

**Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0797.01 Christy Chase

SENATE BILL 08-139

SENATE SPONSORSHIP

Schultheis,

HOUSE SPONSORSHIP

Lundberg,

Senate Committees

Business, Labor and Technology

House Committees

State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING NOTIFICATION TO EMPLOYERS OF THE FEDERAL**
102 **ELECTRONIC VERIFICATION PROGRAM FOR USE IN VERIFYING**
103 **THE WORK ELIGIBILITY STATUS OF NEW EMPLOYEES.**

Bill Summary

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

Requires the department of labor and employment to notify employers, quarterly for the next 2 years and twice per year thereafter, of the prohibition against hiring or continuing to employ an unauthorized alien and the availability of and participation requirements for the federal electronic verification program (e-verify program) to verify the work eligibility status of new employees. Also requires the department and the

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.

SENATE
3rd Reading Unamended
February 26, 2008

SENATE
Amended 2nd Reading
February 25, 2008

secretary of state to post on their respective web sites information about the prohibition against hiring unauthorized aliens and the e-verify program and a link to the e-verify program web site.

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 OF A NEW SECTION to
4 read:

5 **8-2-124. Electronic verification program - availability - notice**
6 **to employers - definitions.** (1) AS USED IN THIS SECTION:

7 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
8 EMPLOYMENT.

9 (b) "ELECTRONIC VERIFICATION PROGRAM" OR "E-VERIFY
10 PROGRAM" MEANS THE ELECTRONIC EMPLOYMENT VERIFICATION
11 PROGRAM THAT IS AUTHORIZED IN 8 U.S.C. SEC. 1324a AND JOINTLY
12 ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND
13 SECURITY AND THE SOCIAL SECURITY ADMINISTRATION, OR ITS SUCCESSOR
14 PROGRAM.

15 (c) (I) "EMPLOYER" MEANS A PERSON TRANSACTING BUSINESS IN
16 COLORADO WHO, AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM
17 SERVICES OF ANY NATURE AND WHO HAS CONTROL OF THE PAYMENT OF
18 WAGES FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF
19 THE PERSON HAVING CONTROL OF THE PAYMENT OF WAGES.

20 (II) "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT,
21 THE STATE OF COLORADO, ANOTHER STATE, OR A POLITICAL SUBDIVISION
22 OF COLORADO OR ANOTHER STATE.

23 (d) "EMPLOYMENT ELIGIBILITY VERIFICATION FORM I-9" MEANS
24 THE FORM DEVELOPED BY THE UNITED STATES CITIZENSHIP AND

1 IMMIGRATION SERVICES IN THE DEPARTMENT OF HOMELAND SECURITY
2 PURSUANT TO 8 U.S.C. SEC. 1324a (b).

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

5 (2) (a) (I) AS PART OF ITS QUARTERLY ELECTRONIC PUBLICATION
6 DISTRIBUTED TO ALL EMPLOYERS, THE DEPARTMENT SHALL, AT A
7 MINIMUM, NOTIFY EVERY EMPLOYER OF THE FEDERAL LAW
8 AGAINST HIRING OR CONTINUING TO EMPLOY AN UNAUTHORIZED ALIEN
9 AND OF THE AVAILABILITY OF THE OPTIONAL ELECTRONIC VERIFICATION
10 PROGRAM TO VERIFY THE WORK ELIGIBILITY STATUS OF NEW EMPLOYEES.

11 (II) (A) IN NOTIFYING EMPLOYERS OF THE E-VERIFY PROGRAM
12 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE
13 DEPARTMENT SHALL INCLUDE LANGUAGE SIMILAR TO THE FOLLOWING:

14 AS WITH ALL CURRENT EMPLOYEE VERIFICATION
15 PROGRAMS, THE E-VERIFY PROGRAM IS NOT ONE HUNDRED
16 PERCENT ACCURATE, AND AN EMPLOYEE HAS RECOURSE
17 AVAILABLE IF THE EMPLOYEE IS LEGALLY DOCUMENTED TO
18 WORK IN THE UNITED STATES BUT THE EMPLOYER RECEIVES
19 A FINAL NOTICE OF NONCONFIRMATION OF WORK
20 ELIGIBILITY REGARDING THE EMPLOYEE THROUGH THE
21 E-VERIFY PROGRAM.

22 (B) ADDITIONALLY, THE DEPARTMENT SHALL PROVIDE EMPLOYERS
23 INFORMATION ABOUT WHEN, DURING THE HIRING PROCESS, AN EMPLOYER
24 MAY LAWFULLY USE THE E-VERIFY PROGRAM, SPECIFYING THAT THE
25 E-VERIFY PROGRAM CAN ONLY BE USED AFTER AN EMPLOYEE IS HIRED AND
26 CANNOT BE USED TO VERIFY THE WORK ELIGIBILITY STATUS OF EXISTING
27 EMPLOYEES. THE NOTICE SHALL ALSO RESTATE THE REQUIREMENTS OF

1 SECTION 24-34-402, C.R.S., WHICH PROHIBITS EMPLOYERS FROM
2 ENGAGING IN DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICES.

3 (III) IMMEDIATELY FOLLOWING THE NOTICE REQUIRED BY
4 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE DEPARTMENT SHALL
5 INCLUDE IN THE QUARTERLY ELECTRONIC PUBLICATION A LINK TO THE
6 PORTION OF THE DEPARTMENT'S WEB SITE WHERE AN EMPLOYER CAN
7 ACCESS ADDITIONAL INFORMATION ABOUT THE FEDERAL LAW, THE
8 E-VERIFY PROGRAM AND THE REQUIREMENTS FOR PARTICIPATION IN THE
9 E-VERIFY PROGRAM, AND THE FOLLOWING STATEMENT, IN BOLD-FACED
10 TYPE IN A CONSPICUOUS LOCATION:

11 **IT IS UNLAWFUL FOR AN EMPLOYER TO:**

12 **HIRE, RECRUIT, OR REFER FOR A FEE, FOR**
13 **EMPLOYMENT IN THE UNITED STATES, AN ALIEN,**
14 **KNOWING THE ALIEN IS AN UNAUTHORIZED ALIEN;**

15 **HIRE, RECRUIT, OR REFER FOR A FEE, FOR**
16 **EMPLOYMENT IN THE UNITED STATES, AN INDIVIDUAL**
17 **WITHOUT VERIFYING THE EMPLOYMENT ELIGIBILITY**
18 **STATUS OF THE INDIVIDUAL THROUGH COMPLETION OF**
19 **THE EMPLOYMENT ELIGIBILITY VERIFICATION FORM**
20 **I-9, OR ITS SUCCESSOR FORM;**

21 **CONTINUE TO EMPLOY AN ALIEN IN THE UNITED**
22 **STATES, KNOWING THAT THE ALIEN IS OR HAS BECOME**
23 **AN UNAUTHORIZED ALIEN; OR**

24 **WHILE USING THE E-VERIFY PROGRAM, REFUSE TO**
25 **HIRE, DISCHARGE, PROMOTE, OR DEMOTE A PERSON,**
26 **HARASS A PERSON DURING THE COURSE OF EMPLOYMENT,**
27 **OR DISCRIMINATE AGAINST A PERSON IN MATTERS OF**

1 COMPENSATION, ON THE BASIS OF THE PERSON'S
2 DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL
3 ORIENTATION, RELIGION, AGE, NATIONAL ORIGIN, OR
4 ANCESTRY, PURSUANT TO SECTION 24-34-402, C.R.S.

5 FOR MORE SPECIFIC INFORMATION REGARDING
6 THE E-VERIFY PROGRAM AND ITS REQUIREMENTS AND
7 USE, EMPLOYERS SHOULD CONSULT 8 U.S.C. SEC. 1324a.

8
9 (IV) THE DEPARTMENT SHALL INCLUDE THE NOTICE AND WEB SITE
10 LINK REQUIRED BY THIS PARAGRAPH (a) IN EACH QUARTERLY ELECTRONIC
11 PUBLICATION DISTRIBUTED TO EMPLOYERS ON AND AFTER THE
12 EFFECTIVE DATE OF THIS SECTION.

13 (b) THE DEPARTMENT SHALL PERMANENTLY POST ON ITS WEB SITE
14 THE STATEMENT AND INFORMATION DESCRIBED IN SUBPARAGRAPH (III) OF
15 PARAGRAPH (a) OF THIS SUBSECTION (2), AS WELL AS A LINK TO THE
16 E-VERIFY WEB SITE AVAILABLE THROUGH THE INTERNET PORTAL FOR THE
17 UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, OR ITS
18 SUCCESSOR AGENCY.

19 **SECTION 2.** Part 1 of article 21 of title 24, Colorado Revised
20 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
21 read:

22 **24-21-112. Electronic verification program - notice -**
23 **definitions.** (1) AS USED IN THIS SECTION:

24 (a) "ELECTRONIC VERIFICATION PROGRAM" OR "E-VERIFY
25 PROGRAM" MEANS THE ELECTRONIC EMPLOYMENT VERIFICATION
26 PROGRAM THAT IS AUTHORIZED IN 8 U.S.C. SEC. 1324a AND JOINTLY
27 ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND

1 SECURITY AND THE SOCIAL SECURITY ADMINISTRATION, OR ITS SUCCESSOR
2 PROGRAM.

3 (b) "EMPLOYER" MEANS A PERSON TRANSACTING BUSINESS IN
4 COLORADO WHO, AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM
5 SERVICES OF ANY NATURE AND WHO HAS CONTROL OF THE PAYMENT OF
6 WAGES FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF
7 THE PERSON HAVING CONTROL OF THE PAYMENT OF WAGES.

8 (2) THE SECRETARY OF STATE, IN CONSULTATION WITH THE
9 DEPARTMENT OF LABOR AND EMPLOYMENT, SHALL POST ON THE
10 SECRETARY OF STATE'S WEB SITE INFORMATION PERTAINING TO THE
11 PROHIBITION AGAINST HIRING OR CONTINUING TO EMPLOY AN
12 UNAUTHORIZED ALIEN, AS DEFINED IN 8 U.S.C. SEC. 1324a (h) (3), AND
13 THE AVAILABILITY OF AND THE REQUIREMENTS FOR PARTICIPATION IN THE
14 ELECTRONIC VERIFICATION PROGRAM AS A MEANS FOR EMPLOYERS TO
15 VERIFY THE WORK ELIGIBILITY STATUS OF NEW EMPLOYEES. THE WEB SITE
16 POSTING REQUIRED BY THIS SUBSECTION (2) SHALL APPEAR IN THE SAME
17 FORMAT AS REQUIRED BY SECTION 8-2-124 (2) (a), C.R.S., AND SHALL
18 APPEAR IN A CONSPICUOUS LOCATION ON THE SECRETARY OF STATE'S WEB
19 SITE. THE SECRETARY OF STATE'S WEB SITE SHALL ALSO PROVIDE A LINK
20 TO THE E-VERIFY WEB SITE AVAILABLE THROUGH THE INTERNET PORTAL
21 FOR THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, OR ITS
22 SUCCESSOR AGENCY.

23 **SECTION 3. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.