SENATE BILL 433

K3, L6, P4
SB 971/11 – FIN
2lr0621
CF HB 964

By: Senators Young, Kelley, King, Montgomery, and Shank
Introduced and read first time: February 2, 2012
Assigned to: Finance
Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 6, 2012

CHAPTER ______

1 AN ACT concerning

2 Labor and Employment – User Name and Password Privacy Protection and
   Exclusions

3 FOR the purpose of prohibiting an employer from requesting or requiring that an
4 employee or applicant disclose any user name, password, or other means for
5 accessing a personal account or service through certain electronic
6 communications devices; prohibiting an employer from taking, or threatening to
7 take, certain disciplinary actions for an employee’s refusal to disclose certain
8 password and related information; prohibiting an employer from failing or
9 refusing to hire an applicant as a result of the applicant’s refusal to disclose
10 certain password and related information; prohibiting an employee from
11 downloading certain unauthorized information or data to certain Web sites or
12 Web–based accounts; providing that an employer, based on the receipt of certain
13 information regarding the use of certain Web sites or certain Web–based
14 accounts, is not prevented from conducting certain investigations for certain
15 purposes; defining certain terms; and generally relating to employment and
16 privacy protection.

18 BY adding to
19 Article – Labor and Employment
20 Section 3–712
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
Strikeout indicates matter stricken from the bill by amendment or deleted from the law by
amendment.
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

3–712.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
MEANINGS INDICATED.

(2) “APPLICANT” MEANS AN APPLICANT FOR EMPLOYMENT.

(3) (I) “ELECTRONIC COMMUNICATIONS DEVICE” MEANS ANY
DEVICE THAT USES ELECTRONIC SIGNALS TO CREATE, TRANSMIT, AND RECEIVE
INFORMATION.

(II) “ELECTRONIC COMMUNICATIONS DEVICE” INCLUDES
COMPUTERS, TELEPHONES, PERSONAL DIGITAL ASSISTANTS, AND OTHER
SIMILAR DEVICES.

(4) (I) “EMPLOYER” MEANS:

1. A PERSON ENGAGED IN A BUSINESS, AN
INDUSTRY, A PROFESSION, A TRADE, OR OTHER ENTERPRISE IN THE STATE; OR

2. A UNIT OF STATE OR LOCAL GOVERNMENT.

(II) “EMPLOYER” INCLUDES AN AGENT, A
REPRESENTATIVE, AND A DESIGNEE OF THE EMPLOYER.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN
EMPLOYER MAY NOT REQUEST OR REQUIRE THAT AN EMPLOYEE OR APPLICANT
DISCLOSE ANY USER NAME, PASSWORD, OR OTHER MEANS FOR ACCESSING A
PERSONAL ACCOUNT OR SERVICE THROUGH AN ELECTRONIC COMMUNICATIONS
DEVICE.

(2) AN EMPLOYER MAY REQUIRE AN EMPLOYEE TO DISCLOSE ANY
USER NAME, PASSWORD, OR OTHER MEANS FOR ACCESSING NONPERSONAL
ACCOUNTS OR SERVICES THAT PROVIDE ACCESS TO THE EMPLOYER’S INTERNAL
COMPUTER OR INFORMATION SYSTEMS.

(C) AN EMPLOYER MAY NOT:

(1) DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE OR
THREATEN TO DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE AN
EMPLOYEE FOR AN EMPLOYEE’S REFUSAL TO DISCLOSE ANY INFORMATION SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION; OR

(2) FAIL OR REFUSE TO HIRE ANY APPLICANT AS A RESULT OF THE APPLICANT'S REFUSAL TO DISCLOSE ANY INFORMATION SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION.

(D) AN EMPLOYEE MAY NOT DOWNLOAD UNAUTHORIZED EMPLOYER PROPRIETARY INFORMATION OR FINANCIAL DATA TO AN EMPLOYEE’S PERSONAL WEB SITE, AN INTERNET WEB SITE, A WEB–BASED ACCOUNT, OR A SIMILAR ACCOUNT.

(E) THIS SECTION DOES NOT PREVENT AN EMPLOYER:

(1) BASED ON THE RECEIPT OF INFORMATION ABOUT THE USE OF A PERSONAL WEB SITE, INTERNET WEB SITE, WEB–BASED ACCOUNT, OR SIMILAR ACCOUNT BY AN EMPLOYEE FOR BUSINESS PURPOSES, FROM CONDUCTING AN INVESTIGATION FOR THE PURPOSE OF ENSURING COMPLIANCE WITH APPLICABLE SECURITIES OR FINANCIAL LAW, OR REGULATORY REQUIREMENTS; OR

(2) BASED ON THE RECEIPT OF INFORMATION ABOUT THE UNAUTHORIZED DOWNLOADING OF AN EMPLOYER’S PROPRIETARY INFORMATION OR FINANCIAL DATA TO A PERSONAL WEB SITE, INTERNET WEB SITE, WEB–BASED ACCOUNT, OR SIMILAR ACCOUNT BY AN EMPLOYEE, FROM INVESTIGATING AN EMPLOYEE’S ACTIONS UNDER SUBSECTION (D) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.