

2008 -- H 7107

LC00178

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO LABOR AND LABOR RELATIONS

Introduced By: Representatives Brien, Gemma, Mattiello, Gablinske, and Singleton

Date Introduced: January 10, 2008

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 28-5 of the General Laws entitled "Fair Employment Practices" is
2 hereby amended by adding thereto the following section:

3 **28-5-43. Legislative declaration -- Definitions -- Employee's work eligibility status --**
4 **Federal basic employment verification pilot program -- Department of labor and**
5 **employment -- Duties. -- (1)(a) The general assembly hereby finds and determines that:**

6 (I) Ensuring that Rhode Island employers employ persons eligible to work within Rhode
7 Island is an issue of statewide concern.

8 (II) It is in the best interest of the employers in Rhode Island for all employers to follow
9 federal law as it applies to the hiring of persons who are authorized to work in the United States.

10 (III) Employers who violate the federal employment laws with respect to the hiring of
11 persons who are unauthorized to work in the United States places an undue economic burden on
12 employers who attempt to hire only persons who are authorized to work in the United States.

13 (IV) Employers in Rhode Island who hire unauthorized persons create an attractive
14 environment for illegal immigrants to locate within Rhode Island, which costs taxpayers millions
15 of dollars to provide public education, health care, and other services and, in addition, negatively
16 affects our judicial system.

17 (b) The general assembly further finds and determines that it is in the best interest of the
18 state for all employers to verify the social security numbers and work eligibility status of newly
19 hired employers and that it is important that every employer in the state of Rhode Island apply for

1 participation in the extended federal basic employment verification pilot program for the purpose
2 of verifying the work eligibility status of newly hired employees.

3 (2) As used in this section:

4 (a) "Employer" means a person transacting business in Rhode Island who, at any time,
5 employs another person to perform services of any nature and who has control of the payment of
6 wages for such services or is the officer, agent, or employee of the person having control of the
7 payment of wages; except that "Employer" does not include the federal government, the state of
8 Rhode Island, another state, or a political subdivision of Rhode Island or another state.

9 (b) "Program" means the basic employment verification pilot program created pursuant to
10 8 U.S.C. sec. 1324a, as expanded to include all fifty states in the "Basic Pilot Program Extension
11 and Expansion Act of 2003", Pub. L. No. 108-156.

12 (3) (a) Each employer in Rhode Island shall apply to participate in the program for the
13 purpose of verifying the work eligibility status of each of the employer's newly hired employees
14 by the following dates:

15 (I) An employer with two hundred or more employees shall apply to participate in the
16 program no later than January 1, 2009;

17 (II) An employer with at least fifty (50) employees but fewer than two (200) hundred
18 employees shall apply to participate in the program no later than July 1, 2009; and

19 (III) An employer with fewer than fifty (50) employees shall apply to participate in the
20 program no later than July 1, 2010.

21 (b) An employer shall submit an application to participate in the program no less
22 frequently than every sixty (60) days until the employer is accepted into the program. An
23 employer that is accepted into the program shall agree to participate in the program. An employer
24 shall retain records for audit purposes that show that the employer has applied to the program
25 and, following acceptance, show that the employer is an active participant in the program.

26 (c) For each thirty (30) day period for which an application for participation in the
27 program has not been submitted to the federal department of homeland security, an employer that
28 fails to apply for participation in the program pursuant to paragraph (a) of this subsection (3) shall
29 be subject to a fine of:

30 (I) At least three thousand dollars (\$3,000) but not more than five thousand dollars
31 (\$5,000) if the employer has two hundred (200) or more employees;

32 (II) At least one thousand dollars (\$1,000) but not more than two thousand dollars
33 (\$2,000) if the employer has at least fifty (50) employees but fewer than two hundred (200)
34 employees;

1 (III) At least five hundred dollars (\$500) but not more than one thousand dollars (\$1,000)
2 if the employer has fewer than fifty (50) employees.

3 (d) The department of labor and training shall verify that each employer has complied
4 with paragraph (a) of this subsection (3) within ninety (90) days after the first finding of
5 noncompliance. If the employer is not in compliance, the department of labor and training shall
6 fine the employer the maximum fine amount pursuant to paragraph (c) of this subsection (3).

7 (e) Upon request of the director of the department, an employer shall submit evidence
8 that the employer has submitted an application to participate in the program to the federal
9 department of homeland security. Upon receipt of two complaints that an employer has not
10 complied with this section, the director shall request the submission of such evidence within
11 thirty (30) days after the second complaint. The director shall levy a fine against an employer
12 pursuant to paragraph (c) of this subsection (3) for each calendar month the employer fails to
13 submit such evidence.

14 (4) The department of labor and training, with the cooperation of the secretary of state,
15 shall put a mechanism in place to notify each employer of the requirements of this section and
16 how to comply and shall make the information available on the department's website.

17 (5)(a) An employer shall immediately terminate the employment of an employee upon
18 receipt of a final notice from the department of homeland security of nonconfirmation of work
19 eligibility concerning such employee.

20 (b) Upon receipt of a credible complaint as determined by the director of the department
21 of labor that an employer is violating the provisions of this subsection (5), the director, or his or
22 her designee, shall investigate the complaint to determine if the employer is in violation of
23 paragraph (a) of subsection (3) of this section. The director shall fine a participating employer up
24 to fifty dollars (\$50.00) per day for each employee not terminated in accordance with the basic
25 pilot program agreement.

26 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LABOR AND LABOR RELATIONS

1 This act would require all nongovernmental employers within the state to apply to
2 participate in the extended federal basic employment verification pilot program and to participate
3 if accepted. The act would also impose a fine against an employer that does not apply to
4 participate in the program.

5 This act would take effect upon passage.

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