

## CHAPTER 12

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**LABOR AND INDUSTRY**

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**HOUSE BILL 06S-1017**

BY REPRESENTATIVE(S) Solano, Paccione, Benefield, Borodkin, Buescher, Carroll M., Cloer, Coleman, Curry, Green, Hodge, Jahn, Kerr A., Kerr J., Larson, Merrifield, Pommer, Riesberg, Romanoff, Todd, White, and Witwer;  
also SENATOR(S) Bacon.

**AN ACT**

**CONCERNING DOCUMENTATION BY AN EMPLOYER THAT DEMONSTRATES COMPLIANCE WITH FEDERAL EMPLOYMENT VERIFICATION REQUIREMENTS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1.** Part 1 of article 2 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION A NEW SECTION to read:

**8-2-122. Employment verification requirements - audits - fine for fraudulent documents - cash fund created - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

(b) "DIVISION" MEANS THE DIVISION OF LABOR IN THE DEPARTMENT OF LABOR AND EMPLOYMENT.

(c) "EMPLOYER" MEANS A PERSON OR ENTITY THAT:

(I) TRANSACTS BUSINESS IN COLORADO;

(II) AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM SERVICES OF ANY NATURE; AND

(III) HAS CONTROL OF THE PAYMENT OF WAGES FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR EMPLOYEE OF THE PERSON OR ENTITY HAVING CONTROL OF THE PAYMENT OF WAGES.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(d) "UNAUTHORIZED ALIEN" HAS THE SAME MEANING AS SET FORTH IN 8 U.S.C. SEC. 1324a (h) (3).

(2) ON AND AFTER JANUARY 1, 2007, WITHIN TWENTY DAYS AFTER HIRING A NEW EMPLOYEE, EACH EMPLOYER IN COLORADO SHALL AFFIRM THAT THE EMPLOYER HAS EXAMINED THE LEGAL WORK STATUS OF SUCH NEWLY-HIRED EMPLOYEE AND HAS RETAINED FILE COPIES OF THE DOCUMENTS REQUIRED BY 8 U.S.C. SEC. 1324a; THAT THE EMPLOYER HAS NOT ALTERED OR FALSIFIED THE EMPLOYEE'S IDENTIFICATION DOCUMENTS; AND THAT THE EMPLOYER HAS NOT KNOWINGLY HIRED AN UNAUTHORIZED ALIEN. THE EMPLOYER SHALL KEEP A WRITTEN OR ELECTRONIC COPY OF THE AFFIRMATION, AND OF THE DOCUMENTS REQUIRED BY 8 U.S.C. SEC. 1324a, FOR THE TERM OF EMPLOYMENT OF EACH EMPLOYEE.

(3) UPON THE REQUEST OF THE DIRECTOR, AN EMPLOYER SHALL SUBMIT DOCUMENTATION TO THE DIRECTOR THAT DEMONSTRATES THAT THE EMPLOYER IS IN COMPLIANCE WITH THE EMPLOYMENT VERIFICATION REQUIREMENTS SPECIFIED IN 8 U.S.C. SEC. 1324a (b) AND DOCUMENTATION THAT THE EMPLOYER HAS COMPLIED WITH THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY CONDUCT RANDOM AUDITS OF EMPLOYERS IN COLORADO TO OBTAIN THE DOCUMENTATION. WHEN THE DIRECTOR HAS REASON TO BELIEVE THAT AN EMPLOYER HAS NOT COMPLIED WITH THE EMPLOYMENT VERIFICATION AND EXAMINATION REQUIREMENTS, THE DIRECTOR SHALL REQUEST THE EMPLOYER TO SUBMIT THE DOCUMENTATION.

(4) AN EMPLOYER WHO, WITH RECKLESS DISREGARD, FAILS TO SUBMIT THE DOCUMENTATION REQUIRED BY THIS SECTION, OR WHO, WITH RECKLESS DISREGARD, SUBMITS FALSE OR FRAUDULENT DOCUMENTATION, SHALL BE SUBJECT TO A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR THE FIRST OFFENSE AND NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT OFFENSE. THE MONEYS COLLECTED PURSUANT TO THIS SUBSECTION (4) SHALL BE DEPOSITED IN THE EMPLOYMENT VERIFICATION CASH FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. THE MONEYS IN THE FUND SHALL BE APPROPRIATED TO THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR THE PURPOSE OF IMPLEMENTING, ADMINISTERING, AND ENFORCING THIS SECTION. THE MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

(5) IT IS THE PUBLIC POLICY OF COLORADO THAT THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY, NATIONAL ORIGIN, OR DISABILITY.

**SECTION 2. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the employment support fund created in section 8-77-109, Colorado Revised Statutes, not otherwise appropriated, to the department of labor and employment, for allocation to the division of labor, for the fiscal year beginning July 1, 2006, the sum of one hundred ten thousand four hundred forty-seven dollars (\$110,447) and 2.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any

moneys in the employment support fund created in section 8-77-109, Colorado Revised Statutes, not otherwise appropriated, to the department of labor and employment, for allocation to the executive director's office, for legal services, for the fiscal year beginning July 1, 2006, the sum of three thousand two hundred twenty-three dollars (\$3,223), or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2006, the sum of three thousand two hundred twenty-three dollars (\$3,223), or so much thereof as may be necessary, for the provision of legal services to the division of labor in the department of labor and employment related to the implementation of this act. Said sum shall be from cash funds exempt received from the division of labor in the department of labor and employment out of the appropriation made in subsection (2) of this section.

**SECTION 3. Effective date - applicability.** This act shall take effect upon passage and shall apply to employees hired on or after January 1, 2007.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: July 31, 2006