

1 HB130
2 115312-1
3 By Representatives Hammon, Sanderford, Clouse, Bridges,
4 Galliher and Gaston
5 RFD: Judiciary
6 First Read: 12-JAN-10
7 PFD: 01/07/2010

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8 SYNOPSIS: This bill would require an employer to
9 verify that it does not employ unauthorized aliens
10 in order to qualify for any economic development
11 incentive awarded by the Alabama Development
12 Office.

13 This bill would prohibit any noncompliant
14 employer from obtaining a future award for at least
15 three years after repayment.

16 This bill would also provide for notice of
17 noncompliance and for a hearing before the Alabama
18 Development Office to establish compliance.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
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24 Relating to the Alabama Development Office; to add
25 Section 41-9-202.2 to the Code of Alabama 1975, to prohibit
26 the award of grants, loans, performance-based incentives, or
27 other economic development incentives to any employer that

1 employs unauthorized aliens; to prohibit any noncompliant
2 employer from obtaining a future award for at least three
3 years after determination of noncompliance; and to provide for
4 a hearing.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 41-9-202.2 is added to the Code
7 of Alabama 1975, to read as follows:

8 §41-9.202.2.

9 (a) In addition to the requirements specified for
10 any employer to receive a grant, loan, performance-based
11 incentive, or other economic development incentive from the
12 Alabama Development Office pursuant to this article, an
13 employer shall certify in writing, through a sworn affidavit,
14 that it is in compliance with the provisions of 8 U.S.C. §
15 1324a., which prohibits the employment of unauthorized aliens.

16 (b) If the Alabama Development Office determines
17 that an employer receiving an economic development incentive
18 pursuant to this article is not in compliance with 8 U.S.C. §
19 1324a., the Alabama Development Office shall notify the
20 employer, by certified mail, of the determination of
21 noncompliance. Any employer that has been issued a notice of
22 noncompliance shall be ineligible to qualify for any other
23 grant, loan, performance-based incentive, or other economic
24 development incentive awarded by the Alabama Development
25 Office pursuant to this article for at least three years after
26 the date of a determination of noncompliance. Any employer
27 that is determined to be ineligible to receive an economic

1 development incentive pursuant to this section may request and
2 appear at a hearing before the Alabama Development Office to
3 offer proof of compliance with 8 U.S.C. § 1324a. The Alabama
4 Development Office shall satisfy the requirements of this
5 subsection within existing resources.

6 (c) This section shall apply to any grant, loan,
7 performance-based incentive, or other economic development
8 incentive awarded by the Alabama Economic Development
9 Commission on or after the effective date of this section.

10 (d) This section shall be enforced without regard to
11 race, religion, gender, ethnicity, or national origin.

12 (e) Nothing in this act shall be construed as
13 creating or otherwise supporting a private right of action
14 against any person or entity for employing one or more
15 unauthorized aliens.

16 (f) An employer that establishes that it has
17 complied in good faith with the requirements of 8 U.S.C. §
18 1324a. with respect to the employment of any individual has
19 established an irrebuttable presumption that the employer has
20 not violated this act, unless the employer obtained actual
21 knowledge of the unauthorized status of an employee after the
22 employer hired the employee and did not terminate the employee
23 within a reasonable time after gaining such knowledge.

24 (g) An employer that can show that it has registered
25 with and utilizes, with respect to employees working within
26 the state, the electronic verification of work authorization
27 program of the Illegal Immigration Reform and Immigration

1 Responsibility Act of 1996, 8 U.S.C. § 1324a., and operated by
2 the United States Department of Homeland Security, known as
3 the E-Verify Program, is exempt from subsection (a).

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.