

California Becomes Third State to Regulate Employer Access to Social Media

By Andrew Martin

Last month, California Governor Jerry Brown signed [Assembly Bill 1844](#) into law, making California the third state, behind Maryland and Illinois, to create statutory privacy protections for social media users from their employers. [Senate Bill 1349](#) applies the same prohibitions on the state's colleges and universities.

Essentially, the laws prohibit employers and universities from asking for social media website credentials from employees or applicants. The laws also prohibit employers and universities from asking employees or applicants to show the employers the content posted to the employee's or applicant's social media websites. The law further prohibits employers from retaliating against an employee or applicant that does not comply with a request violating this law.

AB 1844 does contain exceptions to the prohibition on employer access, allowing employers to require or request access to social media sites that are either reasonably believed to be relevant to an investigation of employee misconduct or when necessary to grant the employer access to an employer-issued device. There is not a civil cause of action specified under AB 1844, but under the California Labor Code, the Labor Commissioner is authorized to investigate Labor Code violations.

The laws take effect on January 1, 2013. For those companies operating in California, now is a good time to review your procedures and policies with respect to employees' social media activities to ensure compliance with the new laws in the new year.



About the author Andrew Martin:

As an associate attorney with extensive prior experience advising information technology start-ups, Andrew's practice focuses on finding solutions for his clients' intellectual property issues. Due to his extensive experience in the software and technology industries, Andrew understands both the practical and legal issues involved in IP licensing agreements and disputes. In addition to licensing, Andrew helps his clients find new ways to use existing technologies to assist his clients in areas such as data privacy compliance. Andrew uses his diverse background which includes founding a record label and working for a world-wide concert promoter when counseling the firm's entertainment clients.

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