

First Extraordinary Session
Sixty-fifth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 06B-2073.02 Kristen Forrestal

HOUSE BILL 06S-1017

HOUSE SPONSORSHIP

Solano, and Paccione

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs and Labor
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING DOCUMENTATION BY AN EMPLOYER THAT**
102 **DEMONSTRATES COMPLIANCE WITH FEDERAL EMPLOYMENT**
103 **VERIFICATION REQUIREMENTS, AND MAKING AN APPROPRIATION**
104 **IN CONNECTION THEREWITH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires each employer in Colorado to attest that the employer has verified the legal work status of each employee, that the employer has not altered or falsified the employee's identification documents, and that the employer has not knowingly hired an unauthorized alien.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
July 6, 2006

Requires each employer in Colorado to submit documentation to the director of the division of labor within the department of labor and employment that demonstrates that the employer is in compliance with federal employment verification requirements. Authorizes the director to conduct random audits of employers to ensure compliance with the federal laws. Requires the director to request documentation if the director receives a valid complaint that an employer is not in compliance with federal law. Subjects an employer to a fine for the failure to provide documentation or for the provision of fraudulent documentation.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 1 of article 2 of title 8, Colorado Revised
3 Statutes, is amended BY THE ADDITION A NEW SECTION to read:

4 **8-2-122. Employment verification requirements - quarterly**
5 **report - audits - fine for fraudulent documents - definitions.** (1) AS
6 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

8 (b) "DIVISION" MEANS THE DIVISION OF LABOR IN THE
9 DEPARTMENT OF LABOR AND EMPLOYMENT.

10 (c) "EMPLOYER" MEANS A PERSON OR ENTITY THAT:

11 (I) TRANSACTS BUSINESS IN COLORADO;

12 (II) AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM
13 SERVICES OF ANY NATURE; AND

14 (III) HAS CONTROL OF THE PAYMENT OF WAGES FOR SUCH
15 SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF THE PERSON OR
16 ENTITY HAVING CONTROL OF THE PAYMENT OF WAGES.

17 (d) "UNAUTHORIZED ALIEN" HAS THE SAME MEANING AS SET
18 FORTH IN 8 U.S.C. SEC. 1324a (h) (3).

19 (2) EACH EMPLOYER IN COLORADO SHALL ATTEST THAT THE
20 EMPLOYER HAS VERIFIED THE LEGAL WORK STATUS OF EACH EMPLOYEE

1 AND HAS RETAINED FILE COPIES OF THE DOCUMENTS REQUIRED BY 8
2 U.S.C. SEC. 1324a; THAT THE EMPLOYER HAS NOT ALTERED OR FALSIFIED
3 THE EMPLOYEE'S IDENTIFICATION DOCUMENTS; AND THAT THE EMPLOYER
4 HAS NOT KNOWINGLY HIRED AN UNAUTHORIZED ALIEN. THE EMPLOYER
5 SHALL KEEP A WRITTEN COPY OF THE ATTESTATION, AND OF THE
6 DOCUMENTS REQUIRED BY 8 U.S.C. SEC. 1324a, FOR THE TERM OF
7 EMPLOYMENT OF EACH EMPLOYEE.

8 (3) UPON THE REQUEST OF THE DIRECTOR, AN EMPLOYER SHALL
9 SUBMIT DOCUMENTATION TO THE DIRECTOR THAT DEMONSTRATES THAT
10 THE EMPLOYER IS IN COMPLIANCE WITH THE EMPLOYMENT VERIFICATION
11 REQUIREMENTS SPECIFIED IN 8 U.S.C. SEC. 1324a (b) AND
12 DOCUMENTATION THAT THE EMPLOYER HAS COMPLIED WITH THE
13 REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION. THE DIRECTOR OR
14 THE DIRECTOR'S DESIGNEE MAY CONDUCT RANDOM AUDITS OF EMPLOYERS
15 IN COLORADO TO OBTAIN THE DOCUMENTATION. UPON RECEIPT OF ANY
16 CREDIBLE COMPLAINT THAT AN EMPLOYER HAS NOT COMPLIED WITH THE
17 EMPLOYMENT VERIFICATION REQUIREMENTS, THE DIRECTOR SHALL
18 REQUEST THE EMPLOYER TO SUBMIT THE DOCUMENTATION.

19 (4) AN EMPLOYER WHO FAILS TO SUBMIT THE DOCUMENTATION
20 REQUIRED BY THIS SECTION, OR WHO SUBMITS [REDACTED] DOCUMENTATION
21 THAT THE EMPLOYER KNOWS OR REASONABLY SHOULD HAVE KNOWN IS
22 FALSE OR FRAUDULENT, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN
23 FIVE THOUSAND DOLLARS FOR THE FIRST OFFENSE AND NOT MORE THAN
24 TWENTY-FIVE THOUSAND DOLLARS FOR THE SECOND AND ANY
25 SUBSEQUENT OFFENSE. THE MONEYS COLLECTED PURSUANT TO THIS
26 SUBSECTION (4) SHALL BE DEPOSITED IN THE EMPLOYMENT VERIFICATION
27 CASH FUND, WHICH IS HEREBY CREATED. THE MONEYS IN THE FUND SHALL

1 BE APPROPRIATED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR
2 THE PURPOSE OF IMPLEMENTING, ADMINISTERING, AND ENFORCING THIS
3 SECTION. THE MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND NOT
4 REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY
5 FISCAL YEAR.

6 (5) (a) NO EMPLOYER SHALL INITIATE OR ADMINISTER ANY
7 DISCIPLINARY ACTION AGAINST AN EMPLOYEE ON ACCOUNT OF THE
8 EMPLOYEE'S DISCLOSURE OF INFORMATION. THIS PARAGRAPH (a) SHALL
9 NOT APPLY TO AN EMPLOYEE WHO DISCLOSES INFORMATION THAT THE
10 EMPLOYEE KNOWS TO BE FALSE OR WHO DISCLOSES INFORMATION WITH
11 DISREGARD FOR THE TRUTH OR FALSITY THEREOF OR AN EMPLOYEE WHO
12 DISCLOSES INFORMATION WHICH IS CONFIDENTIAL UNDER ANY OTHER
13 PROVISION OF LAW.

14 (b) AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES:

16 (I) "DISCIPLINARY ACTION" MEANS ANY DIRECT OR INDIRECT FORM
17 OF DISCIPLINE OR PENALTY, INCLUDING, BUT NOT LIMITED TO, DISMISSAL,
18 DEMOTION, TRANSFER, REASSIGNMENT, SUSPENSION, CORRECTIVE ACTION,
19 REPRIMAND, ADMONISHMENT, UNSATISFACTORY OR BELOW STANDARD
20 PERFORMANCE EVALUATION, REDUCTION IN FORCE, OR WITHHOLDING OF
21 WORK, OR THE THREAT OF ANY SUCH DISCIPLINE OR PENALTY.

22 (II) "DISCLOSURE OF INFORMATION" MEANS A REPORT TO THE
23 DEPARTMENT OF LABOR AND EMPLOYMENT PURSUANT TO SUBSECTION (3)
24 OF THIS SECTION THAT AN EMPLOYER HAS NOT COMPLIED WITH
25 SUBSECTION (1) THIS SECTION.

26 **SECTION 2. Appropriation.** (1) In addition to any other
27 appropriation, there is hereby appropriated, out of any moneys in the

1 employment support fund created in section 8-77-109, Colorado Revised
2 Statutes, not otherwise appropriated, to the department of labor and
3 employment, for allocation to the division of labor, for the fiscal year
4 beginning July 1, 2006, the sum of one hundred ten thousand four
5 hundred forty-seven dollars (\$110,447) and 2.0 FTE, or so much thereof
6 as may be necessary, for the implementation of this act.

7 (2) In addition to any other appropriation, there is hereby
8 appropriated, out of any moneys in the employment support fund created
9 in section 8-77-109, Colorado Revised Statutes, not otherwise
10 appropriated, to the department of labor and employment, for allocation
11 to the executive director's office, for legal services, for the fiscal year
12 beginning July 1, 2006, the sum of three thousand two hundred twenty-
13 three dollars (\$3,223), or so much thereof as may be necessary, for the
14 implementation of this act.

15 (3) In addition to any other appropriation, there is hereby
16 appropriated to the department of law, for the fiscal year beginning
17 July 1, 2006, the sum of three thousand two hundred twenty-three dollars
18 (\$3,223), or so much thereof as may be necessary, for the provision of
19 legal services to the division of labor in the department of labor and
20 employment related to the implementation of this act. Said sum shall be
21 from cash funds exempt received from the division of labor in the
22 department of labor and employment out of the appropriation made in
23 subsection (2) of this section.

24 **SECTION 3. Effective date - applicability.** This act shall take
25 effect upon passage and shall apply to employees hired on or after
26 January 1, 2007.

27 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.