

H. B. 2966

(By Delegates Skinner, Lawrence, Barrett, Young,
Sponaugle, Lynch, Tomblin, Eldridge, Poore,
Marcum and Caputo)

[Introduced March 19, 2013; referred to the
Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5G-1, §21-5G-2, and §21-5G-3, all relating to employment and privacy protection; 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 certain electronic communications devices; prohibiting an employer from taking or threatening to take, certain disciplinary actions for an employee's refusal to disclose certain password and related information; prohibiting an employer from failing or refusing to hire an applicant as a result of the applicant's refusal to disclose certain password and related information; prohibiting an employee from downloading certain unauthorized information or data to certain Web sites or Web-based accounts; providing that an employer is not prevented from conducting certain investigations for certain purposes; and defining terms.

1 *Be it enacted by the Legislature of West Virginia:*

2 That the Code of West Virginia, 1931, as amended, be amended
3 by adding thereto a new article, designated §21-5G-1, §21-5G-2 and
4 §21-5G-3, all to read as follows:

5 **ARTICLE 5G. INTERNET PRIVACY PROTECTION ACT.**

6 **§21-5G-1. Short Title.**

7 This article shall be known and may be cited as the "Internet
8 Privacy Protection Act".

9 **§21-5G-2. Definitions.**

10 As used in this article:

11 (a) "Applicant" means an applicant for employment.

12 (b) "Electronic Communications Device" means any device that
13 uses electronic signals to create, transmit and receive
14 information, and includes computers, telephones, personal digital
15 assistants, and other similar devices.

16 (c) "Employer" means a person engaged in a business, industry,
17 profession, trade or other enterprise in the state, or a unit of
18 state or local government. "Employer includes an agent,
19 representative or designee of the employer.

20 **§21-5G-3. Certain acts prohibited; not prohibited.**

21 (a) Except as provided in subsection (b) of this section, an
22 employer may not request or require that an employee or applicant
23 disclose any user name, password, or other means for accessing a

1 personal account or service through an electronic communications
2 device.

3 (b) An employer may require an employee to disclose any user
4 name, password, or other means for accessing nonpersonal accounts
5 or services that provide access to the employer's internal computer
6 or information systems.

7 (c) (1) An employer may not discharge, discipline, or
8 otherwise penalize or threaten to discharge, discipline, or
9 otherwise penalize an employee for the employee's refusal to
10 disclose any information specified in subsection (a) of this
11 section.

12 (2) An employer may not fail or refuse to hire any applicant
13 as a result of the applicant's refusal to disclose any information
14 specified in subsection (a) of this section.

15 (d) An employee may not download unauthorized employer
16 proprietary information or financial data to an employee's personal
17 Web site, an Internet Web site, a Web-based account, or a similar
18 account.

19 (e) (1) This section does not prevent an employer, based on the
20 receipt of information about the use of a personal Web site,
21 Internet Web site, Web-based account, or similar account by an
22 employee for business purposes, from conducting an investigation
23 for the purpose of ensuring compliance with applicable securities
24 or financial law, or regulatory requirements.

1 (2) This section does not prevent an employer, based on the
2 receipt of information about unauthorized downloading of an
3 employer's proprietary information or financial data to a personal
4 Web site, Internet Web site, Web-based account or similar account
5 by an employee, from investigating an employee's actions under
6 subsection (d) of this section.

NOTE: The purpose of this bill is to protect the privacy of personal electronic data for employees and applicants for employment, and to authorize employers to investigate to ensure compliance with applicable protections of certain business information.

This article is new; therefore it is completely underscored.