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HOUSE BILL NO. 2930

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend the Code of Virginia by adding a section numbered 58.1-3700.01, relating to local business licenses; state licenses; unlawful workers.

Patrons—Miller, J.H. and Frederick

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 58.1-3700.01 as follows:**

§ 58.1-3700.01. Local business licenses; unlawful workers.

A. It shall be unlawful for any business entity to recruit, hire for employment, or continue to employ, or to permit, dispatch, or instruct any person who is an unlawful worker to perform work in whole or part within this State.

1. It shall be unlawful for any unauthorized worker to perform work in whole or in part within the Commonwealth of Virginia.

2. It is unlawful for any business entity to enter into an agreement with any person or business entity that utilizes any person who is an unlawful worker to perform work in whole or in part within the State.

3. Every applicant of the business entity that applies or reapplies for a business license to engage in any type of work in the Commonwealth shall present valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States and sign an affidavit, prepared by the Commissioner of the Revenue, affirming that the entity shall not knowingly utilize the services or hire any individual who is an unauthorized worker as defined by federal or state law.

B. Each local agency responsible for issuing business licenses shall enforce the requirements of this section.

1. An enforcement action shall be initiated by means of a written signed complaint to such agency, submitted by any government official, business entity, or Virginia resident. A valid complaint shall include an allegation that describes the alleged violator, the actions constituting the violation, and the date and location where such actions occurred.

2. A complaint that alleges a violation on the basis of national origin or other impermissible factor shall be deemed invalid and shall not be enforced.

C. Each local agency responsible for enforcement of this section shall deny an application for or suspend the business license of any business entity that fails to correct a violation of this section, beginning five business days from the date of the violation or the date of its discovery, whichever shall be later.

1. The denial or suspension shall terminate one business day after a legal representative of the business entity submits, at the government office designated by the local governing body, a sworn affidavit stating that the violation has ended. The affidavit shall include a description of the specific measures and actions taken by the business entity to end the violation and shall include the name, address, and other adequate identifying information for the unlawful workers who were the subject of the complaint.

2. For a second or subsequent violation, the denial or suspension shall terminate 15 business days after the legal representative of the business entity submits the required affidavit to the local governing body. The legal representative shall also submit with the affidavit a written authorization for the agency to forward the affidavit, complaint, and associated documents to the appropriate state or federal enforcement agency and shall further commit the violator, as a condition for the restoration of its business license, to cooperate with any further investigation such state or federal agency may initiate.

3. For a second or subsequent violation where two or more of the unlawful workers were verified to be illegal aliens, the denial or suspension shall terminate no earlier than 10 business days after the legal representative of the business entity submits to the agency, in addition to the affidavit and written authorizations prescribed in this subdivision, documentation acceptable to the local governing body that confirms that the business entity has enrolled in and is participating in the basic pilot electronic work authorization program (or a successor program) operated by the U.S. Department of Homeland Security.

4. Any business entity that performs work in the Commonwealth without a license or with a license that has been suspended pursuant to the provisions of this section shall, beginning one business day

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HB2930

59 *from the date of the violation or its discovery, whichever is later, be subject to a fine of \$300 for each*
60 *day that such work is performed.*

61 *5. No business entity whose business license has been denied or suspended under this section or that*
62 *has failed to obtain such business license where required by law, shall be eligible for any contract,*
63 *grant, or other beneficial agreement with any agency of the Commonwealth of Virginia or its political*
64 *subdivisions.*

65 *6. The penalties in this subsection shall not apply in the case of unlawful workers for whom the*
66 *business entity had received, prior to the date of the violation, confirmation of work authorization via*
67 *the basic pilot electronic work authorization program (or a successor program) operated by the U.S.*
68 *Department of Homeland Security.*

69 **2. All state agencies which issue a state license shall promulgate regulations in accordance with the**
70 **Administrative Process Act (§ 2.2-4000 et. seq. of the Code of Virginia) to ensure that any person**
71 **who is applying for a state license, any of his employees or anyone who he contracts with shall**
72 **provide valid documentary evidence that they are either (i) a citizen of the United States, (ii) a**
73 **legal permanent resident of the United States, or (iii) a conditional resident alien of the United**
74 **States.**