

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SMC
A. D. B.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Date: 6/16/15

Majority
JUDICIARY

L.D. 686
(Filing No. H-440)

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 467, L.D. 686, Bill, "An Act To Promote Privacy in Social Media"

Amend the bill in section 1 in §616 by striking out all of subsection 3 and inserting the following:

'3. Information. Require or coerce an employee or applicant to disclose any personal social media account information.'

Amend the bill in section 1 in §617 by inserting at the end the following:

'3. Investigation. This subchapter does not prohibit or restrict an employer from requiring an employee to disclose personal social media account information that the employer reasonably believes to be relevant to an investigation of allegations of employee misconduct or a workplace-related violation of applicable laws, rules or regulations if requiring the disclosure is not otherwise prohibited by law, as long as the information disclosed is accessed and used solely to the extent necessary for purposes of that investigation or a related proceeding.'

Amend the bill in section 1 by striking out all of §618 and inserting the following:

'§618. Workplace policies

This subchapter does not limit an employer's right to promulgate and maintain lawful workplace policies governing the use of the employer's electronic equipment, including a requirement that an employee disclose to the employer the employee's user name, password or other information necessary to access employer-issued electronic devices, including but not limited to cellular telephones and computers, or to access employer-provided software or e-mail accounts.

'§619. Penalties for violation

An employer who violates this subchapter is subject to a fine imposed by the Department of Labor of not less than \$100 for the first violation, not less than \$250 for the 2nd violation and not less than \$500 for each subsequent violation.'

COMMITTEE AMENDMENT

H. 913.

COMMITTEE AMENDMENT "A" to H.P. 467, L.D. 686

1 Amend the bill by inserting after section 1 the following:

2 **Sec. 2. Appropriations and allocations.** The following appropriations and
3 allocations are made.

4 **LABOR, DEPARTMENT OF**

5 **Regulation and Enforcement 0159**

6 Initiative: Provides funds for one part-time Wage and Hour Inspector position and related
7 All Other costs necessary for the additional enforcement activity associated with the
8 disclosure of personal social media account information.

9	GENERAL FUND	2015-16	2016-17
10	POSITIONS - LEGISLATIVE COUNT	0.500	0.500
11	Personal Services	\$23,866	\$33,094
12	All Other	\$3,500	\$3,500
13			
14	GENERAL FUND TOTAL	<u>\$27,366</u>	<u>\$36,594</u>
15			

16 **SUMMARY**

17 This amendment is the majority report of the Joint Standing Committee on Judiciary.
18 It makes clear that, although generally an employer cannot request or coerce an employee
19 or applicant to disclose any personal social media account information, there is an
20 exception: an employer may require an employee to disclose personal social media
21 account information reasonably believed to be relevant to an investigation of allegations
22 of employee misconduct or a workplace violation of applicable laws, rules or regulations
23 and when requiring the disclosure is not otherwise prohibited by law, as long as the
24 information disclosed is accessed and used solely to the extent necessary for the purposes
25 of that investigation or a related proceeding.

26 This amendment makes clear that an employer retains the right to promulgate and
27 maintain lawful workplace policies governing the use of the employer's electronic
28 equipment, including a requirement for an employee to disclose to the employer the
29 employee's user name, password or other information necessary to access employer-
30 issued electronic devices, including but not limited to cellular telephones and computers,
31 or to access employer-provided software or e-mail accounts.

32 This amendment deletes the private right of action in the bill and instead imposes
33 graduated fines to be imposed by the Department of Labor.

34 The amendment also adds an appropriations and allocations section.

35 **FISCAL NOTE REQUIRED**

36 (See attached)



127th MAINE LEGISLATURE

LD 686

LR 110(02)

An Act To Promote Privacy in Social Media

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-440)
 Committee: Judiciary
 Fiscal Note Required: Yes

Fiscal Note

Potential current biennium revenue increase - General Fund

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Net Cost (Savings)				
General Fund	\$27,366	\$36,594	\$37,918	\$39,294
Appropriations/Allocations				
General Fund	\$27,366	\$36,594	\$37,918	\$39,294

Fiscal Detail and Notes

This bill includes General Fund appropriations of \$27,366 in fiscal year 2015-16 and \$36,594 in fiscal year 2016-17 to the Regulation and Enforcement program within the Department of Labor for one part-time Wage and Hour Inspector position and related all other costs due to the increased enforcement activity associated with the disclosure of personal social media account information.

The amount of General Fund revenue to be received from penalties assessed as a result of violations of this Act can not be determined at this time.