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SENATE BILL NO. 90

Offered January 9, 2008

Prefiled December 26, 2007

A BILL to amend and reenact § 40.1-11.1 of the Code of Virginia, relating to verification of eligibility for employment; penalty.

Patrons—Colgan and Hanger

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; participation in employment verification system; penalty.

A. It shall be unlawful and constitute a Class 1 misdemeanor for any:

1. Any employer ~~or any~~ to knowingly employ or continue to employ any alien who cannot provide documents indicating that he is legally eligible for employment in the United States;

2. Any employer to hire or make an offer of employment to any individual unless the employer participates or is enrolled in an electronic employment verification system operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees pursuant to the Immigration Reform and Control Act of 1986 (8 USC 1101 et seq.);

3. Any employer, after making an offer of employment to an individual and the individual's acceptance thereof, but prior to the individual's commencing work, to allow the individual to commence or continue employment unless the employer has conducted the identity verification process through the electronic employment verification system, directly or through a vendor approved by the United States Department of Homeland Security, with respect to the individual and has obtained a response from the electronic employment verification system that affirmatively verifies that the individual is legally eligible for employment in the United States; and

4. Any (i) person acting as an agent for an employer, ~~or~~ (ii) 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 (iii) an officer, agent or representative of a labor organization to knowingly employ, continue to employ, ~~or~~ refer for employment any alien who cannot provide documents indicating that he or she is legally eligible for employment in the United States.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

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.

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SB90