

STATE OF NEW YORK

10591

IN ASSEMBLY

June 5, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. L. Rosenthal) -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to prohibiting employers from requiring access to social media accounts of applicants and current employees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

3 § 201-h. Social media inquiries by employers prohibited. 1. For the
4 purposes of this section, the following terms shall have the following
5 meanings:

6 a. "Employer" shall include but not be limited to any person, corpo-
7 ration, limited liability company, association, labor organization, or
8 entity employing any individual in any occupation, industry, trade,
9 business or service, or any agent thereof. For the purposes of this
10 section, the term "employer" shall also include the state, any political
11 subdivision thereof, any public authority or any other governmental
12 entity or instrumentality thereof, and any person, corporation, limited
13 liability company, association or entity acting as an employment agent,
14 recruiter, or otherwise connecting applicants with employers.

15 b. "Social media account" shall mean an account for an internet-based
16 service that allows individuals to: (i) construct a public or semi-publ-
17 ic profile within a bounded system, created by the service; (ii) create
18 a list of other users with whom they share a connection within the
19 system; (iii) view and navigate their list of connections and those made
20 by others within the system; and (iv) participate in online communities
21 to share information, ideas, personal messages, and other content.

22 2. No employer shall, orally or in writing, seek, request, or require
23 an applicant or current employee to disclose information related to
24 their personal social media account or accounts, including but not
25 limited to, usernames, passwords, or the contents of such social media
26 accounts.

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

LBD16444-01-0

1 3. No employer shall, orally or in writing, seek, request, or require
2 an applicant or current employee to provide the employer access to a
3 social media account, including but not limited to, requiring an appli-
4 cant or current employee to open a social media account and show the
5 contents of such account to an employer.

6 4. The requirements of subdivisions two and three of this section
7 shall not apply to employers when it is reasonable to believe that an
8 applicant or current employee's social media account contains informa-
9 tion which is related to an employee misconduct investigation or any
10 violation of law.

11 5. A violation of this section shall subject the offender to a civil
12 penalty of up to one thousand dollars for the first violation and up to
13 five thousand dollars for any subsequent violation.

14 § 2. This act shall take effect immediately.