

AMENDMENTS TO LB191

(Amendments to Standing Committee amendments, AM1330)

Introduced by McDonnell, 5.

1 1. Insert the following new sections:

2 Sec. 16. Section 48-3502, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 48-3502 For purposes of the Workplace Privacy Act:

5 (1) Adverse action means the discharge of an employee, a threat
6 against an employee, or any other act against an employee that negatively
7 affects the employee's employment;

8 (2) Applicant means a prospective employee applying for employment;

9 (3) Electronic communication device means a cellular telephone,
10 personal digital assistant, electronic device with mobile data access,
11 laptop computer, pager, broadband personal communication device, two-way
12 messaging device, electronic game, or portable computing device;

13 (4) Employee means an individual employed by an employer;

14 (5) Employer means (a) a public or nonpublic entity or an individual
15 engaged in a business, an industry, a profession, a trade, or other
16 enterprise in the state, including any agent, representative, or designee
17 acting directly or indirectly in the interest of such an employer; (b) a
18 subcontractor of such an employer; and (c) a customer of such an
19 employer; and

20 (6)(a) Personal Internet account means an individual's online
21 account that requires login information in order to access or control the
22 account.

23 (b) Personal Internet account does not include:

24 (i) An online account that an employer or educational institution
25 supplies or pays for, except when the employer or educational institution
26 pays only for additional features or enhancements to the online account;

1 or

2 (ii) An online account that is used exclusively for a business
3 purpose of the employer.

4 Sec. 17. Section 48-3503, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 48-3503 (1) No employer shall:

7 (a) (1) Require or request that an employee or applicant provide or
8 disclose any user name or password or any other related account
9 information in order to gain access to the employee's or applicant's
10 personal Internet account by way of an electronic communication device;

11 (b) (2) Require or request that an employee or applicant log into a
12 personal Internet account by way of an electronic communication device in
13 the presence of the employer in a manner that enables the employer to
14 observe the contents of the employee's or applicant's personal Internet
15 account or provides the employer access to the employee's or applicant's
16 personal Internet account;

17 (c) (3) Require an employee or applicant to add anyone, including
18 the employer, to the list of contacts associated with the employee's or
19 applicant's personal Internet account or require or otherwise coerce an
20 employee or applicant to change the settings on the employee's or
21 applicant's personal Internet account which affects the ability of others
22 to view the content of such account; ~~or~~

23 (d) Require an employee to wear an electronic communication device
24 to track the employee's location or travel patterns or to confirm
25 contacts with other employees, unless the Governor proclaims a state of
26 emergency for a pandemic pursuant to section 81-829.40 and the following
27 conditions are met:

28 (i) The state of emergency proclamation permits an employer to use
29 an electronic communication device for contact tracing purposes only;

30 (ii) The contact tracing is permitted only on the employer's
31 premises during employee work hours; and

1 (iii) The data collected during the contact tracing is not included
2 in the employee's personnel files and is destroyed within forty-eight
3 hours after the expiration of any tracing period recommended by the
4 Centers for Disease Control and Prevention; or

5 (e) (4) Take adverse action against, fail to hire, or otherwise
6 penalize an employee or applicant for failure to provide or disclose any
7 of the information or to take any of the actions specified in
8 subdivisions (a) (1) through (d) (3) of this subsection section.

9 (2) Except as provided in subdivision (1)(d) of this section,
10 nothing in this section shall prohibit an employer from utilizing an
11 electronic communication device for legitimate business purposes
12 disclosed to the employee. Legitimate business purposes include
13 controlling access to secure locations, equipment, or information.

14 (3) Nothing in this section shall prohibit an employer from tracking
15 the location of property owned by the employer.

16 (4) Nothing in this section shall prohibit an employer from
17 monitoring the use of employer property for productivity or other job-
18 related metrics so long as the property and employee possessing or using
19 the property are not associated in the data collected.

20 2. Renumber the remaining sections and correct the repealer
21 accordingly.