

By: Chisum, Pena, Harless, Keffer, et al.

H.B. No. 3252

Substitute the following for H.B. No. 3252:

By: Harless

C.S.H.B. No. 3252

A BILL TO BE ENTITLED

1

AN ACT

2 relating to a prohibition against the knowing employment of  
3 unauthorized foreign nationals and to a biennial report regarding  
4 reported violations.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The purpose of this Act is to provide for the  
7 execution of the policies of the federal Immigration and  
8 Nationality Act (8 U.S.C. Section 1101 et seq.), identify  
9 employment practices that violate Sections 1324(a)(1) and (a)(2) of  
10 that Act, and make available to this state the full productive  
11 employment capacities of United States citizens, lawful permanent  
12 residents, and employment-authorized foreign-born nationals in  
13 this state.

14 SECTION 2. Subtitle B, Title 2, Labor Code, is amended by  
15 adding Chapter 53 to read as follows:

16 CHAPTER 53. EMPLOYMENT OF UNAUTHORIZED FOREIGN NATIONALS

17 SUBCHAPTER A. GENERAL PROVISIONS

18 Sec. 53.001. DEFINITIONS. In this chapter:

19 (1) "Commission" means the Texas Workforce  
20 Commission.

21 (2) "Employee" means an individual who is employed by  
22 an employer for compensation.

23 (3) "Employer" means a person who:

24 (A) employs one or more employees; or

1                   (B) acts directly or indirectly in the interests  
2 of an employer in relation to an employee.

3                   (4) "E-Verify program" means the electronic  
4 verification of work authorization program of the federal Illegal  
5 Immigration Reform and Immigrant Responsibility Act of 1996 (Pub.  
6 L. No. 104-208, reprinted in note, 8 U.S.C. Section 1324a),  
7 operated by the United States Department of Homeland Security, or a  
8 successor work authorization program designated by the United  
9 States Department of Homeland Security or another federal agency  
10 authorized to verify the work authorization status of newly hired  
11 employees under the federal Immigration Reform and Control Act of  
12 1986 (8 U.S.C. Section 1101 et seq.).

13                   (5) "Knowingly" means, with respect to employing,  
14 recruiting, or referring an unauthorized foreign national, having  
15 actual knowledge that a person is an unauthorized foreign national  
16 or failing to perform a legal duty to determine the employment  
17 eligibility status of an unauthorized foreign national.

18                   (6) "Lawful resident alien" means a person who is  
19 entitled to lawful residence in the United States under the federal  
20 Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).

21                   (7) "Lawful resident verification information" means  
22 the documentation required by the United States Department of  
23 Homeland Security for completing the employment eligibility  
24 verification form commonly referred to as the I-9. Documentation  
25 that satisfies the requirements of the Form I-9 at the time of  
26 employment is lawful resident verification information.

27                   (8) "Unauthorized foreign national" means a person who

1 at the time of employment is neither an alien who is lawfully  
2 admitted for permanent residence in the United States under the  
3 federal Immigration and Nationality Act (8 U.S.C. Section 1101 et  
4 seq.) nor authorized to be employed by that Act or the United States  
5 attorney general.

6 Sec. 53.002. RULES. The commission shall adopt rules for  
7 the administration of this chapter.

8 [Sections 53.003-53.050 reserved for expansion]

9 SUBCHAPTER B. PROHIBITION AGAINST KNOWING EMPLOYMENT OF  
10 UNAUTHORIZED FOREIGN NATIONAL

11 Sec. 53.051. PROHIBITION AGAINST KNOWING EMPLOYMENT OF  
12 UNAUTHORIZED FOREIGN NATIONAL. (a) An employer may not knowingly  
13 employ, or recruit or refer for a fee for employment, an  
14 unauthorized foreign national.

15 (b) An employer has not violated Subsection (a) in regard to  
16 a particular employee if:

17 (1) the employer, at least four calendar days after  
18 the commencement of the employee's employment, requested from the  
19 employee and received and documented in the employee's employment  
20 record lawful resident verification information consistent with  
21 employer requirements under the federal Immigration Reform and  
22 Control Act of 1986 (8 U.S.C. Section 1101 et seq.); and

23 (2) the lawful resident verification information  
24 provided by the employee later was determined to be false.

25 (c) An employer has not violated Subsection (a) in regard to  
26 a particular employee if the employer verified the immigrant status  
27 of the person at least four calendar days after the commencement of

1 the employee's employment through the E-Verify program.

2 [Sections 53.052-53.100 reserved for expansion]

3 SUBCHAPTER C. FILING COMPLAINTS

4 Sec. 53.101. FILING COMPLAINT. (a) A person who has reason  
5 to believe that an employer has violated Section 53.051(a) may file  
6 a complaint with the commission.

7 (b) A complaint must:

8 (1) be in writing on a form prescribed by the  
9 commission; and

10 (2) be verified by the person making the complaint.

11 (c) A person may file a complaint under this section:

12 (1) in person at an office of the commission; or

13 (2) by mailing the complaint to an address designated  
14 by the commission.

15 [Sections 53.102-53.150 reserved for expansion]

16 SUBCHAPTER D. BIENNIAL REPORT TO LEGISLATURE

17 Sec. 53.151. BIENNIAL REPORT TO LEGISLATURE. (a) Not later  
18 than November 1 of each even-numbered year, the commission shall  
19 prepare and submit to the governor and the legislature a written  
20 report based on nonidentifiable, summary data compiled by the  
21 commission from complaints filed under Subchapter C during the two  
22 preceding state fiscal years.

23 (b) The report must include any relevant information and  
24 analysis the commission determines would assist the legislature in  
25 making informed decisions regarding the issue of illegal  
26 immigration as it relates to employment in this state.

27 (c) The report may not include any information that could

1 reasonably be expected to reveal the identity of a particular  
2 employer or employee or of a person who files a complaint with the  
3 commission under Subchapter C.

4 SECTION 3. Chapter 53, Labor Code, as added by this Act,  
5 applies only to a violation that occurs on or after the effective  
6 date of this Act.

7 SECTION 4. This Act takes effect September 1, 2011.