

**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

(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.**

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.

Requires each employer in Colorado to submit documentation to the director of the division of labor within the department of labor and

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.

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
21 AND HAS RETAINED FILE COPIES OF THE DOCUMENTS REQUIRED BY 8
22 U.S.C. SEC. 1324a; THAT THE EMPLOYER HAS NOT ALTERED OR FALSIFIED

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

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

17 (4) AN EMPLOYER WHO FAILS TO SUBMIT THE DOCUMENTATION
18 REQUIRED BY THIS SECTION, OR WHO SUBMITS FALSE OR FRAUDULENT
19 DOCUMENTATION, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN FIVE
20 THOUSAND DOLLARS FOR THE FIRST OFFENSE AND NOT MORE THAN
21 TWENTY-FIVE THOUSAND DOLLARS FOR THE SECOND AND ANY
22 SUBSEQUENT OFFENSE. THE MONEYS COLLECTED PURSUANT TO THIS
23 SUBSECTION (4) SHALL BE DEPOSITED IN THE EMPLOYMENT VERIFICATION
24 CASH FUND, WHICH IS HEREBY CREATED. THE MONEYS IN THE FUND SHALL
25 BE APPROPRIATED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR
26 THE PURPOSE OF IMPLEMENTING, ADMINISTERING, AND ENFORCING THIS
27 SECTION. THE MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND NOT

1 REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY
2 FISCAL YEAR.

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

11 (b) AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:

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

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

23 **SECTION 2. Effective date - applicability.** This act shall take
24 effect upon passage and shall apply to employees hired on or after
25 January 1, 2007.

26 **SECTION 3. 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.