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2013 General Session

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First Substitute S.B. 251

Senator D. Chris Buttars proposes the following substitute bill:

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VERIFICATION OF EMPLOYMENT ELIGIBILITY

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: D. Chris Buttars

House Sponsor: Christopher N. Herrod

LONG TITLE

General Description:

This bill modifies provisions related to employment to address verification of employment eligibility.

Highlighted Provisions:

This bill:

- . enacts the Private Employer Verification Act, including:
 - . defining terms;
 - . addressing private employers' obligations related to verification of federal legal working status and liability protections;
 - . providing for voluntary registration with the Department of Commerce by a private employer who participates in employee verification; and
 - . requiring the Department of Commerce to publish a list of registered private employers participating in employee verification.

Monies Appropriated in this Bill:

22 None
 23 Other Special Clauses:
 24 None
 25 Utah Code Sections Affected:

26 ENACTS:
 27 13-47-101, Utah Code Annotated 1953
 28 13-47-102, Utah Code Annotated 1953
 29 13-47-103, Utah Code Annotated 1953
 30 13-47-201, Utah Code Annotated 1953
 31 13-47-202, Utah Code Annotated 1953
 32 13-47-203, Utah Code Annotated 1953
 33 13-47-204, Utah Code Annotated 1953
 34

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section 13-47-101 is enacted to read:

37

CHAPTER 47. PRIVATE EMPLOYER VERIFICATION ACT

38

Part 1. General Provisions

39 13-47-101. Title.

40 *This chapter is known as the "Private Employer Verification Act."*

41 Section 2. Section 13-47-102 is enacted to read:

42 13-47-102. Definitions.

43 *As used in this chapter:*

44 *(1) "Department" means the Department of Commerce.*

45 *(2) "Employee" means an individual:*

46 *(a) who is hired to perform services in Utah; and*

47 *(b) to whom a private employer provides a federal form required for federal taxation purposes to report income paid to the individual for the services performed.*

49 *(3) (a) Except as provided in Subsection (3)(b), "private employer" means a person who for federal taxation purposes is required to provide a federal form:*

51 *(i) to an individual who performs services for the person in Utah; and*

52 *(ii) to report income paid to the individual who performs the services.*

53 *(b) "Private employer" does not mean a public employer as defined in Section*

54 *63G-11-103.*

55 *(4) (a) "Status verification system" means an electronic system operated by the federal*

56 *government, through which an employer may inquire to verify the federal legal working status*

57 *of an individual who is a newly hired employee.*

58 *(b) "Status verification system" includes:*

59 *(i) the electronic verification of the work authorization program of the Illegal*

60 *Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a;*

61 *(ii) a federal program equivalent to the program described in Subsection (4)(b)(i) that*

62 *is designated by the United States Department of Homeland Security or other federal agency*

63 *authorized to verify the employment eligibility status of a newly hired employee pursuant to the*

64 Immigration Reform and Control Act of 1986;
 65 (iii) the Social Security Number Verification Service or similar online verification
 66 process implemented by the United States Social Security Administration; or
 67 (iv) an independent third-party system with an equal or higher degree of reliability as
 68 the programs, systems, or processes described in Subsection (4)(b)(i), (ii), or (iii).

69 Section 3. Section 13-47-103 is enacted to read:

70 **13-47-103.** Scope of chapter.

71 A private employer shall comply with this chapter, and this chapter shall be enforced
 72 without regard to race, color, national origin, gender, religion, age, disability, familial status, or
 73 source of income.

74 Section 4. Section 13-47-201 is enacted to read:

75

Part 2. Verification by Private Employer

76 **13-47-201.** Verification required for new hires.

77 (1) A private employer who employs 15 or more employees as of July 1, 2010, may not
 78 hire a new employee on or after July 1, 2010, unless the private employer:

79 (a) is registered with a status verification system to verify the federal legal working
 80 status of any new employee; and

81 (b) uses the status verification system to verify the federal legal working status of the
 82 new employee in accordance with the requirements of the status verification system.

83 (2) This section does not apply to a private employer of a foreign national if the foreign
 84 national holds a visa issued in response to a petition by the private employer that is classified as
 85 H-2A or H-2B.

86 Section 5. Section 13-47-202 is enacted to read:

87 **13-47-202.** Liability protections.

88 (1) A private employer may not be held civilly liable under state law in a cause of
 89 action for the private employer's unlawful hiring of an unauthorized alien, as defined in 8
 90 U.S.C. Sec. 1324a, if:

91 (a) the private employer complies with Section 13-47-201 ; and

92 (b) the information obtained in accordance with the status verification system indicated
 93 that the employee's federal legal status allowed the private employer to hire the employee.

94 (2) A private employer may not be held civilly liable under state law in a cause of
 95 action for the private employer's refusal to hire an individual if:

96 (a) the private employer complies with Section 13-47-201 ; and

97 (b) the information obtained in accordance with the status system verification indicated
 98 that the individual's federal legal status was that of an unauthorized alien as defined in 8 U.S.C.
 99 Sec. 1324a.

100 Section 6. Section 13-47-203 is enacted to read:

101 **13-47-203.** Voluntary registration by private employer certifying participation in
 102 verification.

103 (1) (a) A private employer may register with the department certifying that the private
 104 employer is in compliance with Section 13-47-201 .

105 (b) A private employer may register with the department under this section regardless
 106 of whether the private employer is required to comply with Section 13-47-201 .

107 (2) To register or renew a registration with the department under this part, a private
 108 employer shall:

109 (a) file a registration statement with the department that certifies compliance with

110 Section 13-47-201 ; and

111 (b) pay a fee established by the department in accordance Section 63J-1-504 that
112 reflects the cost of registering employers under this section and publishing the list described in
113 Section 13-47-204.

114 (3) A registration under this part expires every two years on the anniversary of the day
115 on which the registration is filed with the department.

116 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
117 department may make rules to provide for:

118 (a) the form of a registration statement under this section;

119 (b) the process of filing a registration statement under this section; and

120 (c) the process of renewing a registration statement under this section.

121 Section 7. Section 13-47-204 is enacted to read:

122 **13-47-204.** Department to publish list of registered private employers.

123 On and after July 1, 2010, the department shall publish electronically a list of private
124 employers who register under Section 13-47-203 on a website accessible to the general public
125 without a charge.

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