

By: Lowe

H.B. No. 3681

A BILL TO BE ENTITLED

AN ACT

1
2 relating to requiring certain public and private employers in this
3 state to participate in the federal electronic verification of
4 employment authorization program, or E-verify, and notice
5 regarding certain persons whose eligibility to work in the United
6 States cannot be verified; creating a criminal offense.

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

8 SECTION 1. Chapter 673, Government Code, is transferred to
9 Subtitle A, Title 6, Government Code, redesignated as Chapter 621,
10 Government Code, and amended to read as follows:

11 CHAPTER 621 [~~673~~]. VERIFICATION OF EMPLOYEE INFORMATION

12 Sec. 621.001 [~~673.001~~]. DEFINITIONS. In this chapter:

13 (1) "Department" means the Department of Public
14 Safety.

15 (2) "E-verify program" means the electronic
16 verification of employment authorization program of the federal
17 Illegal Immigration Reform and Immigrant Responsibility Act of 1996
18 (Pub. L. No. 104-208, reprinted in note, 8 U.S.C. Section 1324a),
19 operated by the United States Department of Homeland Security, or a
20 successor employment authorization program designated by the
21 United States Department of Homeland Security or other federal
22 agency authorized to verify the employment authorization status of
23 newly hired employees under the federal Immigration Reform and
24 Control Act of 1986 (8 U.S.C. Section 1101 et seq.).

1 (3) "Governmental entity" means a state agency or
2 political subdivision of this state.

3 (4) "Person not lawfully present" has the meaning
4 assigned by Section 53.001, Labor Code.

5 ~~[(2) "State agency" has the meaning assigned by~~
6 ~~Section 659.101.]~~

7 Sec. 621.002 [~~673.002~~]. VERIFICATION. A governmental
8 entity [~~state agency~~] shall register and participate in the
9 E-verify program to verify information of all new employees.

10 Sec. 621.003 [~~673.003~~]. RULES. The Texas Workforce
11 Commission shall adopt rules and prescribe forms to implement this
12 chapter.

13 Sec. 621.004. NOTICE. (a) A governmental entity that
14 receives notice from a federal agency authorized to operate the
15 E-verify program that the agency attempted but was not able to
16 verify that a person seeking employment with the entity is not a
17 person not lawfully present shall, not later than the fifth day
18 after the date of receiving the notice, forward the contents of the
19 notice to the department.

20 (b) On receipt of a notice forwarded by a governmental
21 entity under Subsection (a), the department shall determine whether
22 the person who is the subject of the notice may be a person not
23 lawfully present. If the department determines that the person may
24 be a person not lawfully present, the department shall notify the
25 United States Immigration and Customs Enforcement of its
26 determination.

27 (c) The department may adopt rules necessary to implement

1 this section.

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

4 CHAPTER 53. EMPLOYMENT OF PERSONS NOT LAWFULLY PRESENT

5 Sec. 53.001. DEFINITIONS. In this chapter:

6 (1) "Department" means the Department of Public
7 Safety.

8 (2) "Employee" means an individual who is employed by
9 an employer for compensation. The term includes an individual
10 employed on a part-time basis.

11 (3) "Employer" means a person, other than a
12 governmental entity, who:

13 (A) employs at least one employee; or

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

16 (4) "E-verify program" has the meaning assigned by
17 Section 673.001, Government Code.

18 (5) "Person not lawfully present" means a person who,
19 at the time of employment, is not:

20 (A) a citizen or national of the United States;
21 or

22 (B) an alien who is lawfully admitted for
23 permanent residence in the United States under the federal
24 Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) or
25 authorized to be employed by that Act or by the United States
26 attorney general.

27 Sec. 53.002. VERIFICATION. An employer shall register and

1 participate in the E-verify program to verify information of all
2 new employees.

3 Sec. 53.003. NOTICE. (a) An employer that receives notice
4 from a federal agency authorized to operate the E-verify program
5 that the agency attempted but was not able to verify that a person
6 seeking employment with the employer is not a person not lawfully
7 present shall, not later than the fifth day after the date of
8 receiving the notice, forward the contents of the notice to the
9 department.

10 (b) On receipt of a notice forwarded by an employer under
11 Subsection (a), the department shall determine whether the person
12 who is the subject of the notice may be a person not lawfully
13 present. If the department determines that the person may be a
14 person not lawfully present, the department shall notify the United
15 States Immigration and Customs Enforcement of its determination.

16 (c) The department may adopt rules necessary to implement
17 this section.

18 Sec. 53.004. CRIMINAL PENALTY. (a) An employer commits an
19 offense if the employer violates this chapter.

20 (b) An offense under this section is a Class A misdemeanor.

21 (c) It is not a defense to prosecution under this section
22 that the employer classified the person not lawfully present as an
23 independent contractor if the person was not properly classified in
24 accordance with Chapter 201.

25 SECTION 3. This Act takes effect January 1, 2026.