

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0129.01 Kristen Forrestal

HOUSE BILL 06-1290

HOUSE SPONSORSHIP

Schultheis, and Lundberg

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING EMPLOYER PARTICIPATION IN THE EXTENDED FEDERAL
102 BASIC EMPLOYMENT VERIFICATION PILOT PROGRAM FOR THE
103 PURPOSE OF DETERMINING THE WORK ELIGIBILITY STATUS OF
104 EMPLOYEES.

Bill Summary

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

Requires all employers within the state to apply to participate in the extended federal basic employment verification pilot program (program) and to participate if accepted. Imposes a fine against an employer that does not apply to participate in the program. Requires the

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.

department of labor and employment to put a mechanism in place to inform employers of the requirement to apply for participation and how to comply and to post this information on the department's website.

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

2 **SECTION 1.** Part 1 of article 2 of title 8, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **8-2-121. Legislative declaration - definitions - employee's work**
6 **eligibility status - federal basic employment verification pilot**
7 **program - department of labor and employment - duties.** (1) THE
8 GENERAL ASSEMBLY HEREBY FINDS AND DETERMINES THAT ENSURING
9 THAT COLORADO EMPLOYERS EMPLOY PERSONS ELIGIBLE TO WORK WITHIN
10 COLORADO IS AN ISSUE OF STATEWIDE CONCERN. THE GENERAL
11 ASSEMBLY FURTHER FINDS THAT IT IS IN THE BEST INTEREST OF THE STATE
12 FOR ALL EMPLOYERS TO VERIFY THE SOCIAL SECURITY NUMBERS AND
13 WORK ELIGIBILITY STATUS OF PROSPECTIVE AND CURRENT EMPLOYEES.
14 THEREFORE, IT IS IMPORTANT THAT EVERY EMPLOYER IN THE STATE OF
15 COLORADO APPLY FOR PARTICIPATION IN THE EXTENDED FEDERAL BASIC
16 EMPLOYMENT VERIFICATION PILOT PROGRAM FOR THE PURPOSE OF
17 VERIFYING THE WORK ELIGIBILITY STATUS OF CURRENT AND FUTURE
18 EMPLOYEES.

19 (2) AS USED IN THIS SECTION:

20 (a) "EMPLOYER" MEANS A PERSON TRANSACTING BUSINESS IN
21 COLORADO WHO, AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM
22 SERVICES OF ANY NATURE AND WHO HAS CONTROL OF THE PAYMENT OF
23 WAGES FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF
24 THE PERSON HAVING CONTROL OF THE PAYMENT OF WAGES; EXCEPT THAT

1 "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT, THE STATE
2 OF COLORADO, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF
3 COLORADO OR ANOTHER STATE.

4 (b) "PROGRAM" MEANS THE BASIC EMPLOYMENT VERIFICATION
5 PILOT PROGRAM CREATED PURSUANT TO 8 U.S.C. SEC. 1324a, AS
6 EXPANDED TO INCLUDE ALL FIFTY STATES IN THE "BASIC PILOT PROGRAM
7 EXTENSION AND EXPANSION ACT OF 2003", P.L. No. 108-156.

8 (3) (a) EACH EMPLOYER IN THE STATE OF COLORADO SHALL APPLY
9 TO PARTICIPATE IN THE PROGRAM FOR THE PURPOSE OF VERIFYING THE
10 WORK ELIGIBILITY STATUS OF EACH OF THE EMPLOYER'S EMPLOYEES BY
11 THE FOLLOWING DATES:

12 (I) AN EMPLOYER WITH TWO HUNDRED OR MORE EMPLOYEES
13 SHALL APPLY TO PARTICIPATE IN THE PROGRAM NO LATER THAN JULY 1,
14 2007;

15 (II) AN EMPLOYER WITH AT LEAST FIFTY EMPLOYEES BUT FEWER
16 THAN TWO HUNDRED SHALL APPLY TO PARTICIPATE IN THE PROGRAM NO
17 LATER THAN JULY 1, 2008; AND

18 (III) AN EMPLOYER WITH FEWER THAN FIFTY EMPLOYEES SHALL
19 APPLY TO PARTICIPATE IN THE PROGRAM NO LATER THAN JULY 1, 2009.

20 (b) AN EMPLOYER SHALL SUBMIT AN APPLICATION TO PARTICIPATE
21 IN THE PROGRAM EVERY SIX MONTHS UNTIL THE EMPLOYER IS ACCEPTED
22 INTO THE PROGRAM. AN EMPLOYER THAT IS ACCEPTED INTO THE
23 PROGRAM SHALL AGREE TO PARTICIPATE IN THE PROGRAM. AN EMPLOYER
24 SHALL RETAIN RECORDS THAT SHOW THAT THE EMPLOYER HAS APPLIED TO
25 THE PROGRAM AND, IF ACCEPTED, SHOW THAT THE EMPLOYER IS A
26 PARTICIPANT IN THE PROGRAM.

27 (c) AN EMPLOYER THAT FAILS TO APPLY FOR PARTICIPATION IN THE

1 PROGRAM PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL
2 BE SUBJECT TO A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS FOR
3 EACH THIRTY-DAY PERIOD FOR WHICH AN APPLICATION FOR
4 PARTICIPATION IN THE PROGRAM HAS NOT BEEN SUBMITTED TO THE
5 FEDERAL DEPARTMENT OF HOMELAND SECURITY.

6 (d) UPON REQUEST OF THE DIRECTOR OF THE DIVISION OF LABOR,
7 AN EMPLOYER SHALL SUBMIT EVIDENCE THAT AN APPLICATION TO
8 PARTICIPATE IN THE PROGRAM WAS SUBMITTED TO THE FEDERAL
9 DEPARTMENT OF HOMELAND SECURITY. UPON RECEIPT OF A VALID
10 COMPLAINT THAT AN EMPLOYER HAS NOT COMPLIED WITH THIS SECTION,
11 THE DIRECTOR SHALL REQUEST THE SUBMISSION OF SUCH EVIDENCE. THE
12 DIRECTOR SHALL LEVY A FINE AGAINST AN EMPLOYER PURSUANT TO
13 PARAGRAPH (c) OF THIS SUBSECTION (3) FOR EACH CALENDAR MONTH THE
14 EMPLOYER FAILS TO SUBMIT SUCH EVIDENCE.

15 (4) THE EMPLOYER SHALL IMMEDIATELY TERMINATE THE
16 EMPLOYMENT OF AN EMPLOYEE UPON RECEIPT OF A FINAL NOTICE OF
17 NONCONFIRMATION OF WORK ELIGIBILITY CONCERNING SUCH EMPLOYEE.

18 (5) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL PUT A
19 MECHANISM IN PLACE TO NOTIFY EACH EMPLOYER OF THE REQUIREMENTS
20 OF THIS SECTION AND HOW TO COMPLY AND SHALL MAKE THE
21 INFORMATION AVAILABLE ON THE DEPARTMENT'S WEBSITE.

22 **SECTION 2. Effective date - applicability.** This act shall take
23 effect upon passage and shall apply to acts occurring on or after said date.

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