

By: Patrick

S.B. No. 17

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition against the knowing employment of unauthorized foreign nationals and to a biennial report regarding reported violations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The purpose of this Act is to provide for the execution of the policies of the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.), identify employment practices that violate 8 U.S.C. Sections 1324a(a)(1) and (2), and make available to this state the full productive employment capacities of United States citizens, lawful permanent residents, and employment-authorized foreign-born nationals in this state.

SECTION 2. Subtitle B, Title 2, Labor Code, is amended by adding Chapter 53 to read as follows:

CHAPTER 53. EMPLOYMENT OF UNAUTHORIZED FOREIGN NATIONALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 53.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Workforce Commission.

(2) "Employee" means an individual who is employed by an employer for compensation.

(3) "Employer" means a person who:

(A) employs one or more employees; or

1                   (B) acts directly or indirectly in the interests  
2 of an employer in relation to an employee.

3                   (4) "E-Verify program" means the electronic  
4 verification of work authorization program of the federal Illegal  
5 Immigration Reform and Immigrant Responsibility Act of 1996 (Pub.  
6 L. No. 104-208, reprinted in note, 8 U.S.C. Section 1324a),  
7 operated by the United States Department of Homeland Security, or a  
8 successor work authorization program designated by the United  
9 States Department of Homeland Security or another federal agency  
10 authorized to verify the work authorization status of newly hired  
11 employees under the federal Immigration Reform and Control Act of  
12 1986 (8 U.S.C. Section 1101 et seq.).

13                   (5) "Knowingly" means, with respect to employing,  
14 recruiting, or referring an unauthorized foreign national, having  
15 actual knowledge that a person is an unauthorized foreign national  
16 or failing to perform a legal duty to determine the employment  
17 eligibility status of an unauthorized foreign national.

18                   (6) "Lawful resident verification information" means  
19 the documentation required by the United States Department of  
20 Homeland Security for completing the employment eligibility  
21 verification form commonly referred to as the I-9. Documentation  
22 that satisfies the requirements of the Form I-9 at the time of  
23 employment is lawful resident verification information.

24                   (7) "Unauthorized foreign national" means a foreign  
25 national who at the time of employment is neither an alien who is  
26 lawfully admitted for permanent residence in the United States  
27 under the federal Immigration and Nationality Act (8 U.S.C. Section

1 1101 et seq.) nor authorized to be employed by that Act or the  
2 United States attorney general.

3 Sec. 53.002. RULES. The commission shall adopt rules for  
4 the administration of this chapter.

5 SUBCHAPTER B. PROHIBITION AGAINST KNOWING EMPLOYMENT OF  
6 UNAUTHORIZED FOREIGN NATIONAL

7 Sec. 53.051. PROHIBITION AGAINST KNOWING EMPLOYMENT OF  
8 UNAUTHORIZED FOREIGN NATIONAL. (a) An employer may not knowingly  
9 employ, or recruit or refer for a fee for employment, an  
10 unauthorized foreign national.

11 (b) An employer has not violated Subsection (a) in regard to  
12 a particular employee if:

13 (1) the employer, at least four calendar days after  
14 the commencement of the employee's employment, requested from the  
15 employee and received and documented in the employee's employment  
16 record lawful resident verification information consistent with  
17 employer requirements under the federal Immigration Reform and  
18 Control Act of 1986 (8 U.S.C. Section 1101 et seq.); and

19 (2) the lawful resident verification information  
20 provided by the employee later was determined to be false.

21 (c) An employer has not violated Subsection (a) in regard to  
22 a particular employee if the employer verified the immigrant status  
23 of the person at least four calendar days after the commencement of  
24 the employee's employment through the E-Verify program.

25 SUBCHAPTER C. FILING COMPLAINTS

26 Sec. 53.101. FILING COMPLAINT. (a) A person who has reason  
27 to believe that an employer has violated Section 53.051(a) may file

1 a complaint with the commission.

2 (b) A complaint must:

3 (1) be in writing on a form prescribed by the  
4 commission; and

5 (2) be verified by the person making the complaint.

6 (c) A person may file a complaint under this section:

7 (1) in person at an office of the commission; or

8 (2) by mailing the complaint to an address designated  
9 by the commission.

10 SUBCHAPTER D. BIENNIAL REPORT TO LEGISLATURE

11 Sec. 53.151. BIENNIAL REPORT TO LEGISLATURE. (a) Not later  
12 than November 1 of each even-numbered year, the commission shall  
13 prepare and submit to the governor and the legislature a written  
14 report based on nonidentifiable, summary data compiled by the  
15 commission from complaints filed under Subchapter C during the two  
16 preceding state fiscal years.

17 (b) The report must include any relevant information and  
18 analysis the commission determines would assist the legislature in  
19 making informed decisions regarding the issue of illegal  
20 immigration as it relates to employment in this state.

21 (c) The report may not include any information that could  
22 reasonably be expected to reveal the identity of a particular  
23 employer or employee or of a person who files a complaint with the  
24 commission under Subchapter C.

25 SECTION 3. Chapter 53, Labor Code, as added by this Act,  
26 applies only to a violation that occurs on or after the effective  
27 date of this Act.

1 SECTION 4. This Act takes effect November 1, 2013.