

HOUSE BILL No. 4024

January 13, 2011, Introduced by Reps. Agema, Yonker, Hooker, Cotter, Callton, Lori, Forlini, Knollenberg, Johnson, LaFontaine, Damrow, MacMaster, Somerville and Daley and referred to the Committee on Commerce.

A bill to require verification that public contracts are performed by employees who are entitled to work in the United States; to prohibit an employer from discharging certain employees while employing an illegal alien; to prescribe acceptable methods for verifying legal presence in the United States; to condition the eligibility of employers to perform certain public contracts on participation in the federal immigrant verification system; to create duties and responsibilities for certain state and local departments, agencies, and officers; to require promulgation of rules; and to provide civil remedies and criminal penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the

1 "public contract and employment eligibility verification act".

2 Sec. 3. As used in this act:

3 (a) "E-verify" means the electronic verification of work
4 authorization program of 8 USC 1324a that is operated by the United
5 States department of homeland security or any equivalent federal
6 work authorization program operated by the United States department
7 of homeland security or any other designated federal agency
8 authorized to verify the documentation of newly hired employees,
9 pursuant to the immigration reform and control act of 1986, PL 99-
10 603.

11 (b) "Employer" means a person who employs for compensation 10
12 or more individuals at 1 time during the calendar year.

13 (c) "Form I-9" means the employment verification form that
14 fulfills the employment verification obligations under 8 CFR
15 274a.2.

16 (d) "Public employer" means a department, agency, or
17 instrumentality of this state or a political subdivision of this
18 state.

19 (e) "Subcontractor" includes a subcontractor, contract
20 employee, staffing agency, and a contractor.

21 Sec. 5. (1) A public employer shall register and participate
22 in the E-verify system to verify the documentation of each new
23 employee.

24 (2) A public employer shall not enter into a contract for the
25 performance of services within this state unless the contractor
26 registers and participates in the E-verify program to verify the
27 documentation of all of the contractor's new employees and the

1 contractor agrees to notify the public employer of all new
2 employees assigned by the contractor or any subcontractor to work
3 on the contract.

4 (3) A contractor or subcontractor shall not enter into a
5 contract or subcontract with a public employer concerning the
6 performance of services within this state unless the contractor or
7 subcontractor registers with and participates in the E-verify
8 system to verify the documentation of all new employees.

9 Sec. 7. (1) An employer shall not discharge an employee who is
10 a citizen or permanent resident alien, if on the date of the
11 discharge, the employer knowingly employed an alien who is not
12 authorized to work in the United States. A discharged employee has
13 a private cause of action for a violation of this section. The
14 prohibition in this section does not apply to a discharge for
15 cause.

16 (2) An employer, public employer, or contractor using the E-
17 verify system for its intended purpose is not civilly or criminally
18 liable under any law for any action taken in good faith based on
19 information provided through the E-verify confirmation system.

20 Sec. 9. The department of energy, labor, and economic growth
21 shall promulgate rules to implement this act pursuant to the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328.

24 Sec. 11. (1) An employer or an agency or political subdivision
25 of the state shall verify the lawful presence of an individual in
26 the United States as required under section 5 by obtaining a form
27 I-9 or, in the case of an independent contractor, an affidavit that

1 the independent contractor and each of the independent contractor's
2 new employees executes under penalty of perjury and that states
3 that he or she is 1 of the following:

4 (a) A United States citizen.

5 (b) A qualified alien as that term is defined in 8 USC 1641,
6 and is lawfully present in the United States.

7 (2) The employer or agency or political subdivision shall
8 further verify the status of an individual who has executed a form
9 I-9 or an affidavit described in subsection (1), through the E-
10 verify system. Until the further eligibility verification is made,
11 the form I-9 or the affidavit is presumed to be proof of lawful
12 presence for the purposes of this section.

13 (3) An individual who knowingly and willfully makes a false,
14 fictitious, or fraudulent statement or representation in a form I-9
15 or an affidavit executed pursuant to this section is guilty of
16 perjury punishable as provided in section 423 of the Michigan penal
17 code, 1931 PA 328, MCL 750.423.

18 (4) An individual who willfully and repeatedly violates this
19 act is responsible for a state civil infraction and shall be
20 ordered to pay a civil fine of not less than \$100.00 and not more
21 than \$1,000.00 per violation.

22 Sec. 13. (1) Any business, including a subcontractor, that
23 violates section 5(3) shall be debarred from contracting with any
24 public body in this state for a period of 1 year from the date of
25 the final determination of that violation by a public body or court
26 of law.

27 (2) A public employer shall immediately terminate for default

1 the public contract or subcontract of any business, including a
2 subcontractor, found to have employed 2 or more unauthorized aliens
3 during the period in which the business was in violation of section
4 5(3).

5 (3) An employer who has complied with the requirements of
6 section 5(3), including cooperation with the investigation of an
7 alleged violation by a subcontractor, is not subject to the
8 sanctions under this section for a subcontractor or individual
9 independent contractor.