

HOUSE BILL No. 4355

February 19, 2009, Introduced by Reps. Agema, Hildenbrand, Meltzer, Walsh, Kowall, McMillin, Rogers, Meekhof, Kurtz, Marleau and Proos and referred to the Committee on Judiciary.

A bill to require verification that public contracts are performed by employees who are entitled to work in the United States; to prohibit an employer from discharging certain employees while employing an illegal alien; to prescribe acceptable methods for verifying legal presence in the United States; to condition the eligibility of employers to perform certain public contracts on participation in the federal immigrant verification system; to create duties and responsibilities for certain state and local departments, agencies, and officers; to require promulgation of rules; and to provide civil remedies and criminal penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "public contract and employment eligibility verification act".

3 Sec. 3. As used in this act:

1 (a) "E-verify" means the electronic verification of work
2 authorization program of 8 USC 1324a that is operated by the United
3 States department of homeland security or any equivalent federal
4 work authorization program operated by the United States department
5 of homeland security or any other designated federal agency
6 authorized to verify the work authorization status of newly hired
7 employees, pursuant to the immigration reform and control act of
8 1986, PL 99-603.

9 (b) "Employer" means a person who employs for compensation 10
10 or more individuals at 1 time during the calendar year.

11 (c) "Public employer" means a department, agency, or
12 instrumentality of the state or a political subdivision of the
13 state.

14 (d) "Subcontractor" includes a subcontractor, contract
15 employee, staffing agency, and a contractor.

16 Sec. 5. (1) A public employer shall register and participate
17 in the E-verify program to verify the work authorization status of
18 each new employee.

19 (2) A public employer shall not enter into a contract for the
20 performance of services within this state unless the contractor
21 registers and participates in the E-verify program to verify the
work authorization status of all of the contractor's new employees.

22 (3) A contractor or subcontractor shall not enter into a
23 contract or subcontract with a public employer concerning the
24 performance of services within this state unless the contractor or
25 subcontractor registers with and participates in the E-verify
26 program to verify the work authorization status of all new

1 employees.

2 Sec. 7. An employer shall not discharge an employee who is a
3 citizen or permanent resident alien, if on the date of the
4 discharge, the employer knowingly employed an alien who is not
5 authorized to work in the United States. A discharged employee has
6 a private cause of action for a violation of this section. The
7 prohibition in this section does not apply to a discharge for
8 cause.

9 Sec. 9. The department of energy, labor, and economic growth
10 shall promulgate rules to implement this act pursuant to the
11 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
12 24.328.

13 Sec. 11. (1) An employer or an agency or political subdivision
14 of the state shall verify the lawful presence of an individual in
15 the United States as required under section 5 by obtaining an
16 affidavit that the individual executes under penalty of perjury and
17 that states 1 of the following:

18 (a) He or she is a United States citizen.

19 (b) He or she is a qualified alien under the immigration and
20 nationality act, chapter 477, 66 Stat. 163, and is lawfully present
21 in the United States.

22 (2) The employer or agency or political subdivision shall
23 further verify the status of an individual who has executed the
24 affidavit described in subsection (1), through the E-verify system.
25 Until the further eligibility verification is made, the affidavit
26 is presumed to be proof of lawful presence for the purposes of this
27 section.

1 (3) An individual who knowingly and willfully makes a false,
2 fictitious, or fraudulent statement or representation in an
3 affidavit executed pursuant to this section is guilty of perjury
4 punishable as provided in section 423 of the Michigan penal code,
5 1931 PA 328, MCL 750.423.