

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0626.01 Yelana Love x2295

SENATE BILL 16-076

SENATE SPONSORSHIP

Ulibarri,

HOUSE SPONSORSHIP

DelGrosso,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING THE REPEAL OF THE STATE EMPLOYMENT REPORTING
102 REQUIREMENTS RELATED TO FEDERAL EMPLOYMENT
103 ELIGIBILITY STANDARDS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill eliminates current employment verification standards that:

- ! Require each employer in Colorado to attest that the employer has verified the legal work status of each employee, has not altered or falsified the employee's identification documents, and has not knowingly hired an

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- unauthorized alien;
- ! Require each employer in Colorado to submit documentation to the director of the division of labor (director) within the department of labor and employment that demonstrates that the employer is in compliance with federal employment verification requirements;
- ! Authorize the director to conduct random audits of employers to ensure compliance with the federal laws;
- ! Require the director to request documentation if the director receives a valid complaint that an employer is not in compliance with federal law; and
- ! Fine an employer for failing to provide documentation or for the provision of fraudulent documentation.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Federal law already requires employers to collect and maintain
5 I-9 forms to ensure that each employee is legally eligible for employment
6 in the United States;

7 (b) Colorado has an additional requirement that forces all
8 employers to complete and maintain an employment verification
9 affirmation that simply reaffirms that the I-9 was completed;

10 (c) The employment verification affirmation is unnecessary and
11 redundant due to existing federal I-9 requirements; and

12 (d) The employment verification affirmation imposes a burden on
13 businesses that must complete the form and store it for the duration of an
14 employee's tenure at the company.

15 (2) The general assembly declares that the employment
16 verification affirmation does nothing to prevent individuals who are
17 ineligible for employment from entering the workforce and places
18 additional requirements on businesses that are unnecessary and redundant.

1 **SECTION 2.** In Colorado Revised Statutes, **repeal** 8-2-122 as
2 follows:

3 **8-2-122. Employment verification requirements - audits - fine**
4 **for fraudulent documents - cash fund created - definitions.** ~~(1) As~~
5 ~~used in this section, unless the context otherwise requires:~~

6 ~~(a) "Director" means the director of the division.~~

7 ~~(b) "Division" means the division of labor in the department of~~
8 ~~labor and employment.~~

9 ~~(c) "Employer" means a person or entity that:~~

10 ~~(I) Transacts business in Colorado;~~

11 ~~(II) At any time, employs another person to perform services of~~
12 ~~any nature; and~~

13 ~~(III) Has control of the payment of wages for such services or is~~
14 ~~the officer, agent, or employee of the person or entity having control of~~
15 ~~the payment of wages.~~

16 ~~(d) "Unauthorized alien" has the same meaning as set forth in 8~~
17 ~~U.S.C. sec. 1324a (h) (3).~~

18 ~~(2) On and after January 1, 2007, within twenty days after hiring~~
19 ~~a new employee, each employer in Colorado shall affirm that the~~
20 ~~employer has examined the legal work status of such newly hired~~
21 ~~employee and has retained file copies of the documents required by 8~~
22 ~~U.S.C. sec. 1324a; that the employer has not altered or falsified the~~
23 ~~employee's identification documents; and that the employer has not~~
24 ~~knowingly hired an unauthorized alien. The employer shall keep a written~~
25 ~~or electronic copy of the affirmation, and of the documents required by~~
26 ~~8 U.S.C. sec. 1324a, for the term of employment of each employee.~~

27 ~~(3) Upon the request of the director, an employer shall submit~~

1 documentation to the director that demonstrates that the employer is in
2 compliance with the employment verification requirements specified in
3 ~~8 U.S.C. sec. 1324a (b)~~ and documentation that the employer has
4 complied with the requirements of subsection (2) of this section. The
5 director or the director's designee may conduct random audits of
6 employers in Colorado to obtain the documentation. When the director
7 has reason to believe that an employer has not complied with the
8 employment verification and examination requirements, the director shall
9 request the employer to submit the documentation.

10 (4) ~~An employer who, with reckless disregard, fails to submit the~~
11 ~~documentation required by this section, or who, with reckless disregard,~~
12 ~~submits false or fraudulent documentation, shall be subject to a fine of not~~
13 ~~more than five thousand dollars for the first offense and not more than~~
14 ~~twenty-five thousand dollars for the second and any subsequent offense.~~
15 ~~The moneys collected pursuant to this subsection (4) shall be deposited~~
16 ~~in the employment verification cash fund, which is hereby created in the~~
17 ~~state treasury. The moneys in the fund shall be appropriated to the~~
18 ~~department of labor and employment for the purpose of implementing,~~
19 ~~administering, and enforcing this section. The moneys in the fund shall~~
20 ~~remain in the fund and not revert to the general fund or any other fund at~~
21 ~~the end of any fiscal year.~~

22 (5) ~~It is the public policy of Colorado that this section shall be~~
23 ~~enforced without regard to race, religion, gender, ethnicity, national~~
24 ~~origin, or disability.~~

25 **SECTION 3. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2016 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.