ENROLLED

Regular Session, 2011

HOUSE BILL NO. 646 (Substitute for House Bill No. 175 by Representative Talbot)

BY REPRESENTATIVE TALBOT AND SENATOR GUILLORY

AN ACT

To amend and reenact R.S. 23:995, relative to the verification of citizenship and authorization for employment; to provide with respect to civil penalties for violations; to require the suspension of permits or licenses for violations; to provide for defenses; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:995 is hereby amended and reenacted to read as follows:

§995. Civil penalties

A. No person, either for himself or on behalf of another, shall employ, hire, recruit, or refer, for private or public employment within the state, an alien who is not entitled to lawfully reside or work in the United States.

B. No person shall be subject to civil penalties pursuant to the provisions of this Part upon a showing of either of the following:

(1) The citizenship or work authorization status of every employee has been verified by the United States Citizenship and Immigration Services E-Verify system, hereinafter referred to as E-Verify.

(2) Each employee has provided a picture identification and one of the following documents of which the employer has retained a copy for his records:

(a) United States birth certificate or certified birth card.

(b) Naturalization certificate.

(c) Certificate of citizenship.

(d) Alien registration receipt card.

(e) United States immigration form I-94 (with employment authorized stamp).

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

C. Any employer who has utilized the E-Verify system to determine the employment eligibility of an employee is presumed to have been in good faith and is not subject to any penalty as a result of the reliance on the accuracy of the E-Verify system.

D. The executive director of the Louisiana Workforce Commission shall enforce the provisions of this Section. The executive director may assess civil penalties against any person violating the provisions of this Section, or when appropriate, inform the proper governing or licensing authority to suspend a license or permit to do business, as follows:

(1) For a first violation the penalty shall be not more than ~~two hundred fifty~~ five hundred dollars for each alien employed, hired, recruited, or referred in violation of this Section.

(2) For a second violation the penalty shall be not more than ~~five hundred~~ one thousand dollars for each alien employed, hired, recruited, or referred in violation of this Section. However, the provisions of this Section shall not apply to any health care facility or entity licensed by the Department of Health and Hospitals, the department shall follow the applicable licensing statutes and licensing rules for suspension of a license.

(3) For a third or subsequent violation ~~the penalty~~ , the appropriate local governing authority or licensing agency shall immediately suspend the violator's permit or license to do business in the state for not less than thirty days nor more than six months and a fine shall be assessed that shall be not more than ~~one thousand~~ two thousand five hundred dollars for each alien employed, hired, recruited, or referred in violation of this Section. However, the provisions of this Section shall not apply to any health care facility or entity licensed by the Department of Health and Hospitals, the department shall follow the applicable licensing statutes and licensing rules for suspension of a license.

~~C.~~ E. Civil penalties may be imposed only by a ruling of the executive director pursuant to an adjudicatory hearing held in accordance with the Administrative Procedure Act, R.S. 49:950, et seq.

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~~D.~~ F. The executive director may institute civil proceedings in the Nineteenth Judicial District Court to enforce its rulings. In the event judgment is rendered in said court affirming the civil penalties assessed, the court shall also award to the Louisiana Workforce Commission reasonable attorney fees, and judicial interest on said civil penalties from the date of its assessment by the Louisiana Workforce Commission until paid and all costs.

~~E.~~ G. The executive director may institute civil proceedings in the Nineteenth Judicial District Court seeking injunctive relief to restrain and prevent violations of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part. If the court grants the injunctive relief sought by the Louisiana Workforce Commission, it shall also award reasonable attorney fees and costs to the Louisiana Workforce Commission.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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