# First Extraordinary Session Sixty-fifth General Assembly STATE OF COLORADO

# **PREAMENDED**

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

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	<b>EMPLOYER</b>	THAT
102	DEMONS	TRATES COMPLIANCE	WIT	H FEI	DERAL EMPLO	YMENT
103	VERIFICA	TION REQUIREMENTS,	AND	MAKIN	NG AN APPROPR	RIATION
104	IN CONNI	ECTION 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.

HOUSE rd Reading Unamended July 7, 2006

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 - <u>cash fund created -</u>
6	definitions. (1) As used in this section, unless the context
7	OTHERWISE 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

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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 REQUIREMENTS, THE DIRECTOR SHALL
20	REQUEST THE EMPLOYER TO SUBMIT THE DOCUMENTATION.
21	(4) An employer who <u>knowingly</u> fails to submit the
22	DOCUMENTATION REQUIRED BY THIS SECTION, OR WHO KNOWINGLY
23	SUBMITS FALSE OR FRAUDULENT DOCUMENTATION, SHALL BE SUBJECT
24	TO A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR THE FIRST
25	OFFENSE AND NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR THE
26	SECOND AND ANY SUBSEQUENT OFFENSE. THE MONEYS COLLECTED
27	PURSUANT TO THIS SUBSECTION (4) SHALL BE DEPOSITED IN THE

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1	EMPLOYMENT VERIFICATION CASH FUND, WHICH IS HEREBY CREATED IN
2	THE STATE TREASURY. THE MONEYS IN THE FUND SHALL BE
3	APPROPRIATED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR
4	THE PURPOSE OF IMPLEMENTING, ADMINISTERING, AND ENFORCING THIS
5	SECTION. THE MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND NOT
6	REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE AND OF ANY
7	FISCAL YEAR.
8	<del></del>
9	SECTION 2. Appropriation. (1) In addition to any other
10	appropriation, there is hereby appropriated, out of any moneys in the
11	employment support fund created in section 8-77-109, Colorado Revised
12	Statutes, not otherwise appropriated, to the department of labor and
13	employment, for allocation to the division of labor, for the fiscal year
14	beginning July 1, 2006, the sum of one hundred ten thousand four
15	hundred forty-seven dollars (\$110,447) and 2.0 FTE, or so much thereof
16	as may be necessary, for the implementation of this act.
17	(2) In addition to any other appropriation, there is hereby
18	appropriated, out of any moneys in the employment support fund created
19	in section 8-77-109, Colorado Revised Statutes, not otherwise
20	appropriated, to the department of labor and employment, for allocation
21	to the executive director's office, for legal services, for the fiscal year
22	beginning July 1, 2006, the sum of three thousand two hundred
23	twenty-three dollars (\$3,223), or so much thereof as may be necessary, for
24	the implementation of this act.
25	(3) In addition to any other appropriation, there is hereby
26	appropriated to the department of law, for the fiscal year beginning
27	July 1, 2006, the sum of three thousand two hundred twenty-three dollars

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1	(\$3,223), or so much thereof as may be necessary, for the provision of
2	legal services to the division of labor in the department of labor and
3	employment related to the implementation of this act. Said sum shall be
4	from cash funds exempt received from the division of labor in the
5	department of labor and employment out of the appropriation made in
6	subsection (2) of this section.
7	<b>SECTION 3. Effective date - applicability.</b> This act shall take
8	effect upon passage and shall apply to employees hired on or after
9	January 1, 2007.
10	SECTION 4. Safety clause. The general assembly hereby finds,
10 11	<b>SECTION 4. Safety clause.</b> The general assembly hereby finds, determines, and declares that this act is necessary for the immediate

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