

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 13-0049.01 Kristen Forrestal x4217

**HOUSE BILL 13-1046**

---

**HOUSE SPONSORSHIP**

**Williams,**

**SENATE SPONSORSHIP**

**Ulibarri,**

---

**House Committees**

Business, Labor, Economic, & Workforce Development

Appropriations

**Senate Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING EMPLOYER ACCESS TO PERSONAL INFORMATION**  
102             **THROUGH ELECTRONIC COMMUNICATION DEVICES, AND, IN**  
103             **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill prohibits an employer from requiring an employee or applicant for employment to disclose a user name, password, or other means for accessing a personal account or service through an electronic communications device. This does not include access to nonpersonal

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

HOUSE  
Amended 2nd Reading  
March 1, 2013

accounts or services that provide access to the employer's internal computer or information systems. The bill also prohibits an employer from discharging, disciplining, penalizing, or refusing to hire an employee or applicant who does not provide access to personal accounts or services.

The bill clarifies that an employer may investigate an employee to ensure compliance with securities or financial law or for suspected unauthorized downloading of proprietary information based on the receipt of information about these activities.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-2-126 as  
3 follows:

4 **8-2-126. Prohibitions of employer - requiring access to**  
5 **personal electronic communication devices - definitions - rules.**

6 (1) AS USED IN THIS SECTION:

7 (a) "APPLICANT" MEANS AN APPLICANT FOR EMPLOYMENT.

8 (b) "ELECTRONIC COMMUNICATIONS DEVICE" MEANS A DEVICE  
9 THAT USES ELECTRONIC SIGNALS TO CREATE, TRANSMIT, AND RECEIVE  
10 INFORMATION, INCLUDING COMPUTERS, TELEPHONES, PERSONAL DIGITAL  
11 ASSISTANTS, AND OTHER SIMILAR DEVICES.

12 (c) "EMPLOYER" MEANS A PERSON ENGAGED IN A BUSINESS,  
13 INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE OR  
14 A UNIT OF STATE OR LOCAL GOVERNMENT. "EMPLOYER" INCLUDES AN  
15 AGENT, A REPRESENTATIVE, OR A DESIGNEE OF THE EMPLOYER.  
16 "EMPLOYER" DOES NOT INCLUDE THE DEPARTMENT OF CORRECTIONS,  
17 COUNTY CORRECTIONS DEPARTMENTS, OR ANY STATE OR LOCAL LAW  
18 ENFORCEMENT AGENCY.

19 (2) (a) AN EMPLOYER MAY NOT SUGGEST, REQUEST, OR REQUIRE  
20 THAT AN EMPLOYEE OR APPLICANT DISCLOSE, OR CAUSE AN EMPLOYEE OR

1     APPLICANT TO DISCLOSE, ANY USER NAME, PASSWORD, OR OTHER MEANS  
2     FOR ACCESSING THE EMPLOYEE'S OR APPLICANT'S PERSONAL ACCOUNT OR  
3     SERVICE THROUGH THE EMPLOYEE'S OR APPLICANT'S PERSONAL  
4     ELECTRONIC COMMUNICATIONS DEVICE. AN EMPLOYER SHALL NOT  
5     COMPEL AN EMPLOYEE OR APPLICANT TO ADD ANYONE, INCLUDING THE  
6     EMPLOYER OR HIS OR HER AGENT, TO THE EMPLOYEE'S OR APPLICANT'S  
7     LIST OF CONTACTS ASSOCIATED WITH A SOCIAL MEDIA ACCOUNT OR  
8     REQUIRE, REQUEST, SUGGEST, OR CAUSE AN EMPLOYEE OR APPLICANT TO  
9     CHANGE PRIVACY SETTINGS ASSOCIATED WITH A SOCIAL NETWORKING  
10    ACCOUNT.

11           (b) PARAGRAPH (a) OF THIS SUBSECTION (2) DOES NOT PROHIBIT  
12    AN EMPLOYER FROM REQUIRING AN EMPLOYEE TO DISCLOSE ANY USER  
13    NAME, PASSWORD, OR OTHER MEANS FOR ACCESSING NONPERSONAL  
14    ACCOUNTS OR SERVICES THAT PROVIDE ACCESS TO THE EMPLOYER'S  
15    INTERNAL COMPUTER OR INFORMATION SYSTEMS.

16           (3) AN EMPLOYER SHALL NOT:

17           (a) DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE OR  
18    THREATEN TO DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE AN  
19    EMPLOYEE FOR AN EMPLOYEE'S REFUSAL TO DISCLOSE ANY INFORMATION  
20    SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION OR  
21    REFUSAL TO ADD THE EMPLOYER TO THE LIST OF THE EMPLOYEE'S  
22    CONTACTS OR TO CHANGE THE PRIVACY SETTINGS ASSOCIATED WITH A  
23    SOCIAL MEDIA ACCOUNT; OR

24           (b) FAIL OR REFUSE TO HIRE AN APPLICANT BECAUSE THE  
25    APPLICANT REFUSES TO DISCLOSE ANY INFORMATION SPECIFIED IN  
26    PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION OR REFUSES TO ADD  
27    THE EMPLOYER TO THE APPLICANT'S LIST OF CONTACTS OR TO THE CHANGE

1 THE PRIVACY SETTINGS ASSOCIATED WITH A SOCIAL MEDIA ACCOUNT.

2 (4) THIS SECTION DOES NOT PREVENT AN EMPLOYER FROM:

3 (a) CONDUCTING AN INVESTIGATION TO ENSURE COMPLIANCE WITH  
4 APPLICABLE SECURITIES OR FINANCIAL LAW OR REGULATORY  
5 REQUIREMENTS BASED ON THE RECEIPT OF INFORMATION ABOUT THE USE  
6 OF A PERSONAL WEB SITE, INTERNET WEB SITE, WEB-BASED ACCOUNT, OR  
7 SIMILAR ACCOUNT BY AN EMPLOYEE FOR BUSINESS PURPOSES; OR

8 (b) INVESTIGATING AN EMPLOYEE'S ELECTRONIC  
9 COMMUNICATIONS BASED ON THE RECEIPT OF INFORMATION ABOUT THE  
10 UNAUTHORIZED DOWNLOADING OF AN EMPLOYER'S PROPRIETARY  
11 INFORMATION OR FINANCIAL DATA TO A PERSONAL WEB SITE, INTERNET  
12 WEB SITE, WEB-BASED ACCOUNT, OR SIMILAR ACCOUNT BY AN EMPLOYEE.

13 (5) A PERSON WHO IS INJURED BY A VIOLATION OF THIS  
14 SECTION MAY FILE A COMPLAINT WITH THE DEPARTMENT OF LABOR AND  
15 EMPLOYMENT. THE DEPARTMENT SHALL INVESTIGATE THE COMPLAINT  
16 AND ISSUE FINDINGS THIRTY DAYS AFTER A HEARING. THE DEPARTMENT  
17 MAY PROMULGATE RULES REGARDING PENALTIES THAT INCLUDE A FINE OF  
18 UP TO ONE THOUSAND DOLLARS FOR THE FIRST OFFENSE AND A FINE NOT  
19 TO EXCEED FIVE THOUSAND DOLLARS FOR EACH SUBSEQUENT OFFENSE.

20 (6) NOTHING IN THIS SECTION PROHIBITS AN EMPLOYER FROM  
21 ENFORCING EXISTING PERSONNEL POLICIES THAT DO NOT CONFLICT WITH  
22 THIS SECTION.

23 **SECTION 2. Appropriation.** In addition to any other  
24 appropriation, there is hereby appropriated, out of any moneys in the  
25 employment support fund created in section 8-77-109 (1), Colorado  
26 Revised Statutes, not otherwise appropriated, to the department of labor  
27 and employment, for the fiscal year beginning July 1, 2013, the sum of

1 \$23,064 and 0.3 FTE, or so much thereof as may be necessary, for  
2 allocation to the division of labor related to the implementation of this  
3 act.

4 **SECTION 3. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, and safety.