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HOUSE BILL NO. 1569

Offered January 20, 2006

A BILL to amend the Code of Virginia by adding in Chapter 1 of Title 40.1 a section numbered 40.1-11.2, relating to a prohibition on certain contracts for the provision of labor by foreign workers; penalty.

Patron—Reid

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 40.1-11.2, as follows:**

§ 40.1-11.2. Contracting for employment services using foreign workers.

A. As used in this section:

"Client company" means any person that enters into an agreement with an employment services provider for foreign employment services.

"Employment services provider" means any person that enters in to a written agreement with a client company to provide foreign employment services.

"Foreign employment services" means services to be provided to a client company pursuant to a written agreement with an employment services provider whereby the employment services provider employs one or more individuals who are citizens of a nation other than the United States and are authorized to work in the United States pursuant to a visa issued by the federal government pursuant to the H-1B or L-1 temporary worker programs, to work at a facility owned or operated by the client company, or pursuant to an arrangement that provides that the individuals are subject to the direction and control of the client company.

"Person" means any corporation, limited liability company, business trust, or partnership.

B. It shall be unlawful and constitute a Class 1 misdemeanor for any client company to contract with an employment services provider for the provision of foreign employment services unless the employment services provider provides the client company with documentation verifying that the employment services provider, within the time periods provided by applicable law, has filed all reports and paid all federal and state taxes required of an employer in the Commonwealth, including but not limited to income tax withholdings, social security tax withholdings, and unemployment taxes, and has maintained required workers' compensation insurance coverage with respect to all of the employment services provider's employees who are citizens of a nation other than the United States and are authorized to work in the United States pursuant to a visa issued by the federal government pursuant to the H-1B or L-1 temporary worker programs, and who work at a facility owned or operated by the client company, or pursuant to an arrangement that provides that the individuals are subject to the direction and control of the client company. Such verifying documentation shall be provided to the client company in writing or electronic format within five business days after the employment services provider makes a required filing or payment.

C. It shall be unlawful and constitute a Class 1 misdemeanor for any client company to fail to maintain records, for a period of 10 years, documenting that the employment services provider provided the client company with the documentation as required pursuant to subsection B.

D. Any person violating this section shall be subject to a civil penalty of not more than \$10,000 for each violation. Any civil penalties collected pursuant to this section shall be deposited into the Literary Fund.

INTRODUCED

HB1569