

House Bill 2715

Sponsored by Representative BOQUIST; Representatives BRUUN, D EDWARDS, KRUMMEL, RILEY, SCHAUFLEER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Makes findings on employment of individuals who are not authorized to work in United States.

Requires employers to participate in federal employment verification pilot program. Requires employers to terminate employment of employee upon receipt of notice from Department of Homeland Security that employee is not confirmed to be eligible to work.

Requires Commissioner of Bureau of Labor and Industries to assess civil penalties against employer that fails to apply to participate in employment verification pilot program or that fails to terminate employee when required.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to employment verification pilot program; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Employer" means a person that is transacting business in Oregon, that employs an**
6 **individual to perform services of any nature and that has control of the payment of wages**
7 **for the services or is the officer, agent or employee of the person having control of the**
8 **payment of wages. However, "employer" does not include the federal government, the State**
9 **of Oregon, another state or a political subdivision of Oregon or another state.**

10 (b) **"Program" means the basic employment verification pilot program created pursuant**
11 **to 8 U.S.C. 1324a, as expanded to include all 50 states in the Basic Pilot Program Extension**
12 **and Expansion Act of 2003 (P.L. 108-156).**

13 (2) **The Legislative Assembly finds and determines that:**

14 (a) **Ensuring that Oregon employers employ individuals eligible to work within Oregon is**
15 **an issue of statewide concern.**

16 (b) **It is in the best interest of the employers in Oregon for all employers to follow federal**
17 **law as it applies to the hiring of individuals who are authorized to work in the United States.**

18 (c) **Employers who violate the federal employment laws with respect to the hiring of in-**
19 **dividuals who are unauthorized to work in the United States places an undue economic bur-**
20 **den on employers that attempt to hire only individuals who are authorized to work in the**
21 **United States.**

22 (d) **Strict adherence to legal hiring practices will decrease illegal immigration into**
23 **Oregon and substantially reduce the millions of dollars leaving Oregon's economy to other**
24 **countries.**

25 (e) **Employers in Oregon that hire unauthorized individuals create an attractive envi-**
26 **ronment for illegal immigrants to locate within Oregon, which costs taxpayers millions of**
27 **dollars to provide public education, health care and other services and, in addition, negatively**
28 **affects our judicial system.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) The Legislative Assembly therefore finds and determines that it is in the best interest
2 of this state for all employers to verify the Social Security numbers and work eligibility
3 status of newly hired employees and that it is important that every employer in the state
4 apply to the Department of Homeland Security for participation in the extended federal basic
5 employment verification pilot program for the purpose of verifying the work eligibility status
6 of newly hired employees.

7 (4)(a) Each employer in Oregon shall apply to participate in the program for the purpose
8 of verifying the work eligibility status of each of the employer's newly hired employees by
9 the following dates:

10 (A) An employer with 200 or more employees shall apply to participate in the program
11 no later than November 1, 2007;

12 (B) An employer with at least 50 employees but fewer than 200 employees shall apply to
13 participate in the program no later than July 1, 2008; and

14 (C) An employer with fewer than 50 employees shall apply to participate in the program
15 no later than July 1, 2010.

16 (b) An employer shall submit an application to participate in the program no less fre-
17 quently than every six months until the employer is accepted into the program. An employer
18 that is accepted into the program shall agree to participate in the program. An employer
19 shall retain records for audit purposes that show that the employer has applied to participate
20 in the program and, following acceptance, show that the employer is an active participant in
21 the program.

22 (c) For each 30-day period for which an application for participation in the program has
23 not been submitted to the Department of Homeland Security, an employer that fails to apply
24 for participation in the program pursuant to paragraph (a) of this subsection is subject to a
25 civil penalty of:

26 (A) At least \$3,000 but not more than \$5,000 if the employer has 200 or more employees;

27 (B) At least \$1,000 but not more than \$2,000 if the employer has at least 50 employees
28 but fewer than 200 employees; or

29 (C) At least \$500 but not more than \$1,000 if the employer has fewer than 50 employees.

30 (d) The Commissioner of the Bureau of Labor and Industries shall verify that each em-
31 ployer has complied with paragraph (a) of this subsection within 90 days after the first find-
32 ing of noncompliance. If the employer is not in compliance, the commissioner shall assess
33 the employer the maximum civil penalty pursuant to paragraph (c) of this subsection.

34 (e) Upon request of the commissioner, an employer shall submit evidence that the em-
35 ployer has submitted to the Department of Homeland Security an application to participate
36 in the program. Upon receipt of two complaints that an employer has not complied with this
37 section, the commissioner shall request the submission of such evidence within 30 days after
38 the second complaint. The commissioner shall assess a civil penalty against an employer
39 pursuant to paragraph (c) of this subsection for each calendar month the employer fails to
40 submit such evidence.

41 (5) The commissioner shall put a mechanism in place to notify each employer of the re-
42 quirements of this section and how to comply and shall make the information available on
43 the Bureau of Labor and Industries website.

44 (6)(a) An employer shall immediately terminate the employment of an employee upon
45 receipt of a final notice from the Department of Homeland Security of nonconfirmation of

1 work eligibility concerning the employee.

2 (b) Upon receipt of a credible complaint as determined by the commissioner that an em-
3 ployer is violating paragraph (a) of this subsection, the commissioner shall investigate the
4 complaint to determine if the employer is in violation of paragraph (a) of this subsection.
5 The commissioner shall assess a civil penalty against a participating employer of up to \$50
6 per day for each employee not terminated in accordance with the program agreement.

7 SECTION 2. This 2007 Act being necessary for the immediate preservation of the public
8 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
9 on its passage.

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