

1 SB539
2 119913-1
3 By Senators Sanford, Beason, Brooks, Glover, French, Orr,
4 Waggoner, and Pittman
5 RFD: Economic Expansion and Trade
6 First Read: 11-MAR-10

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8 SYNOPSIS: Existing law does not expressly prohibit a
9 business entity or a public employer in this state
10 from employing an unauthorized alien.

11 This bill would make it unlawful for a
12 business entity or a public employer located in the
13 State of Alabama to knowingly hire or to recruit
14 for a fee for employment an unauthorized alien.

15 This bill would require the Department of
16 Industrial Relations to use E-Verify to determine
17 the employment eligibility of every employee in
18 this state working for a business entity or a
19 public employer.

20 This bill would require the department to
21 inform the United States Immigration and Customs
22 Enforcement agency upon discovering a business
23 entity or public employer has hired an unauthorized
24 alien.

25 This bill would provide for suspension or
26 revocation of a business entity's business license
27 for second and subsequent violations.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
5

6 Relating to the employment of unauthorized aliens;
7 to make it unlawful for a business entity or public employer
8 to hire an unauthorized alien; to require the Department of
9 Industrial Relations to use E-Verify to determine the
10 employment eligibility of every employee in this state; to
11 require the department to report to the United States
12 Immigration and Customs Enforcement agency under certain
13 conditions; and to provide penalties.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. (a) For the purposes of this act, the
16 following words shall have the following meanings:

17 (1) ALIEN. Any person who is not a citizen or
18 national of the United States, as described in Title 8, U.S.C.
19 §1101, et seq., and any amendments thereto.

20 (2) BUSINESS ENTITY. Any person or group of persons
21 performing or engaging in any activity, enterprise,
22 profession, or occupation for gain, benefit, advantage, or
23 livelihood, whether for profit or not-for-profit which is
24 required to have a business license. "Business entity" shall
25 include, but not be limited to, the following:

26 a. Self-employed individuals, business entities
27 filing articles of incorporation, partnerships, limited

1 partnerships, limited liability companies, foreign
2 corporations, foreign limited partnerships, foreign limited
3 liability companies authorized to transact business in this
4 state, business trusts, and any business entity that registers
5 with the Secretary of State.

6 b. Any business entity that possesses a business
7 license, permit, certificate, approval, registration, charter,
8 or similar form of authorization issued by a county or a
9 municipality in the State of Alabama and any business entity
10 that is operating unlawfully without a business license.

11 (3) DEPARTMENT. The Department of Industrial
12 Relations.

13 (4) EMPLOYEE. Any person directed, allowed, or
14 permitted to perform labor or service of any kind by a
15 business entity or public employer, with the exception of
16 casual domestic labor hired to work in or around the personal
17 abode of an individual. The employees of an independent
18 contractor working for a business entity shall not be regarded
19 as the employees of the business entity, for the purposes of
20 this act.

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

1 (6) PUBLIC EMPLOYER. Every department, agency, or
2 instrumentality of the state or a political subdivision of the
3 state.

4 (7) UNAUTHORIZED ALIEN. An alien who is not
5 authorized to work in the United States, as defined in Title
6 8, U.S.C. §1324a(h) (3).

7 Section 2. (a) It is unlawful for a business entity
8 or a public employer located in the State of Alabama to
9 knowingly hire or to recruit for a fee for employment an
10 unauthorized alien.

11 (b) The Department of Industrial Relations shall use
12 E-Verify to determine the employment eligibility of every
13 employee in this state working for a business entity or a
14 public employer.

15 (c) Upon the department discovering that a business
16 entity or a public employer is employing an unauthorized alien
17 through the use of E-Verify, the department shall report to
18 the United States Immigration and Customs Enforcement (ICE)
19 agency or its successor agency under the United States
20 Department of Homeland Security that handles the
21 identification, apprehension, and removal of unauthorized
22 aliens from the United States.

23 (d) (1) Upon a first violation of the act, a business
24 entity shall be issued a warning. Within 60 days following the
25 first violation, the department shall ensure the business
26 entity has come into compliance with this act.

1 (2) Upon a second violation of this act, a business
2 entity shall have its business license suspended until the
3 business entity has met the requirements of this act.

4 (3) Upon a third or subsequent violation of this
5 act, a business entity shall have its business license revoked
6 for one year.

7 Section 3. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.