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LEGISLATIVE ACTION

Senate

House

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Floor: 1A/F/2R

05/03/2011 03:16 PM

Senator Thrasher moved the following:

1 **Senate Amendment to Amendment (730724) (with title**
2 **amendment)**

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4 Between lines 34 and 35
5 insert:

6 Section 2. The Division of Statutory Revision shall
7 designate ss. 448.30 through 448.32, Florida Statutes, as
8 created by this act, as part III of chapter 448, Florida
9 Statutes, titled "UNAUTHORIZED ALIENS."

10 Section 3. Section 448.30, Florida Statutes, is created to
11 read:

12 448.30 Definitions.—As used in this part, the term:

13 (1) "Agency" means any state officer, department, division,



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14 board, bureau, commission, or other separate unit of state
15 government created or established by law including, for the
16 purposes of this section, any other public or private agency,
17 person, partnership, corporation, or business entity acting on
18 behalf of any state entity.

19 (2) "Employee" means any person, other than an independent
20 contractor, who, for consideration, provides labor or services
21 to an employer in this state.

22 (3) "Employer" means a person or an agency that employs one
23 or more employees in this state. In the case of an independent
24 contractor, the term means the independent contractor and does
25 not mean the person or agency that uses the contract labor. The
26 term does not include an employee leasing company licensed
27 pursuant to part IX of chapter 468 which enters into a written
28 agreement or understanding with its client company which places
29 the primary obligation for compliance with this part upon its
30 client company. In the absence of a written agreement or
31 understanding, the contracting party, whether the licensed
32 employee leasing company or client company, which initially
33 hires the leased employee is responsible for the obligations set
34 forth in this part. Such employee leasing company shall, at all
35 times, remain an employer as otherwise specified by law.

36 (4) "E-Verify Program" means the program for electronic
37 verification of employment eligibility which is operated by the
38 United States Department of Homeland Security, or any successor
39 program.

40 (5) "Independent contractor" means a person that carries on
41 an independent business, contracts to do a piece of work
42 according to its own means and methods, and is subject to



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43 control only as to results.

44 (6) "Unauthorized alien" means an alien who is not
45 authorized under federal law to be employed in the United
46 States, as provided in 8 U.S.C. s. 1324a(h)(3). This term shall
47 be interpreted consistently with that section and any applicable
48 federal rules or regulations.

49 Section 4. Section 448.31, Florida Statutes, is created to
50 read:

51 448.31 Verification of employment eligibility by agencies.—

52 (1) Effective July 1, 2012, an agency shall:

53 (a) Register with the E-Verify Program;

54 (b) Before making an offer of employment, verify the
55 employment eligibility through the E-Verify Program of a
56 prospective employee to whom the agency plans to make an offer
57 of employment on or after that date;

58 (c) Use the program for all prospective employees to whom
59 the agency plans to make an offer of employment, both United
60 States citizens and noncitizens, and not use the program
61 selectively with respect to such prospective employees; and

62 (d) Maintain a record of the verification for 3 years after
63 the date the agency conducts the verification or 1 year after
64 the date employment ends, whichever is longer.

65 (2) The requirements of subsection (1) do not apply if a
66 one-stop career center refers the prospective employee after
67 verifying his or employment eligibility and issues to the agency
68 a certification as provided in s. 445.009(12).

69 Section 5. Section 448.32, Florida Statutes, is created to
70 read:

71 448.32 Employment of unauthorized aliens; noncriminal



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72 violation; civil fines.-

73 (1) It is a noncriminal violation as defined in s.
74 775.08(3) for an employer to have in employment a person hired
75 on or after July 1, 2012, who is an unauthorized alien if the
76 employer did not:

77 (a) Verify the employment eligibility of the person through
78 the E-Verify Program before making an offer of employment and
79 conclude, based on the verification, that the person was
80 authorized to work in the United States; or

81 (b) Rely in good faith upon an employment referral from a
82 one-stop career center and retain a certification from the one-
83 stop center that the person is authorized to work in the United
84 States, as provided under s. 445.009.

85 (2) Each violation of this section is punishable as
86 provided in s. 775.082(5).

87 (a) The first violation is punishable by a civil fine of
88 not more than \$500, multiplied by the number of unauthorized
89 aliens with respect to whom the violation occurred.

90 (b) The second violation is punishable by a civil fine of
91 not more than \$1,000, multiplied by the number of aliens with
92 respect to whom the violation occurred.

93 (c) The third or subsequent violation is punishable by a
94 civil fine of not more than \$1,500, multiplied by the number of
95 aliens with respect to whom the violation occurred.

96 (3) A person who has actual or constructive knowledge that
97 an employer employs, or has within the last 90 days employed, an
98 unauthorized alien may file a complaint with the state attorney
99 or Attorney General. The state attorney or Attorney General may
100 enforce this section if there is reasonable cause to believe



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101 that this section has been violated and may commence a civil or
102 administrative action and seek such other relief as may be
103 appropriate.

104 (4) This section does not apply to an employer that is an
105 agency.

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107
108 ===== T I T L E A M E N D M E N T =====

109 And the title is amended as follows:

110 Delete line 341

111 and insert:

112 verification; directing the Division of Statutory
113 Revision to designate specified new statutory sections
114 as part III of ch. 448, F.S., and name the part
115 "Unauthorized Aliens"; creating s. 448.30, F.S.;
116 providing definitions relating to employment and
117 unauthorized aliens; creating s. 448.31, F.S.;
118 requiring state agencies to register with and use the
119 federal program for electronic verification of
120 employment eligibility in order to verify the
121 employment eligibility of prospective employees before
122 they are offered employment; providing an exception;
123 creating s. 448.32, F.S.; prescribing a noncriminal
124 violation for employing an unauthorized alien under
125 specified circumstances; providing for civil fines;
126 authorizing a person with knowledge of a violation to
127 file a complaint; providing for enforcement; providing
128 an exception to application of the noncriminal
129 violation; providing definitions relating to



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administration