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JUDICIARY

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

COMMITTEE AMENDMENT " " 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

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	<b>GENERAL FUND</b>	<b>2015-16</b>	<b>2016-17</b>
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)**