

First Extraordinary Session
Sixty-fifth General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 06B-2073.02 Kristen Forrestal

HOUSE BILL 06S-1017

HOUSE SPONSORSHIP

Solano, and Paccione

SENATE SPONSORSHIP

Bacon,

House Committees

Business Affairs and Labor
Appropriations

Senate Committees

Business, Labor and Technology
State, Veterans & Military Affairs
Appropriations

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.

SENATE
Amended 2nd Reading
July 9, 2006

HOUSE
3rd Reading Unamended
July 7, 2006

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 - audits**
5 **- fine for fraudulent documents - cash fund created - definitions.**

6 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
7 REQUIRES:

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

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

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

12 (I) TRANSACTS BUSINESS IN COLORADO;

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

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

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

20 (2) ON AND AFTER JANUARY 1, 2007, WITHIN TWENTY DAYS AFTER

1 HIRING A NEW EMPLOYEE, EACH EMPLOYER IN COLORADO SHALL AFFIRM
2 THAT THE EMPLOYER HAS EXAMINED THE LEGAL WORK STATUS OF SUCH
3 NEWLY-HIRED EMPLOYEE AND HAS RETAINED FILE COPIES OF THE
4 DOCUMENTS REQUIRED BY 8 U.S.C. SEC. 1324a; THAT THE EMPLOYER HAS
5 NOT ALTERED OR FALSIFIED THE EMPLOYEE'S IDENTIFICATION DOCUMENTS;
6 AND THAT THE EMPLOYER HAS NOT KNOWINGLY HIRED AN UNAUTHORIZED
7 ALIEN. THE EMPLOYER SHALL KEEP A WRITTEN OR ELECTRONIC COPY OF
8 THE AFFIRMATION, AND OF THE DOCUMENTS REQUIRED BY 8 U.S.C. SEC.
9 1324a, FOR THE TERM OF EMPLOYMENT OF EACH EMPLOYEE.

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

22 (4) AN EMPLOYER WHO KNOWINGLY FAILS TO SUBMIT THE
23 DOCUMENTATION REQUIRED BY THIS SECTION, OR WHO KNOWINGLY
24 SUBMITS FALSE OR FRAUDULENT DOCUMENTATION, SHALL BE SUBJECT
25 TO A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR THE FIRST
26 OFFENSE AND NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR THE
27 SECOND AND ANY SUBSEQUENT OFFENSE. THE MONEYS COLLECTED

1 PURSUANT TO THIS SUBSECTION (4) SHALL BE DEPOSITED IN THE
2 EMPLOYMENT VERIFICATION CASH FUND, WHICH IS HEREBY CREATED IN
3 THE STATE TREASURY. THE MONEYS IN THE FUND SHALL BE
4 APPROPRIATED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR
5 THE PURPOSE OF IMPLEMENTING, ADMINISTERING, AND ENFORCING THIS
6 SECTION. THE MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND NOT
7 REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY
8 FISCAL YEAR.

9
10 (5) IT IS THE PUBLIC POLICY OF COLORADO THAT THIS SECTION
11 SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER,
12 ETHNICITY, NATIONAL ORIGIN, OR DISABILITY.

13 **SECTION 2. Appropriation.** (1) In addition to any other
14 appropriation, there is hereby appropriated, out of any moneys in the
15 employment support fund created in section 8-77-109, Colorado Revised
16 Statutes, not otherwise appropriated, to the department of labor and
17 employment, for allocation to the division of labor, for the fiscal year
18 beginning July 1, 2006, the sum of one hundred ten thousand four
19 hundred forty-seven dollars (\$110,447) and 2.0 FTE, or so much thereof
20 as may be necessary, for the implementation of this act.

21 (2) In addition to any other appropriation, there is hereby
22 appropriated, out of any moneys in the employment support fund created
23 in section 8-77-109, Colorado Revised Statutes, not otherwise
24 appropriated, to the department of labor and employment, for allocation
25 to the executive director's office, for legal services, for the fiscal year
26 beginning July 1, 2006, the sum of three thousand two hundred
27 twenty-three dollars (\$3,223), or so much thereof as may be necessary, for

1 the implementation of this act.

2 (3) In addition to any other appropriation, there is hereby
3 appropriated to the department of law, for the fiscal year beginning
4 July 1, 2006, the sum of three thousand two hundred twenty-three dollars
5 (\$3,223), or so much thereof as may be necessary, for the provision of
6 legal services to the division of labor in the department of labor and
7 employment related to the implementation of this act. Said sum shall be
8 from cash funds exempt received from the division of labor in the
9 department of labor and employment out of the appropriation made in
10 subsection (2) of this section.

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

14 **SECTION 4. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.