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HOUSE BILL NO. 1077

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend the Code of Virginia by adding in Chapter 1 of Title 40.1 a section numbered 40.1-11.3, relating to participation by day labor centers in the E-Verify program.*

Patrons—Hugo, Cole, Helsel, Massie, Poindexter and Ramadan

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 in Chapter 1 of Title 40.1 a section numbered 40.1-11.3 as follows:

§ 40.1-11.3. Day labor centers; use of E-Verify program.

A. As used in this section, unless the context requires a different meaning:

"Day labor center" means an entity, including a labor broker or labor pool, that provides day laborers to third-party employers and that charges the third-party employer for the service of providing day laborers for employment offered by the employer.

"Day labor employment" means employment that is under a contract between a day labor center and a third-party employer, that is occasional or irregular, and that is for a limited time period.

"Day laborer" means a person who contracts for day labor employment with a day labor center.

"E-Verify 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, Title IV, § 403(a), as amended, operated by the U.S. Department of Homeland Security, or a successor work authorization program designated by the U.S. Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

"Third-party employer" means a person that contracts with a day labor center for the employment of day laborers.

B. As a condition of doing business in the Commonwealth and as a condition of obtaining and retaining any permit or license issued by any agency of the Commonwealth, every day labor center operating within the Commonwealth shall:

1. Be enrolled in the E-Verify program by December 1, 2012; and

2. On and after December 1, 2012, use the E-Verify program for each day laborer whom the day labor center refers to a third-party employer for day labor employment to be performed within the Commonwealth.

C. If a day labor center is not enrolled in and using the E-Verify program as required by subsection B:

1. Each agency of the Commonwealth that has issued a license to the day labor center, after notice and opportunity for hearing pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), shall suspend or revoke any license issued by it to such day labor center. The provisions of this subdivision may be suspended if it is found that good cause exists for why the day labor center is not enrolled in or using the E-Verify program as required by this section. A day labor center shall have the right to appeal, to circuit court, an agency decision to revoke or suspend a license as provided in Article 5 (§ 2.2-4025 et seq.) of Chapter 40 of Title 2.2; and

2. Each locality that has issued a business license pursuant to Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 to a day labor center shall forfeit such license upon a finding by a circuit court of any city or county in which the day labor center conducts operations that the day labor center has violated the requirements of subsection B. The court shall not require forfeiture of such license if it finds good cause for why the day labor center is not enrolled in or using the E-Verify program as required by this section.

D. The Attorney General shall request the U.S. Department of Homeland Security, once each calendar quarter, to provide a list of day labor centers within the Commonwealth that are enrolled and participate in the E-Verify program.

INTRODUCED

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