring an employee to disclose login information for access to an account or service provided by virtue of the employment relationship or to an electronic communications device or online account paid for or supplied by the employer; prohibit an employer from enforcing existing personnel policies that do not conflict with the bill; or prevent an employer from complying with requirements of statutes, rules, case law, or rules of self-regulatory organizations.

If an employer inadvertently receives login information through use of an employer-provided electronic communications device or an electronic device or program that monitors an employer's network, the employer is not liable for possessing the information but may not use it to access the employee's account.

An employee or applicant may bring a civil action alleging a violation of the legislation. The court may award a prevailing employee statutory damages of \$500, actual damages, and reasonable attorneys' fees and costs. If the court finds that the action was frivolous, the court may award reasonable expenses and attorneys' fees to the employer.

**Votes on Final Passage:**

|        |    |   |                         |
|--------|----|---|-------------------------|
| Senate | 49 | 0 |                         |
| House  | 97 | 0 | (House amended)         |
| House  | 97 | 0 | (House receded/amended) |
| Senate | 44 | 0 | (Senate concurred)      |

**Effective:** July 28, 2013.