

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0286.01 Christy Chase

HOUSE BILL 06-1286

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A BILL FOR AN ACT

101 CONCERNING VERIFICATION OF THE IMMIGRATION STATUS OF
102 EMPLOYEES OF A RETAIL FOOD ESTABLISHMENT REGULATED BY
103 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires an applicant for a retail food establishment license or certificate of license to apply to participate in the basic employment verification pilot program (program) or similar federal program prior to applying for or being granted a license or certificate of license. Prohibits the department of public health and environment (department) or the local board of health (local board) from issuing a license or certificate of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

license to an applicant who has failed to apply to participate in the program. By a specified date, requires the department or local board to provide detailed instructions regarding how to apply to participate in the program and the type of proof of work eligibility status of employees that must be provided.

Makes it unlawful for a licensee to hire, employ, or continue to employ an employee whose work eligibility status has not been verified through the program or for whom the licensee has received a final nonconfirmation of employment eligibility from the program. Requires the department or local board to suspend the license or certificate of license of a licensee who has been found to have employed such a person and to revoke the license or certificate of license for failure to comply within a specified time or upon a second or subsequent violation. Precludes the issuance of a new license to a licensee whose license has been so revoked or to an applicant that is affiliated with said licensee for a period of 5 years. Authorizes the imposition of civil penalties for violations.

Makes legislative declarations.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 25-4-1601, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **25-4-1601. Legislative declaration.** (3) THE GENERAL
5 ASSEMBLY FURTHER FINDS AND DECLARES THAT:

6 (a) WHILE LEGAL IMMIGRANTS ARE SCREENED TO ENSURE THEY
7 HAVE BEEN VACCINATED AGAINST DANGEROUS AND POTENTIALLY DEADLY
8 CONTAGIOUS DISEASES UPON ENTERING THE UNITED STATES TO WORK,
9 THOSE ENTERING THE COUNTRY ILLEGALLY DO NOT UNDERGO THESE
10 HEALTH SCREENINGS AND MAY BRING CONTAGIOUS DISEASES INTO THE
11 COUNTRY THAT MAY BE TRANSMITTED TO OTHERS.

12 (b) IN MOST CASES, PERSONS NOT PARTICIPATING IN THE
13 IMMIGRATION PROCESS HAVE NOT RECEIVED APPROPRIATE
14 IMMUNIZATIONS TO PREVENT A SERIOUS PUBLIC HEALTH THREAT TO THE
15 PEOPLE OF THIS STATE.

1 (c) THOSE RETAIL FOOD ESTABLISHMENTS THAT HIRE WORKERS
2 WHO HAVE ENTERED THE COUNTRY ILLEGALLY AS KITCHEN WORKERS WHO
3 HAVE DIRECT OR INDIRECT CONTACT WITH FOOD SERVED TO THE PUBLIC
4 OR WITH PATRONS DINING IN THE RETAIL FOOD ESTABLISHMENT, EITHER
5 THROUGH FOOD PREPARATION, DIRECT SERVICE OF FOOD TO PATRONS,
6 CLEARING TABLES, CLEANING THE ESTABLISHMENT, OR OTHER DIRECT OR
7 INDIRECT CONTACT WITH FOOD OR PATRONS, IMPERIL PUBLIC HEALTH AND
8 PLACE RETAIL FOOD ESTABLISHMENT PATRONS AT RISK.

9 (d) EVIDENCE EXISTS TO SHOW THAT WORKERS WHO ARE NOT
10 LAWFULLY RESIDING AND WORKING IN THE UNITED STATES AND WHO ARE
11 INFECTED WITH CONTAGIOUS DISEASES HAVE EXPOSED RESIDENTS OF THIS
12 COUNTRY TO HEALTH RISKS, INCLUDING GREATER EXPOSURE TO HEPATITIS
13 A, TUBERCULOSIS, AND OTHER COMMUNICABLE, DANGEROUS, AND
14 POTENTIALLY DEADLY DISEASES.

15 (e) TO AVOID THE SPREAD OF THESE TYPES OF DISEASES IN
16 COLORADO AND THE RISK OF EXPOSURE TO THE DISEASES TO PATRONS
17 DINING IN COLORADO RETAIL FOOD ESTABLISHMENTS, IT IS IMPORTANT
18 AND NECESSARY TO ENSURE THAT APPLICANTS FOR A RETAIL FOOD
19 ESTABLISHMENT LICENSE AND CURRENT RETAIL FOOD ESTABLISHMENT
20 LICENSEES DO NOT EMPLOY WORKERS WHO ARE NOT LAWFULLY RESIDING
21 IN THIS COUNTRY AND WHO HAVE NOT BEEN PROPERLY SCREENED
22 THROUGH THE IMMIGRATION PROCESS.

23 **SECTION 2.** 25-4-1602, Colorado Revised Statutes, is amended
24 BY THE ADDITION OF A NEW SUBSECTION to read:

25 **25-4-1602. Definitions.** As used in this part 16, unless the
26 context otherwise requires:

27 (13.5) "PROGRAM" MEANS THE BASIC EMPLOYMENT VERIFICATION

1 PILOT PROGRAM ADMINISTERED BY THE FEDERAL DEPARTMENT OF
2 HOMELAND SECURITY PURSUANT TO 8 U.S.C. SEC. 1324a, AS EXPANDED
3 TO INCLUDE ALL FIFTY STATES IN THE "BASIC PILOT PROGRAM EXTENSION
4 AND EXPANSION ACT OF 2003", P.L. No. 108-156, OR OTHER PROGRAM
5 THAT THE FEDERAL GOVERNMENT MAY MAKE AVAILABLE TO ASSIST IN THE
6 VERIFICATION OF LEGAL RESIDENCY AND WORK ELIGIBILITY STATUS.

7 **SECTION 3.** 25-4-1606 (2), Colorado Revised Statutes, is
8 amended, and the said 25-4-1606 is further amended BY THE
9 ADDITION OF A NEW SUBSECTION, to read:

10 **25-4-1606. Licensure - exception.** (2) Before granting any
11 license or certificate of license, the department or local board of health
12 may visit and inspect the retail food establishment or property on which
13 the applicant conducts or proposes to conduct business to assess whether
14 such establishment can operate in accordance with the rules promulgated
15 by the department to provide a safe food product. If an applicant
16 complies with the requirements of this subsection (2), SUBSECTION (6) OF
17 THIS SECTION, and the rules promulgated pursuant to this part 16, the
18 department or local board of health shall approve the application for a
19 license or certificate of license.

20 (6) BEFORE APPLYING FOR A LICENSE OR CERTIFICATE OF LICENSE
21 PURSUANT TO SUBSECTION (1) OF THIS SECTION OR BEING GRANTED A
22 LICENSE OR CERTIFICATE OF LICENSE PURSUANT TO SUBSECTION (2) OF
23 THIS SECTION, THE APPLICANT SHALL APPLY TO PARTICIPATE IN THE
24 PROGRAM. AN APPLICANT THAT FAILS TO APPLY FOR PARTICIPATION IN
25 THE PROGRAM SHALL NOT BE GRANTED A LICENSE OR CERTIFICATE OF
26 LICENSE BY THE DEPARTMENT OR LOCAL BOARD OF HEALTH. ON OR
27 BEFORE JANUARY 1, 2007, THE DEPARTMENT OR LOCAL BOARD OF HEALTH

1 SHALL PROVIDE DETAILED INSTRUCTIONS REGARDING HOW TO APPLY TO
2 PARTICIPATE IN THE PROGRAM AND THE METHOD TO BE USED AND THE
3 TYPE OF PROOF TO BE PROVIDED BY AN APPLICANT TO SHOW THE WORK
4 ELIGIBILITY STATUS OF THE APPLICANT'S EMPLOYEES, INCLUDING
5 REQUIRING THE APPLICANT TO MAINTAIN RECORDS OF ITS USE OF THE
6 PROGRAM AND ITS ATTEMPTS TO USE THE PROGRAM FOR UP TO FIVE YEARS.

7 **SECTION 4.** 25-4-1609 (1), Colorado Revised Statutes, is
8 amended to read:

9 **25-4-1609. Disciplinary actions - revocation - suspension -**
10 **review.** (1) The department or local board of health may, on its own
11 motion or complaint and after an investigation and hearing at which the
12 licensee is afforded an opportunity to be heard, suspend or revoke a
13 license or certificate of license for any violation of this part 16, any rule
14 adopted pursuant to this part 16, or any of the terms, conditions, or
15 provisions of such license or certificate of license. IF A LICENSEE IS
16 FOUND TO HAVE VIOLATED SECTION 25-4-1610 (1) (g), THE DEPARTMENT
17 OR LOCAL BOARD OF HEALTH SHALL SUSPEND THE LICENSE OR
18 CERTIFICATE OF LICENSE UNTIL THE LICENSEE COMPLIES WITH SAID
19 SECTION. IF, AFTER A REASONABLE TIME NOT EXCEEDING NINETY DAYS,
20 THE LICENSEE REMAINS IN NONCOMPLIANCE, OR IF THE LICENSEE COMMITS
21 A SECOND OR SUBSEQUENT VIOLATION OF SECTION 25-4-1610 (1) (g), THE
22 LICENSE OR CERTIFICATE OF LICENSE SHALL BE REVOKED. IF A LICENSEE'S
23 LICENSE IS REVOKED FOR VIOLATING SECTION 25-4-1610 (1) (g), THE
24 DEPARTMENT OR LOCAL BOARD OF HEALTH SHALL NOT ISSUE A LICENSE TO
25 THE LICENSEE BASED ON A FUTURE APPLICATION, OR TO ANY APPLICANT
26 ANY OF WHOSE PRINCIPALS, OWNERS, OFFICERS, OR DIRECTORS IS
27 AFFILIATED IN ANY WAY WITH THE LICENSEE WHOSE LICENSE WAS SO

1 REVOKED, FOR A PERIOD OF FIVE YEARS AFTER THE DATE OF THE
2 REVOCATION. A written notice of suspension or revocation, as well as
3 any required notice of hearing, shall be sent by certified mail to the
4 licensee at the address contained in the license or certificate of license.

5 **SECTION 5.** 25-4-1610 (1), Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

7 **25-4-1610. Unlawful acts.** (1) It is unlawful for:

8 (g) ANY PERSON OR RETAIL FOOD ESTABLISHMENT TO HIRE,
9 EMPLOY, OR CONTINUE TO EMPLOY AN EMPLOYEE WHOSE WORK
10 ELIGIBILITY STATUS HAS NOT BEEN VERIFIED THROUGH THE PROGRAM OR
11 FOR WHOM THE PERSON OR RETAIL FOOD ESTABLISHMENT RECEIVES A
12 FINAL NONCONFIRMATION OF EMPLOYMENT ELIGIBILITY FROM THE
13 PROGRAM.

14 **SECTION 6.** 25-4-1611 (1), Colorado Revised Statutes, is
15 amended to read:

16 **25-4-1611. Violation - penalties.** (1) If the department or a local
17 board of health finds that a licensee or other person operating a retail food
18 establishment was provided with written notification of a violation of
19 section 25-4-1610 (1) (a), (1) (b), (1) (d), (1) (e), ~~or~~ (1) (f), OR (1) (g) and
20 was given a reasonable time to comply but remained in noncompliance,
21 such person shall be subject to a civil penalty of not less than two hundred
22 fifty dollars and not more than one thousand dollars, assessed by the
23 department or local board of health.

24 **SECTION 7. Effective date - applicability.** This act shall take
25 effect January 1, 2007, and shall apply to retail food establishment
26 licenses and certificates of license applied for, granted, or renewed on or
27 after said date.

1 **SECTION 8. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.