

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 279
HOUSE BILL 2779

AN ACT

AMENDING SECTION 13-2009, ARIZONA REVISED STATUTES; AMENDING TITLE 23,
CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; MAKING
APPROPRIATIONS; RELATING TO EMPLOYMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-2009, Arizona Revised Statutes, is amended to
3 read:

4 13-2009. Aggravated taking identity of another person or
5 entity; classification

6 A. A person commits aggravated taking the identity of another person
7 or entity if the person knowingly takes, purchases, manufactures, records,
8 possesses or uses any personal identifying information or entity identifying
9 information of either:

10 1. ~~Five~~ THREE or more other persons or entities, including real or
11 fictitious persons or entities, without the consent of the other persons or
12 entities, with the intent to obtain or use the other persons' or entities'
13 identities for any unlawful purpose or to cause loss to the persons or
14 entities whether or not the persons or entities actually suffer any economic
15 loss.

16 2. Another person or entity, including a real or fictitious person or
17 entity, without the consent of that other person or entity, with the intent
18 to obtain or use the other person's or entity's identity for any unlawful
19 purpose and causes another person or entity to suffer an economic loss of
20 three thousand dollars or more.

21 3. ANOTHER PERSON, INCLUDING A REAL OR FICTITIOUS PERSON, WITH THE
22 INTENT TO OBTAIN EMPLOYMENT.

23 B. In an action for aggravated taking the identity of another person
24 or entity under subsection A, paragraph 1 of this section, proof of
25 possession out of the regular course of business of the personal identifying
26 information or entity identifying information of ~~five~~ THREE or more other
27 persons or entities may give rise to an inference that the personal
28 identifying information or entity identifying information of the ~~five~~ THREE
29 or more other persons or entities was possessed for an unlawful purpose.

30 C. This section does not apply to a violation of section 4-241 by a
31 person who is under twenty-one years of age.

32 D. Aggravated taking the identity of another person or entity is a
33 class 3 felony.

34 Sec. 2. Title 23, chapter 2, Arizona Revised Statutes, is amended by
35 adding article 2, to read:

36 ARTICLE 2. EMPLOYMENT OF UNAUTHORIZED ALIENS

37 23-211. Definitions

38 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

39 1. "AGENCY" MEANS ANY AGENCY, DEPARTMENT, BOARD OR COMMISSION OF THIS
40 STATE OR A COUNTY, CITY OR TOWN THAT ISSUES A LICENSE FOR PURPOSES OF
41 OPERATING A BUSINESS IN THIS STATE.

42 2. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT VERIFICATION PILOT
43 PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND
44 SECURITY AND THE SOCIAL SECURITY ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

1 3. "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS EMPLOYMENT SERVICES FOR AN
2 EMPLOYER PURSUANT TO AN EMPLOYMENT RELATIONSHIP BETWEEN THE EMPLOYEE AND
3 EMPLOYER.

4 4. "EMPLOYER" MEANS ANY INDIVIDUAL OR TYPE OF ORGANIZATION THAT
5 TRANSACTS BUSINESS IN THIS STATE, THAT HAS A LICENSE ISSUED BY AN AGENCY IN
6 THIS STATE AND THAT EMPLOYS ONE OR MORE INDIVIDUALS WHO PERFORM EMPLOYMENT
7 SERVICES IN THIS STATE. EMPLOYER INCLUDES THIS STATE, ANY POLITICAL
8 SUBDIVISION OF THIS STATE AND SELF-EMPLOYED PERSONS.

9 5. "INTENTIONALLY" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-105.

10 6. "KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN" MEANS THE ACTIONS
11 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324A. THIS TERM SHALL BE
12 INTERPRETED CONSISTENTLY WITH 8 UNITED STATES CODE SECTION 1324A AND ANY
13 APPLICABLE FEDERAL RULES AND REGULATIONS.

14 7. "LICENSE":

15 (a) MEANS ANY AGENCY PERMIT, CERTIFICATE, APPROVAL, REGISTRATION,
16 CHARTER OR SIMILAR FORM OF AUTHORIZATION THAT IS REQUIRED BY LAW AND THAT IS
17 ISSUED BY ANY AGENCY FOR THE PURPOSES OF OPERATING A BUSINESS IN THIS STATE.

18 (b) INCLUDES:

19 (i) ARTICLES OF INCORPORATION UNDER TITLE 10.

20 (ii) A CERTIFICATE OF PARTNERSHIP, A PARTNERSHIP REGISTRATION OR
21 ARTICLES OF ORGANIZATION UNDER TITLE 29.

22 (iii) A GRANT OF AUTHORITY ISSUED UNDER TITLE 10, CHAPTER 15.

23 (iv) ANY TRANSACTION PRIVILEGE TAX LICENSE.

24 (c) DOES NOT INCLUDE:

25 (i) ANY LICENSE ISSUED PURSUANT TO TITLE 45 OR 49 OR RULES ADOPTED
26 PURSUANT TO THOSE TITLES.

27 (ii) ANY PROFESSIONAL LICENSE.

28 8. "UNAUTHORIZED ALIEN" MEANS AN ALIEN WHO DOES NOT HAVE THE LEGAL
29 RIGHT OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS
30 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324a(h)(3).

31 23-212. Employment of unauthorized aliens; prohibition; false
32 and frivolous complaints; violation; classification;
33 license suspension and revocation

34 A. AN EMPLOYER SHALL NOT INTENTIONALLY EMPLOY AN UNAUTHORIZED ALIEN OR
35 KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN.

36 B. ON RECEIPT OF A COMPLAINT THAT AN EMPLOYER ALLEGEDLY INTENTIONALLY
37 EMPLOYS AN UNAUTHORIZED ALIEN OR KNOWINGLY EMPLOYS AN UNAUTHORIZED ALIEN, THE
38 ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL INVESTIGATE WHETHER THE EMPLOYER
39 HAS VIOLATED SUBSECTION A. WHEN INVESTIGATING A COMPLAINT, THE ATTORNEY
40 GENERAL OR COUNTY ATTORNEY SHALL VERIFY THE WORK AUTHORIZATION OF THE ALLEGED
41 UNAUTHORIZED ALIEN WITH THE FEDERAL GOVERNMENT PURSUANT TO 8 UNITED STATES
42 CODE SECTION 1373(c). A STATE, COUNTY OR LOCAL OFFICIAL SHALL NOT ATTEMPT TO
43 INDEPENDENTLY MAKE A FINAL DETERMINATION ON WHETHER AN ALIEN IS AUTHORIZED TO
44 WORK IN THE UNITED STATES. AN ALIEN'S IMMIGRATION STATUS OR WORK
45 AUTHORIZATION STATUS SHALL BE VERIFIED WITH THE FEDERAL GOVERNMENT PURSUANT

1 TO 8 UNITED STATES CODE SECTION 1373(c). A PERSON WHO KNOWINGLY FILES A
2 FALSE AND FRIVOLOUS COMPLAINT UNDER THIS SUBSECTION IS GUILTY OF A CLASS 3
3 MISDEMEANOR.

4 C. IF, AFTER AN INVESTIGATION, THE ATTORNEY GENERAL OR COUNTY ATTORNEY
5 DETERMINES THAT THE COMPLAINT IS NOT FRIVOLOUS:

6 1. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL NOTIFY THE UNITED
7 STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OF THE UNAUTHORIZED ALIEN.

8 2. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL NOTIFY THE LOCAL LAW
9 ENFORCEMENT AGENCY OF THE UNAUTHORIZED ALIEN.

10 3. THE ATTORNEY GENERAL SHALL NOTIFY THE APPROPRIATE COUNTY ATTORNEY
11 TO BRING AN ACTION PURSUANT TO SUBSECTION D IF THE COMPLAINT WAS ORIGINALLY
12 FILED WITH THE ATTORNEY GENERAL.

13 D. AN ACTION FOR A VIOLATION OF SUBSECTION A SHALL BE BROUGHT AGAINST
14 THE EMPLOYER BY THE COUNTY ATTORNEY IN THE COUNTY WHERE THE UNAUTHORIZED
15 ALIEN EMPLOYEE IS EMPLOYED. THE COUNTY ATTORNEY SHALL NOT BRING AN ACTION
16 AGAINST ANY EMPLOYER FOR ANY VIOLATION OF SUBSECTION A THAT OCCURS BEFORE
17 JANUARY 1, 2008. A SECOND VIOLATION OF THIS SECTION SHALL BE BASED ONLY ON
18 AN UNAUTHORIZED ALIEN WHO IS EMPLOYED BY THE EMPLOYER AFTER AN ACTION HAS
19 BEEN BROUGHT FOR A VIOLATION OF SUBSECTION A.

20 E. FOR ANY ACTION IN SUPERIOR COURT UNDER THIS SECTION, THE COURT
21 SHALL EXPEDITE THE ACTION, INCLUDING ASSIGNING THE HEARING AT THE EARLIEST
22 PRACTICABLE DATE.

23 F. ON A FINDING OF A VIOLATION OF SUBSECTION A:

24 1. FOR A FIRST VIOLATION DURING A THREE YEAR PERIOD THAT IS A KNOWING
25 VIOLATION OF SUBSECTION A, THE COURT:

26 (a) SHALL ORDER THE EMPLOYER TO TERMINATE THE EMPLOYMENT OF ALL
27 UNAUTHORIZED ALIENS.

28 (b) SHALL ORDER THE EMPLOYER TO BE SUBJECT TO A THREE YEAR
29 PROBATIONARY PERIOD. DURING THE PROBATIONARY PERIOD THE EMPLOYER SHALL FILE
30 QUARTERLY REPORTS WITH THE COUNTY ATTORNEY OF EACH NEW EMPLOYEE WHO IS HIRED
31 BY THE EMPLOYER AT THE SPECIFIC LOCATION WHERE THE UNAUTHORIZED ALIEN
32 PERFORMED WORK.

33 (c) SHALL ORDER THE EMPLOYER TO FILE A SIGNED SWORN AFFIDAVIT WITH THE
34 COUNTY ATTORNEY WITHIN THREE BUSINESS DAYS AFTER THE ORDER IS ISSUED. THE
35 AFFIDAVIT SHALL STATE THAT THE EMPLOYER HAS TERMINATED THE EMPLOYMENT OF ALL
36 UNAUTHORIZED ALIENS AND THAT THE EMPLOYER WILL NOT INTENTIONALLY OR KNOWINGLY
37 EMPLOY AN UNAUTHORIZED ALIEN. THE COURT SHALL ORDER THE APPROPRIATE AGENCIES
38 TO SUSPEND ALL LICENSES SUBJECT TO THIS SUBDIVISION THAT ARE HELD BY THE
39 EMPLOYER IF THE EMPLOYER FAILS TO FILE A SIGNED SWORN AFFIDAVIT WITH THE
40 COUNTY ATTORNEY WITHIN THREE BUSINESS DAYS AFTER THE ORDER IS ISSUED. ALL
41 LICENSES THAT ARE SUSPENDED UNDER THIS SUBDIVISION SHALL REMAIN SUSPENDED
42 UNTIL THE EMPLOYER FILES A SIGNED SWORN AFFIDAVIT WITH THE COUNTY ATTORNEY.
43 NOTWITHSTANDING ANY OTHER LAW, ON FILING OF THE AFFIDAVIT THE SUSPENDED
44 LICENSES SHALL BE REINSTATED IMMEDIATELY BY THE APPROPRIATE AGENCIES FOR THE
45 PURPOSES OF THIS SUBDIVISION, THE LICENSES THAT ARE SUBJECT TO SUSPENSION

1 UNDER THIS SUBDIVISION ARE ALL LICENSES THAT ARE HELD BY THE EMPLOYER AND
2 THAT ARE NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS AT THE EMPLOYER'S
3 BUSINESS LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK. IF A LICENSE
4 IS NOT NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS AT THE SPECIFIC LOCATION
5 WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK, BUT A LICENSE IS NECESSARY TO
6 OPERATE THE EMPLOYER'S BUSINESS IN GENERAL, THE LICENSES THAT ARE SUBJECT TO
7 SUSPENSION UNDER THIS SUBDIVISION ARE ALL LICENSES THAT ARE HELD BY THE
8 EMPLOYER AT THE EMPLOYER'S PRIMARY PLACE OF BUSINESS. ON RECEIPT OF THE
9 COURT'S ORDER AND NOTWITHSTANDING ANY OTHER LAW, THE APPROPRIATE AGENCIES
10 SHALL SUSPEND THE LICENSES ACCORDING TO THE COURT'S ORDER. THE COURT SHALL
11 SEND A COPY OF THE COURT'S ORDER TO THE ATTORNEY GENERAL AND THE ATTORNEY
12 GENERAL SHALL MAINTAIN THE COPY PURSUANT TO SUBSECTION G.

13 (d) MAY ORDER THE APPROPRIATE AGENCIES TO SUSPEND ALL LICENSES
14 DESCRIBED IN SUBDIVISION (c) OF THIS PARAGRAPH THAT ARE HELD BY THE EMPLOYER
15 FOR NOT TO EXCEED TEN BUSINESS DAYS. THE COURT SHALL BASE ITS DECISION TO
16 SUSPEND UNDER THIS SUBDIVISION ON ANY EVIDENCE OR INFORMATION SUBMITTED TO IT
17 DURING THE ACTION FOR A VIOLATION OF THIS SUBSECTION AND SHALL CONSIDER THE
18 FOLLOWING FACTORS, IF RELEVANT:

19 (i) THE NUMBER OF UNAUTHORIZED ALIENS EMPLOYED BY THE EMPLOYER.

20 (ii) ANY PRIOR MISCONDUCT BY THE EMPLOYER.

21 (iii) THE DEGREE OF HARM RESULTING FROM THE VIOLATION.

22 (iv) WHETHER THE EMPLOYER MADE GOOD FAITH EFFORTS TO COMPLY WITH ANY
23 APPLICABLE REQUIREMENTS.

24 (v) THE DURATION OF THE VIOLATION.

25 (vi) THE ROLE OF THE DIRECTORS, OFFICERS OR PRINCIPALS OF THE EMPLOYER
26 IN THE VIOLATION.

27 (vii) ANY OTHER FACTORS THE COURT DEEMS APPROPRIATE.

28 2. FOR A FIRST VIOLATION DURING A FIVE YEAR PERIOD THAT IS AN
29 INTENTIONAL VIOLATION OF SUBSECTION A, THE COURT SHALL:

30 (a) ORDER THE EMPLOYER TO TERMINATE THE EMPLOYMENT OF ALL UNAUTHORIZED
31 ALIENS.

32 (b) ORDER THE EMPLOYER TO BE SUBJECT TO A FIVE YEAR PROBATIONARY
33 PERIOD. DURING THE PROBATIONARY PERIOD THE EMPLOYER SHALL FILE QUARTERLY
34 REPORTS WITH THE COUNTY ATTORNEY OF EACH NEW EMPLOYEE WHO IS HIRED BY THE
35 EMPLOYER AT THE SPECIFIC LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED
36 WORK.

37 (c) ORDER THE APPROPRIATE AGENCIES TO SUSPEND ALL LICENSES, DESCRIBED
38 IN SUBDIVISION (d) OF THIS PARAGRAPH THAT ARE HELD BY THE EMPLOYER FOR A
39 MINIMUM OF TEN DAYS. THE COURT SHALL BASE ITS DECISION ON THE LENGTH OF THE
40 SUSPENSION UNDER THIS SUBDIVISION ON ANY EVIDENCE OR INFORMATION SUBMITTED TO
41 IT DURING THE ACTION FOR A VIOLATION OF THIS SUBSECTION AND SHALL CONSIDER
42 THE FOLLOWING FACTORS, IF RELEVANT:

43 (i) THE NUMBER OF UNAUTHORIZED ALIENS EMPLOYED BY THE EMPLOYER.

44 (ii) ANY PRIOR MISCONDUCT BY THE EMPLOYER.

45 (iii) THE DEGREE OF HARM RESULTING FROM THE VIOLATION.

1 (iv) WHETHER THE EMPLOYER MADE GOOD FAITH EFFORTS TO COMPLY WITH ANY
2 APPLICABLE REQUIREMENTS.

3 (v) THE DURATION OF THE VIOLATION.

4 (vi) THE ROLE OF THE DIRECTORS, OFFICERS OR PRINCIPALS OF THE EMPLOYER
5 IN THE VIOLATION.

6 (vii) ANY OTHER FACTORS THE COURT DEEMS APPROPRIATE.

7 (d) ORDER THE EMPLOYER TO FILE A SIGNED SWORN AFFIDAVIT WITH THE
8 COUNTY ATTORNEY. THE AFFIDAVIT SHALL STATE THAT THE EMPLOYER HAS TERMINATED
9 THE EMPLOYMENT OF ALL UNAUTHORIZED ALIENS AND THAT THE EMPLOYER WILL NOT
10 INTENTIONALLY OR KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN. ALL LICENSES THAT
11 ARE SUSPENDED UNDER THIS SUBDIVISION SHALL REMAIN SUSPENDED UNTIL THE
12 EMPLOYER FILES A SIGNED SWORN AFFIDAVIT WITH THE COUNTY ATTORNEY. FOR THE
13 PURPOSES OF THIS SUBDIVISION, THE LICENSES THAT ARE SUBJECT TO SUSPENSION
14 UNDER THIS SUBDIVISION ARE ALL LICENSES THAT ARE HELD BY THE EMPLOYER AND
15 THAT ARE NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS AT THE EMPLOYER'S
16 BUSINESS LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK. IF A LICENSE
17 IS NOT NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS AT THE SPECIFIC LOCATION
18 WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK, BUT A LICENSE IS NECESSARY TO
19 OPERATE THE EMPLOYER'S BUSINESS IN GENERAL, THE LICENSES THAT ARE SUBJECT TO
20 SUSPENSION UNDER THIS SUBDIVISION ARE ALL LICENSES THAT ARE HELD BY THE
21 EMPLOYER AT THE EMPLOYER'S PRIMARY PLACE OF BUSINESS. ON RECEIPT OF THE
22 COURT'S ORDER AND NOTWITHSTANDING ANY OTHER LAW, THE APPROPRIATE AGENCIES
23 SHALL SUSPEND THE LICENSES ACCORDING TO THE COURT'S ORDER. THE COURT SHALL
24 SEND A COPY OF THE COURT'S ORDER TO THE ATTORNEY GENERAL AND THE ATTORNEY
25 GENERAL SHALL MAINTAIN THE COPY PURSUANT TO SUBSECTION G.

26 3. FOR A SECOND VIOLATION OF SUBSECTION A DURING THE PERIOD OF
27 PROBATION, THE COURT SHALL ORDER THE APPROPRIATE AGENCIES TO PERMANENTLY
28 REVOKE ALL LICENSES THAT ARE HELD BY THE EMPLOYER AND THAT ARE NECESSARY TO
29 OPERATE THE EMPLOYER'S BUSINESS AT THE EMPLOYER'S BUSINESS LOCATION WHERE THE
30 UNAUTHORIZED ALIEN PERFORMED WORK. IF A LICENSE IS NOT NECESSARY TO OPERATE
31 THE EMPLOYER'S BUSINESS AT THE SPECIFIC LOCATION WHERE THE UNAUTHORIZED ALIEN
32 PERFORMED WORK, BUT A LICENSE IS NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS
33 IN GENERAL, THE COURT SHALL ORDER THE APPROPRIATE AGENCIES TO PERMANENTLY
34 REVOKE ALL LICENSES THAT ARE HELD BY THE EMPLOYER AT THE EMPLOYER'S PRIMARY
35 PLACE OF BUSINESS. ON RECEIPT OF THE ORDER AND NOTWITHSTANDING ANY OTHER
36 LAW, THE APPROPRIATE AGENCIES SHALL IMMEDIATELY REVOKE THE LICENSES.

37 G. THE ATTORNEY GENERAL SHALL MAINTAIN COPIES OF COURT ORDERS THAT ARE
38 RECEIVED PURSUANT TO SUBSECTION F AND SHALL MAINTAIN A DATABASE OF THE
39 EMPLOYERS WHO HAVE A FIRST VIOLATION OF SUBSECTION A AND MAKE THE COURT
40 ORDERS AVAILABLE ON THE ATTORNEY GENERAL'S WEBSITE.

41 H. ON DETERMINING WHETHER AN EMPLOYEE IS AN UNAUTHORIZED ALIEN, THE
42 COURT SHALL CONSIDER ONLY THE FEDERAL GOVERNMENT'S DETERMINATION PURSUANT TO
43 8 UNITED STATES CODE SECTION 1373(c). THE FEDERAL GOVERNMENT'S DETERMINATION
44 CREATES A REBUTTABLE PRESUMPTION OF THE EMPLOYEE'S LAWFUL STATUS. THE COURT
45 MAY TAKE JUDICIAL NOTICE OF THE FEDERAL GOVERNMENT'S DETERMINATION AND MAY

1 REQUEST THE FEDERAL GOVERNMENT TO PROVIDE AUTOMATED OR TESTIMONIAL
2 VERIFICATION PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c).

3 I. FOR THE PURPOSES OF THIS SECTION, PROOF OF VERIFYING THE EMPLOYMENT
4 AUTHORIZATION OF AN EMPLOYEE THROUGH THE BASIC PILOT PROGRAM CREATES A
5 REBUTTABLE PRESUMPTION THAT AN EMPLOYER DID NOT INTENTIONALLY EMPLOY AN
6 UNAUTHORIZED ALIEN OR KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN.

7 J. FOR THE PURPOSES OF THIS SECTION, AN EMPLOYER WHO ESTABLISHES THAT
8 IT HAS COMPLIED IN GOOD FAITH WITH THE REQUIREMENTS OF 8 UNITED STATES CODE
9 SECTION 1324b ESTABLISHES AN AFFIRMATIVE DEFENSE THAT THE EMPLOYER DID NOT
10 INTENTIONALLY OR KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN.

11 23-213. Employer actions; federal or state law compliance

12 THIS ARTICLE SHALL NOT BE CONSTRUED TO REQUIRE AN EMPLOYER TO TAKE ANY
13 ACTION THAT THE EMPLOYER BELIEVES IN GOOD FAITH WOULD VIOLATE FEDERAL OR
14 STATE LAW.

15 23-214. Verification of employment eligibility; basic pilot
16 program

17 AFTER DECEMBER 31, 2007, EVERY EMPLOYER, AFTER HIRING AN EMPLOYEE,
18 SHALL VERIFY THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYEE THROUGH THE BASIC
19 PILOT PROGRAM.

20 Sec. 3. Employer notice

21 On or before October 1, 2007, the department of revenue shall provide a
22 notice to every employer that is required to withhold tax pursuant to title
23 43, chapter 4, Arizona Revised Statutes. The notice shall explain the
24 requirements of title 23, chapter 2, article 2, Arizona Revised Statutes, as
25 added by this act, including the following:

26 1. A new state law prohibits employers from intentionally employing an
27 unauthorized alien or knowingly employing an unauthorized alien.

28 2. For a first violation of this new state law during a three year
29 period that is a knowing violation, the court will order the appropriate
30 licensing agencies to suspend all licenses held by the employer unless the
31 employer files a signed sworn affidavit with the county attorney within three
32 business days. The filed affidavit must state that the employer has
33 terminated the employment of all unauthorized aliens and that the employer
34 will not intentionally or knowingly employ an unauthorized alien. A license
35 that is suspended will remain suspended until the employer files a signed
36 sworn affidavit with the county attorney. A copy of the court order will be
37 made available on the attorney general's website.

38 3. For a first violation of this new state law during a five year
39 period that is an intentional violation, the court will order the appropriate
40 licensing agencies to suspend all licenses held by the employer for a minimum
41 of ten days. The employer must file a signed sworn affidavit with the county
42 attorney. The filed affidavit must state that the employer has terminated
43 the employment of all unauthorized aliens and that the employer will not
44 intentionally or knowingly employ an unauthorized alien. A license that is
45 suspended will remain suspended until the employer files a signed sworn

1 affidavit with the county attorney. A copy of the court order will be made
2 available on the attorney general's website.

3 4. For a second violation of this new state law, the court will order
4 the appropriate licensing agencies to permanently revoke all licenses that
5 are held by the employer.

6 5. Proof of verifying the employment authorization of an employee
7 through the basic pilot program, as defined in section 23-211, Arizona
8 Revised Statutes, as added by this act, will create a rebuttable presumption
9 that an employer did not violate the new state law.

10 6. After December 31, 2007, every employer, after hiring an employee,
11 is required to verify the employment eligibility of the employee through the
12 basic pilot program, as defined in section 23-211, Arizona Revised Statutes,
13 as added by this act.

14 7. Instructions for the employer on how to enroll in the basic pilot
15 program, as defined in section 23-211, Arizona Revised Statutes, as added by
16 this act.

17 Sec. 4. Employer sanctions legislative study committee

18 A. The employer sanctions legislative study committee is established
19 consisting of the following members:

20 1. Three members of the senate who are appointed by the president of
21 the senate, not more than two of whom shall be members of the same political
22 party. The president of the senate shall designate one of these members to
23 co-chair the committee.

24 2. Three members of the house of representatives who are appointed by
25 the speaker of the house of representatives, not more than two of whom shall
26 be members of the same political party. The speaker of the house of
27 representatives shall designate one of these members to co-chair the
28 committee.

29 3. A citizen of Arizona appointed by the president of the senate who
30 owns a business in Arizona with no more than 30 employees.

31 4. A citizen of Arizona appointed by the speaker of the house of
32 representatives who owns a business in Arizona with more than 30 employees.

33 B. The Committee shall:

34 1. Examine the laws and regulations pertaining to employers sanctions
35 in Arizona.

36 2. Examine the effects of these laws and whether such laws are being
37 properly implemented.

38 3. Examine if these laws are being applied to all businesses in
39 Arizona in a fair manner.

40 4. Examine if the complaint process is being implemented in a fair and
41 just manner.

42 5. Submit a report of its findings and recommendations to the
43 governor, the president of the senate and speaker of the house of
44 representatives on or before December 31, 2008 and submit a copy of its

1 report to the secretary of state and the director of the Arizona state,
2 library archives and public records.

3 C. Committee members are not eligible to receive compensation or
4 reimbursement of expenses.

5 Sec. 5. Severability

6 If any provision of this act or its application to any person or
7 circumstance is held invalid, the invalidity does not affect other provisions
8 or applications of this act that can be given effect without the invalid
9 provision or application, and to this end the provisions of this act are
10 severable.

11 Sec. 6. Short title

12 This act shall be known as and may be cited as the "Legal Arizona
13 Workers Act."

14 Sec. 7. Appropriation; attorney general enforcement; exemption

15 A. The sum of \$100,000 is appropriated from the state general fund in
16 fiscal year 2007-2008 to the attorney general for the purpose of enforcing
17 any immigration related matters and section 23-212, Arizona Revised Statutes,
18 as added by this act.

19 B. The appropriation made in subsection A of this section is exempt
20 from the provisions of section 35-190, Arizona Revised Statutes, relating to
21 lapsing of appropriations.

22 Sec. 8. Appropriation; county attorney enforcement; department
23 of revenue; employer notice; exemption

24 A. The sum of \$2,430,000 is appropriated from the state general fund
25 in fiscal year 2007-2008 to the department of administration to be
26 distributed to the county attorneys in this state for the purpose of
27 enforcing any immigration related matters and section 23-212, Arizona Revised
28 Statutes, as added by this act. The department of administration shall
29 distribute these monies to each county attorney as follows:

30 1. \$1,430,000 to each county attorney of a county in this state having
31 a population of one million five hundred thousand or more persons.

32 2. \$500,000 to each county attorney of a county in this state having a
33 population of eight hundred thousand or more persons but less than one
34 million five hundred thousand persons.

35 3. The remainder of monies to be distributed as equally as possible to
36 each county attorney of counties in this state having a population of less
37 than five hundred thousand persons.

38 B. The sum of \$70,000 is appropriated from the state general fund in
39 fiscal year 2007-2008 to the department of revenue for the purposes
40 prescribed in section 3 of this act.

41 C. The appropriation made in subsection A of this section is exempt
42 from the provisions of section 35-190, Arizona Revised Statutes, relating to
43 lapsing of appropriations.

44 Sec. 9. Delayed repeal

H.B. 2779

1 Section 4 as added by this act is repealed from and after January 1,
2 2009.

APPROVED BY THE GOVERNOR JULY 2, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 2, 2007.