

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 846

AMENDMENT NO. A2
(to be filled in by
Principal Clerk)

H846-ASA-34 [v.1]

Page 1 of 3

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Date _____, 2013

Representative Saine

1 moves to amend the bill on page 2, lines 34-49
2 by rewriting those lines to read:

3 **""§ 99F-5. Employers; prohibited acts.**

4 (a) An employer shall not require or request that an employee or applicant to disclose a
5 username and password, or a password that allows access to the employee's or applicant's
6 personal Internet account.

7 (b) An employer shall not request or require that an employee or applicant log onto a
8 social networking site, electronic mail account, or any other Internet site or application by way
9 of an electronic communications device in the presence of the employer so as to provide the
10 employer access to the employee's or applicant's social networking site profile or account.

11 (c) No employer shall monitor or track an employee's or applicant's personal electronic
12 communication device by installation of software upon the employee's or applicant's personal
13 device or by remotely tracking that device by using intercept technology.

14 (d) An employer shall not compel an employee or applicant to add the employer or its
15 representative to his or her personal social networking site profile or account.";

16
17
18

19 And on page 3, lines 21-31

20 By deleting those lines;

21
22

23 And on page 3, between lines 31 and 32

24 By inserting the following:

25 **""§ 99F-9. Permitted actions by an employer.**

26 (a) This Chapter does not prohibit an employer from doing any of the following:

27 (1) Requesting or requiring an employee to disclose a username or password
28 required only to gain access to either of the following:

29 a. An electronic communications device supplied by or paid for by the
30 employer.



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- 1 b. An account or service provided by the employer, obtained by virtue
2 of the employee's employment relationship with the employer, or
3 used for the employer's business purposes.
4 (2) Disciplining or discharging an employee for transferring the employer's
5 proprietary or confidential information or financial data to and employee's
6 personal Internet account without the employer's authorization.
7 (3) Conducting an investigation or requiring an employee to cooperate in an
8 investigation in any of the following:
9 a. When there is specific information about activity on the employee's
10 personal Internet account, for the purpose of ensuring compliance
11 with applicable laws, regulatory requirements, or prohibitions against
12 work-related employee misconduct.
13 b. When the employer has specific information about an unauthorized
14 transfer of the employer's proprietary information, confidential
15 information, or financial data to an employee's personal Internet
16 account.
17 (4) Restricting or prohibiting an employee's access to certain websites while
18 using an electronic communications device supplied by, or paid for in whole
19 or in part by, the employer or while using an employer's network or
20 resources, in accordance with state and federal law to the extent permissible
21 under applicable laws.
22 (5) Monitoring, reviewing, accessing, or blocking electronic data stored on an
23 electronic communications device supplied by, or paid for in whole or in
24 part by, the employer, or stored on an employer's network, in accordance
25 with state and federal law to the extent permissible under applicable laws.
26 (b) Conducting an investigation or requiring an employee to cooperate in an
27 investigation as specified in subdivision (3) of subsection (a) of this section includes requiring
28 the employee to share the content that has been reported in order to make a factual
29 determination.
30 (c) This Chapter does not prohibit or restrict an employer from complying with a duty
31 to screen employees or applicants before hiring or to monitor to retain employee
32 communications that is established under federal law, by a self-regulatory organization under
33 the Securities and Exchange Act of 1934, 15 U.S.C. §78c(a)(26), or in the course of a law
34 enforcement.
35 **§ 99F-10. Chapter does not create duties.**
36 (a) This Chapter does not create a duty for an employer to search or monitor the activity
37 of a personal Internet account.
38 (b) An employer is not liable under this Chapter for failure to request or require that an
39 employee or applicant for employment grant access to, allow observation of, or disclose
40 information that allows access to or observation of the employee's or applicant's personal
41 Internet account.
42 **§ 99F-11. Remedy.**

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- 1 (a) The Attorney General may bring a civil cause of action against an employer in a
- 2 court of competent jurisdiction on behalf of a citizen aggrieved by a violation of this Chapter.
- 3 (b) In an action brought under subsection (a) of this section, if the court finds a
- 4 violation of this Chapter, the court shall award the State not more than \$500 per violation."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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and vote information, is available in the
House Principal Clerk's Office**