

HB 235 -- WORK AUTHORIZATION VERIFICATION

SPONSOR: Parkinson

This bill changes the law regarding employers' work authorization verification of employees. In its main provisions, the bill:

(1) Deletes the definition of "federal work authorization program" and replaces it with a definition for "E-Verify";

(2) Prohibits all employers, public and private, from hiring unauthorized aliens. Currently, employers are prohibited from knowingly hiring unauthorized aliens;

(3) Beginning October 1, 2015, requires all employers, public and private, to enroll and participate in the federal E-Verify program. Currently, only public employers are required to participate. Private employers must verify the employment eligibility of new hires only beginning on that date;

(4) Provides that any costs incurred by an employer for participating in E-Verify will be deductible for the employer's income or business taxes in this state;

(5) Requires the Attorney General to prescribe a complaint form for alleging violations of Sections 285.525 to 285.550, RSMo;

(6) Authorizes the Attorney General to issue subpoenas for an employer's employment records, including dated E-Verify reports. If an employer does not respond to the subpoena within 15 days, the employer's business licenses will be suspended until the employer responds;

(7) Requires the Attorney General to bring a civil action in the circuit court of Cole County if, after an investigation, it is determined that the complaint is not false and frivolous;

(8) Requires the court to notify the United States Immigration and Customs Enforcement and local law enforcement agencies if there is a reasonable likelihood that an employee is an unauthorized alien;

(9) Provides that the penalty for a first violation of Sections 285.525 to 285.550 includes:

(a) Requiring an employer to file an affidavit within three days stating that the employer has enrolled in E-Verify. Failure to do so will result in a civil penalty of \$1,000;

(b) Requiring an employer to pay a civil penalty of \$10,000; and

(c) Suspending all business licenses of the employer for a minimum of one day and a maximum of 30 days;

(10) Provides that the penalty for a second violation includes ordering the first and second measures or the third measure required for a first violation, as well as:

(a) Requiring an employer to pay a civil penalty of \$10,000 for one or two unverified employees, \$5000 for the third and each additional unverified employee, with the total fine not to exceed \$100,000; and

(b) Suspending all business licenses of the employer for a minimum of 30 days and a maximum of one year;

(11) Provides that the penalty for a third violation includes the permanent suspension of all business licenses as well as the revocation of the employer's registration as a corporation, limited liability company, or limited partnership in the state of Missouri, if applicable; and

(12) Provides that, for employers awarded state contracts or grants or receiving state-administered tax credits, tax abatements, or loans from the state:

(a) Upon the first violation of Section 285.530, the employer must be deemed in breach of contract and the state may terminate the contract and suspend or prohibit the employer from doing business in the state for a period of three years. Upon termination of a contract, the state may withhold up to 25% of the total amount due the employer; and

(b) Upon a second or subsequent violation of Section 285.530, the employer must be deemed in breach of contract and the state may terminate the contract and permanently suspend or prohibit the employer from doing business in the state. Upon termination of a contract, the state may withhold up to 25% of the total amount due the employer.