
HOUSE COMMITTEE AMENDMENTS

2016 Regular Session

Substitute for Original House Bill No. 661 by Representative Hunter as proposed by the House Committee on Labor and Industrial Relations

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To amend and reenact R.S. 23:992 and 993 and to repeal R.S. 23:995 and 996, relative to the employment of unauthorized aliens; to provide for the verification of work eligibility; to provide for the suspension of the business license of any employer who hires unauthorized aliens; to provide for the procedure for prosecution; to provide with respect to civil suits; to repeal preempted laws regarding fines; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:992 and 993 are hereby amended and reenacted to read as follows:

§992.2. Bar to prosecution

No person shall be prosecuted ~~under~~ pursuant to the provisions of this Part upon a showing he has verified the work authorization status of an employee by using the United States Citizenship and Immigration Services E-Verify system or that each and every person in his employ has provided a picture identification and one of the following documents of which the employer has retained a copy for his records:

- (1) United States birth certificate or certified birth card.
- (2) Naturalization certificate.
- (3) Certificate of citizenship.
- (4) Alien registration receipt card.
- (5) United States immigration form I-94 (with employment authorized stamp).

§993. Penalties

~~The penalties for any person who violates~~ A. Upon discovering the employment of any unauthorized alien during a routine inspection of a business or upon the receipt of information by a private citizen, the executive director of the Louisiana Workforce Commission shall, after confirming the violation has occurred, notify the appropriate occupational licensing authority to temporarily suspend the employer's occupational license.

B. The executive director shall report the violation to the district attorney of the parish in which the unauthorized alien was employed and the district attorney shall institute proceedings for the prosecution of the violation of R.S. 23:992.

C. Upon a finding of guilt, the court shall order the licensing entity to suspend any occupational license in the state that is held by the employer in violation of R.S. 23:992 shall be as follows:

~~(1) A first violation shall be punishable by a fine of not more than five hundred dollars, regardless of the number of aliens employed, hired, recruited, or referred in violation of R.S. 23:992.~~

~~(2) A second violation shall be punishable by a fine of not more than three hundred fifty dollars for each alien employed, hired, recruited, or referred in violation of R.S. 23:992.~~

~~(3) A third or subsequent violation shall be punishable by a fine of not less than five hundred dollars nor more than two thousand dollars for each alien employed, hired, recruited, or referred in violation of R.S. 23:992.~~

(1) For a first violation, a period between one year and five years.

(2) For a second violation, a period between three years and five years.

(3) For a third violation, a permanent revocation of all occupational licenses.

D. The term of the occupational license suspension ordered by the court for a violation of R.S. 23:992 shall be made at the discretion of the court with the consideration of the following factors, if relevant:

(1) The number of unauthorized aliens employed by the employer.

(2) Any prior misconduct by the employer.

(3) Whether the employer made a good-faith effort to verify the work authorization status of each employee.

(4) The role of the directors, officers, or principals of the business in the violation.

E.(1) After the term of the occupational license suspension ordered by the court is complete, an employer may apply to the applicable occupational licensing entity for reinstatement consistent with the licensing entity's rules and procedures.

(2) When an employer has had his occupational license reinstated after a suspension for a violation of R.S. 23:992, pursuant its authority to inspect employers for compliance with labor laws, the Louisiana Workforce Commission shall inspect the employer's business at least quarterly to ensure compliance. If the Louisiana Workforce Commission inspects a business for compliance with R.S. 23:992 pursuant to the provisions of this Paragraph more frequently than the usual schedule and budget limits, the employer shall be liable for the costs to the commission for the inspection.

F. A violation of R.S. 23:992 shall be determined by each occasion an unauthorized alien is found to be employed by an employer, regardless of the number of unauthorized aliens employed at the time of discovery.

G. No employer found to be in violation of R.S. 23:992 shall be eligible to receive any other occupational license, create a new business, corporation, or limited liability partnership, or otherwise participate as an owner or shareholder in any other business after the revocation of his occupational license in the state or during the term of the suspension of his license.

* * *

Section 2. R.S. 23:995 and 996 are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB Draft

2016 Regular Session

Abstract: Provides for the suspension of occupational licenses for employers who hire unauthorized aliens.

Present law prohibits an employer from employing any unauthorized alien who is not entitled to lawfully reside or work in the U.S. Proposed law retains present law.

Present law provides that the employer may use either a picture ID in addition to a U.S. birth certificate, naturalization certificate, alien registration receipt card, or U.S. immigration form I-94, or utilize the federal E-Verify system to determine employment eligibility. Proposed law retains present law.

Present law provides civil and criminal fines for initial and subsequent violations as well as a procedure for the suspension of an employer's license to do business in the state for repeated violations.

Proposed law removes the authority for the imposition of fines and civil penalties for a violation of present law, retaining and expanding the suspension and revocation of occupational licensure for businesses in violation of present law.

Proposed law provides that when the executive director of the Louisiana Workforce Commission (LWC), learns that an employer has employed unauthorized aliens, he shall notify the licensing entity for a temporary suspension of the employer's occupational license.

Proposed law further requires the executive director to notify the local district attorney to follow through with prosecution and suspension or revocation of an occupational license at the judge's discretion, as follows:

- (1) For a first violation, a period between one year and five years.
- (2) For a second violation, a period between three years and five years.
- (3) For a third violation, a permanent revocation of all occupational licenses.

Proposed law recommends that the court consider the following factors when determining the length of licensure suspension:

- (1) The number of unauthorized aliens employed by the employer.
- (2) Any prior misconduct by the employer.
- (3) Whether the employer made a good-faith effort to verify the work authorization status of each employee.
- (4) The role of the directors, officers, or principals of the business in the violation.

Proposed law allows an employer to apply for reinstatement of his occupational license with the appropriate licensing entity after the term of his suspension is complete.

Proposed law provides that upon reinstatement of an employer's license, LWC is required to inspect the business at least every quarter to ensure compliance with present law.

Proposed law further requires that the employer shall reimburse LWC for the cost of inspection if the number of inspections required is more than the number for which LWC has planned and budgeted.

Proposed law provides that the violations are counted by the number of separate occurrences; not by the number of unauthorized aliens per occurrence.

Proposed law prohibits an employer who has been found guilty of a violation of present law from receiving any other occupational license or otherwise start a new business during the suspension of his occupational license.

(Amends R.S. 23:992 and 993; Repeals R.S. 23:995 and 996)