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HOUSE BILL NO. 2687

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Reid
on January 29, 2007)

(Patron Prior to Substitute—Delegate Reid)

A BILL to amend the Code of Virginia by adding a section numbered 40.1-27.2, relating to discharge of employees by employers employing unauthorized aliens.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 40.1-27.2 as follows:

§ 40.1-27.2. Discharge of employee when unauthorized aliens are employed.

A. As used in this section:

"Basic Pilot Program" means 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 United States Department of Homeland Security, or any other federal work authorization program designated for that purpose.

"Employment" means the act of employing or state of being employed, engaged, or hired within the Commonwealth.

"Unauthorized alien" means any individual who is unauthorized to work in the United States as defined by federal or state law.

B. It shall be an unfair employment practice to knowingly employ an unauthorized alien within the Commonwealth. Any employee who is replaced by his employer with an unauthorized alien shall have a cause of action against the employer on or after July 1, 2007.

C. An individual who is discharged from employment by an employer in violation of the unfair employment practice described in subsection B shall be entitled to initiate an action to recover an amount equal to three times the actual damages sustained by the employee, including but not limited to lost wages or compensation from the date of the discharge until the date the employee has procured new employment at an equivalent rate of compensation, or 120 days, whichever occurs earlier, and reasonable attorney's fees and costs.

D. This section shall not apply to any employer within the Commonwealth that (i) has enrolled and participates in the federal Basic Pilot Program, (ii) has obtained employment eligibility verification documentation as specified in Department of Homeland Security Employment Eligibility Verification Form I-9 from prospective employees indicating that they are legally eligible for employment in the United States, or (iii) is exempt from compliance with federal employment verification procedures under federal law that makes the employment of unauthorized aliens unlawful.

HOUSE
SUBSTITUTE

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