

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [Bill Number]

Employee online privacy.

Sponsored by: HDraft Committee

A BILL

for

1 AN ACT relating to labor and employment; prohibiting an
2 employer from requesting or requiring access to a personal
3 internet account of an employee or prospective employee;
4 prohibiting an employer from taking adverse action against
5 an employee or prospective employee for failing to disclose
6 information to access a personal internet account;
7 providing exceptions; prohibiting waiver of rights;
8 providing for civil penalties; providing a civil cause of
9 action; providing a definition; and providing for an
10 effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

1 **Section 1.** W.S. 27-9-109 is created to read:

2

3 **27-9-109. Employee online privacy.**

4

5 (a) An employer shall not request or require any
6 employee or prospective employee to disclose any username,
7 password or other means for viewing or accessing the
8 information contained on an employee's or prospective
9 employee's personal internet account.

10

11 (b) An employer shall not take adverse action, fail
12 to hire or otherwise penalize an employee or prospective
13 employee for failure to disclose information protected
14 under subsection (a) of this section.

15

16 (c) This section does not prohibit an employer from:

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18 (i) Requesting or requiring an employee to
19 disclose a username, password or other means for accessing
20 an internet account or service provided by the employer,
21 set up by the employee at the employer's request or used
22 primarily for an employer's business purposes;

1

2 (ii) Requesting or requiring an employee to
3 allow observation of the employee's personal internet
4 account as cooperation in the employer's work-related
5 investigation if:

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7 (A) The employer is conducting a formal
8 investigation, based upon receipt of reliable and
9 reasonable information regarding employee misconduct, and
10 requires observation of the employee's personal internet
11 account to ensure compliance with the employer's written
12 employment policies;

13

14 (B) The observation of the employee's
15 personal internet account is reasonably necessary to make a
16 factual determination in the course of conducting a
17 reasonable investigation;

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19 (C) The employer does not request, require,
20 suggest or cause the employee to grant access to or
21 disclose information that allows access to the employee's

1 or prospective employee's personal internet account or
2 service; and

3

4 (D) An employer exercising its rights under
5 this paragraph shall use any information obtained through
6 observation of the employee's personal internet account
7 only for the purpose of the formal investigation or a
8 related proceeding.

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10 (iii) Requesting a personal email address or
11 similar digital method for the purpose of enhancing
12 communications with an employee or prospective employee;

13

14 (iv) Viewing information about an employee or
15 prospective employee that is available in the public
16 domain.

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18 (d) No employer shall require an employee or
19 prospective employee to waive or limit any protection
20 granted under this section.

21

1 (e) Following a determination pursuant to W.S.
2 27-9-106 that an employer has violated any provision of
3 this section, the department may assess a civil penalty in
4 an amount not to exceed one thousand dollars (\$1,000.00)
5 for the first violation and two thousand five hundred
6 dollars (\$2,500.00) for each subsequent violation.

7

8 (f) An employee or prospective employee may bring a
9 civil action against an employer to enjoin any acts in
10 violation of this section and may recover damages,
11 reasonable attorney fees and court costs.

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13 (g) For purposes of this section, "personal internet
14 account" means any collection of electronically stored
15 information used or maintained by any employee or
16 prospective employee primarily for personal communications
17 unrelated to the employer's business purposes.

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19 **Section 2.** W.S. 27-9-102(c) and (d), 27-9-104(b) and
20 27-9-105(a) by creating a new paragraph (v) are amended to
21 read:

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1 **27-9-102. Definitions.**

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3 (c) "Unfair employment practice" shall mean those
4 practices specified as discriminatory or unfair in W.S.
5 27-9-105 and 27-9-109.

6

7 (d) As used in W.S. 27-9-101 through ~~27-9-106~~
8 27-9-109, "department" means the department of workforce
9 services and the term "director" means the director of the
10 department or his designee who is authorized to administer
11 W.S. 27-9-101 through ~~27-9-106~~ 27-9-109.

12

13 **27-9-104. Powers and duties of department of**
14 **employment.**

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16 (b) The department shall contract with an independent
17 hearing officer to conduct any hearing under W.S. 27-9-101
18 through ~~27-9-106~~ 27-9-109.

19

20 **27-9-105. Discriminatory and unfair employment**
21 **practices enumerated; limitations.**

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1 (a) It is a discriminatory or unfair employment
2 practice:

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4 (v) For an employer or employer's representative
5 to violate any of the provisions of W.S. 27-9-109 regarding
6 disclosure of personal internet account information.

7

8 **Section 3.** This act is effective July 1, 2015.

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10

(END)