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HOUSE BILL NO. 2328

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact § 40.1-11.1 of the Code of Virginia, relating to an employer's duty to verify the employment eligibility status of job applicants; penalty.

Patron—Gilbert

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-11.1 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-11.1. Employment of illegal immigrants; penalty.

A. It shall be unlawful and constitute a Class 1 misdemeanor for (i) any *private* employer ~~or~~, (ii) any person acting as an agent for an employer, ~~or~~ (iii) any person who, for a fee, refers an alien who cannot provide documents indicating that he or she is legally eligible for employment in the United States for employment to an employer, or (iv) an officer, agent or representative of a labor organization, to knowingly ~~employ~~

1. *Employ, continue to employ, or refer for employment any alien who cannot provide documents employment eligibility verification documentation as specified in Department of Homeland Security Employment Eligibility Verification Form I-9 indicating that he or she is legally eligible for employment in the United States and*

2. *Fail to confirm the employment eligibility of an applicant for a position of employment through the Basic Pilot Program, the electronic verification-of-work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L 104-208, Division C, § 403(a), 8 U.S.C. § 1324a, operated by the U.S. Department of Homeland Security, or any successor federal program.*

B. *The Department of Labor and Industry shall provide employers with access to the federal Basic Pilot Program in order to assist employers in determining whether prospective employees are legally eligible for employment in the United States.*

C. Permits issued by the United States Department of Justice authorizing an alien to work in the United States shall constitute proof of eligibility for employment.

D. All employment application forms used by State and local governments and privately owned businesses operating in the Commonwealth on and after January 1, 1978, shall ask prospective employees if they are legally eligible for employment in the United States.

E. The provisions of this section shall not be deemed to require any employer to use employment application forms.

INTRODUCED

HB2328