

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**
3 **Exclusions**

4 FOR the purpose of prohibiting an employer from requesting or requiring that an
5 employee or applicant disclose any user name, password, or other means for
6 accessing a personal account or service through certain electronic
7 communications devices; prohibiting an employer from taking, or threatening to
8 take, certain disciplinary actions for an employee's refusal to disclose certain
9 password and related information; prohibiting an employer from failing or
10 refusing to hire an applicant as a result of the applicant's refusal to disclose
11 certain password and related information; prohibiting an employee from
12 downloading certain unauthorized information or data to certain Web sites or
13 Web-based accounts; providing that an employer, based on the receipt of certain
14 information regarding the use of certain Web sites or certain Web-based
15 accounts, is not prevented from conducting certain investigations for certain
16 purposes; defining certain terms; and generally relating to employment and
17 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.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Labor and Employment**

4 **3–712.**

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

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

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

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

14 (4) (I) “EMPLOYER” MEANS:

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

17 2. A UNIT OF STATE OR LOCAL GOVERNMENT.

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

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

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

29 (C) AN EMPLOYER MAY NOT:

30 (1) DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE OR
31 THREATEN TO DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE AN

1 EMPLOYEE FOR AN EMPLOYEE’S REFUSAL TO DISCLOSE ANY INFORMATION
2 SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION; OR

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

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

10 (E) THIS SECTION DOES NOT PREVENT AN EMPLOYER:

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.