

1 HB487  
2 110886-3  
3 By Representatives Hammon and McCutcheon (N & P)  
4 RFD: Local Legislation  
5 First Read: 02-FEB-10

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Morgan County, to require employers  
14 located in the county, including employers located in a  
15 municipality in the county, to verify the legal status of a  
16 new employee through the federal E-Verify system or any other  
17 method that reasonably determines the legal status of a new  
18 employee; and to provide for the suspension or revocation of  
19 the business licenses of employers who violate the  
20 requirements of this act.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. (a) This act shall only apply to Morgan  
23 County.

24 (b) For the purposes of this act, the following  
25 words shall have the following meanings:

1           (1) ALIEN. Any person who is not a citizen or  
2 national of the United States, as described in Title 8, U.S.C.  
3 §1101, et seq., and any amendments thereto.

4           (2) BUSINESS ENTITY. Any person or group of persons  
5 performing or engaging in any activity, enterprise,  
6 profession, or occupation for gain, benefit, advantage, or  
7 livelihood, whether for profit or not-for-profit. "Business  
8 entity" shall include, but not be limited to, the following:

9           a. Self-employed individuals, business entities  
10 filing articles of incorporation, partnerships, limited  
11 partnerships, limited liability companies, foreign  
12 corporations, foreign limited partnerships, foreign limited  
13 liability companies authorized to transact business in this  
14 state, business trusts, and any business entity that registers  
15 with the Secretary of State.

16           b. Any business entity that possesses a business  
17 license, permit, certificate, approval, registration, charter,  
18 or similar form of authorization issued by Morgan County or a  
19 municipality in Morgan County and any business entity that is  
20 operating unlawfully without a business license.

21           (3) EMPLOYEE. Any person directed, allowed, or  
22 permitted to perform labor or service of any kind by an  
23 employer, with the exception of casual domestic labor hired to  
24 work in or around the personal abode of an individual. The  
25 employees of an independent contractor working for a business  
26 entity shall not be regarded as the employees of the business  
27 entity, for the purposes of this act.

1           (4) EMPLOYER. Any person, firm, corporation,  
2 partnership, joint stock association, agent, manager,  
3 representative, foreman, or other person having control or  
4 custody of any employment, place of employment, or of any  
5 employee.

6           (5) E-VERIFY. The electronic verification of federal  
7 employment authorization program of the Illegal Immigration  
8 Reform and Immigrant Responsibility Act of 1996, P.L. 104-208,  
9 Division C, Section 403(a); 8 U.S.C. §1324(a), and operated by  
10 the United States Department of Homeland Security, or its  
11 successor program.

12           (6) PUBLIC EMPLOYER. Every department, agency, or  
13 instrumentality of Morgan County or a municipality in Morgan  
14 County.

15           (7) UNAUTHORIZED ALIEN. An alien who is not  
16 authorized to work in the United States, as defined in Title  
17 8, U.S.C. §1324a(h) (3).

18           (c) It is unlawful for a business entity located in  
19 Morgan County or located in a municipality of the county to  
20 knowingly hire or to recruit for a fee for employment an  
21 unauthorized alien.

22           (d) An employer located in Morgan County, including  
23 an employer located in a municipality in the county, shall be  
24 required to verify the employment eligibility of every  
25 employee hired through E-Verify, as defined by this act, or  
26 may use any other method that reasonably determines the legal

1 status of the new employee, and shall be subject to the  
2 following provisions of this subsection.

3 (1) Every business entity located in the county,  
4 including a business entity located in any municipality in the  
5 county, that employs one or more employees shall register with  
6 and utilize E-Verify to verify the employment authorization of  
7 a new employee, or may use any other method that reasonably  
8 determines the legal status of the new employee.

9 (2) The business entity shall retain all  
10 documentation received in connection with its participation in  
11 E-Verify that verifies the employment authorization of every  
12 employee verified through E-Verify for at least three years  
13 after the termination of the employment of the employee. This  
14 documentation shall be provided to the county or municipal  
15 department upon request.

16 (3) Every public employer shall register with and  
17 utilize E-Verify to verify the employment authorization of a  
18 new employee.

19 (4) A public employer may not enter into a contract  
20 for the performance of services within the county or a  
21 municipality in the county unless the contractor is registered  
22 with and utilizing E-Verify to verify the employment  
23 authorization of a new employee of the contractor. This  
24 subdivision shall not apply to any contracts entered into  
25 prior to the effective date of this act even though the  
26 contracts may involve the performance of labor within the

1 county, or a municipality in the county, after the effective  
2 date of this act.

3 (5) This section may be enforced in the courts of  
4 the State of Alabama by the district attorney for the county  
5 or the city attorney for a municipality in the county.

6 (6) On a finding of the first violation of this  
7 subsection by a business entity, the court shall order the  
8 suspension of all licenses issued by Morgan County or a  
9 municipality in Morgan County that are held by the business  
10 entity for a minimum of one day and a maximum of 30 days.

11 (7) On a second or subsequent violation of this  
12 subsection by a business entity, the court shall order the  
13 permanent suspension of all licenses issued by Morgan County  
14 or a municipality in Morgan County that are held by the  
15 business entity.

16 (8) In enforcing this subsection, no county or local  
17 official in Morgan County shall attempt to independently  
18 determine whether an individual is an unauthorized alien or an  
19 alien not lawfully present in the United States. The  
20 determination shall only be made by verifying the immigration  
21 status of the alien with the federal government, pursuant to  
22 Title 8, U.S.C. §1373(c).

23 (9) For the purposes of this subsection, when making  
24 a determination of whether an employee is an unauthorized  
25 alien, a court shall only consider the determination of the  
26 federal government pursuant to Title 8, U.S.C. §1373(c). The  
27 court shall take judicial notice of any verification of the

1 immigration status previously provided by the federal  
2 government. The court may, and at the request of a party  
3 shall, request the federal government to provide, in  
4 automated, documentary, or testimonial form, a new  
5 verification of the immigration status of the employee  
6 pursuant to Title 8, U.S.C. §1373(c). The most recent  
7 determination of the immigration status of an employee by the  
8 federal government shall create a rebuttable presumption as to  
9 the immigration status of the employee.

10 (10) For the purposes of this act, a business entity  
11 that has complied in good faith with the requirements of this  
12 act through enrollment in E-Verify and has utilized E-Verify  
13 to confirm the employment authorization of any employee in  
14 question will benefit from a rebuttable presumption that the  
15 business entity did not knowingly employ an unauthorized  
16 alien.

17 Section 2. This act shall become effective on  
18 January 1 of the year following its passage and approval by  
19 the Governor, or its otherwise becoming law.