S T A T E O F N E W Y O R K

9654

I N A S S E M B L Y

March 22, 2012

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to 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 specified electronic communications devices

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The labor law is amended by adding a new section 201-g to read as follows:

S 201-G. REQUEST FOR ACCESS TO PERSONAL ACCOUNTS OR SERVICES PROHIBITED. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING WORDS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "APPLICANT" MEANS AN APPLICANT FOR EMPLOYMENT.

(B) "ELECTRONIC COMMUNICATIONS DEVICE" MEANS ANY DEVICE THAT USES ELECTRONIC SIGNALS TO CREATE, TRANSMIT, AND RECEIVE INFORMATION, INCLUDING, BUT NOT LIMITED TO COMPUTERS, TELEPHONES, PERSONAL DIGITAL ASSISTANTS AND OTHER SIMILAR DEVICES.

(C) "EMPLOYER" MEANS (I) A PERSON OR ENTITY ENGAGED IN A BUSINESS, INDUSTRY, PROFESSION, TRADE OR OTHER ENTERPRISE IN THE STATE; OR (II) A UNIT OF STATE OR LOCAL GOVERNMENT; AND (III) SHALL INCLUDE AN AGENT, REPRESENTATIVE OR DESIGNEE OF THE EMPLOYER.

2. (A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, IT SHALL BE UNLAWFUL FOR ANY EMPLOYER TO REQUEST OR REQUIRE ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT TO DISCLOSE ANY USER NAME, PASSWORD OR OTHER MEANS FOR ACCESSING A PERSONAL ACCOUNT OR SERVICE THROUGH AN ELECTRONIC COMMUNICATIONS DEVICE.

(B) 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.

3. AN EMPLOYER MAY NOT:

(A) DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE OR THREATEN TO DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE AN EMPLOYEE FOR AN EMPLOY-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD15131-01-2

EE'S REFUSAL TO DISCLOSE ANY INFORMATION SPECIFIED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION; OR

(B) FAIL OR REFUSE TO HIRE ANY APPLICANT AS A RESULT OF THE APPLICANT'S REFUSAL TO DISCLOSE ANY INFORMATION SPECIFIED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.