

ASSEMBLY, No. 166

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblymen Giblin and Peterson

SYNOPSIS

Requires certain contractors to verify work authorization of newly hired employees.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning employment eligibility verification and
2 supplementing Title 34 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. As used in this act:

8 “Commissioner” means the Commissioner of the Department of
9 Labor and Workforce Development.

10 “Contractor” means a person, partnership, association, joint stock
11 company, trust, corporation, or other legal business entity or
12 successor thereof who is required to pay the prevailing wage rate as
13 determined by the “New Jersey Prevailing Wage Act,” P.L.1963,
14 c.150 (C.34:11-56.25 et seq.), including any subcontractor or lower
15 tier subcontractor of a contractor.

16 “E-Verify program” means the electronic verification of work
17 authorization program of the Illegal Immigration Reform and
18 Immigrant Responsibility Act of 1996, Pub.L. 104-
19 208 (8 U.S.C. s.1324a), jointly operated by the United States
20 Department of Homeland Security and the Social Security
21 Administration or its successor program.

22 “Employee” means an individual who is employed by a
23 contractor.

24

25 2. After June 30, 2013, upon hiring an employee a contractor
26 shall verify the employment eligibility of the employee through the
27 E-Verify program.

28

29 3. a. The commissioner shall develop a Statewide random
30 auditing program to inspect contractors for compliance with section
31 2 of this act.

32 b. If the commissioner, upon receipt of a written and signed
33 complaint against a contractor, or upon an investigation initiated by
34 the commissioner for good cause, finds reasonable grounds exist
35 that a contractor failed to verify the employment eligibility of an
36 employee in violation of section 2 of this act, the commissioner
37 shall institute an investigation of the violation.

38 c. Upon finding a violation of section 2 of this act after a
39 random audit pursuant to subsection a. of this section, or after an
40 investigation pursuant to subsection b. of this section, the
41 commissioner shall, after affording the contractor notice and an
42 opportunity for a hearing in accordance with the provisions of the
43 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
44 1 et seq.), assess a civil penalty upon the contractor of not less than
45 \$500 and not more than \$1,000 for each violation. For a first
46 occurrence involving a violation of section 2 of this act, if, upon
47 notification by the commissioner of a violation, the contractor
48 verifies the employment eligibility of all employees in question

1 within 72 hours, the contractor shall not be assessed a penalty. Any
2 subsequent occurrence involving a violation of section 2 of this act
3 by the contractor shall result in the assessment of a civil penalty by
4 the commissioner, and the commissioner may deny renewal, revoke,
5 or suspend, for a period of not more than one year, the contractor's
6 registration under "The Public Works Contractor Registration Act,"
7 P.L.1999, c.238 (C.34:11-56.48 et seq.). However, if the contractor
8 has not committed a violation of section 2 of this act within the
9 previous five years, a subsequent occurrence shall be treated as a
10 first occurrence.

11
12 4. The Department of Labor and Workforce Development shall
13 provide information regarding the requirements of this act and the
14 requirements of federal law governing the use of the E-Verify
15 program for contractors and the public through a link prominently
16 displayed on the department's Internet website.

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18 5. This act shall take effect immediately.
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21 STATEMENT

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23 This bill requires every contractor who is required to pay its
24 employees the prevailing wage rate as determined by the "New
25 Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et
26 seq.), to verify the employment eligibility of its employees through
27 the E-Verify program. E-Verify is an electronic verification of
28 work authorization program jointly operated by the United States
29 Department of Homeland Security and the Social Security
30 Administration. The bill requires these contractors to use the E-
31 Verify program to verify the employment eligibility of all
32 employees hired after June 30, 2013.

33 The bill directs the Commissioner of the Department of Labor
34 and Workforce Development to develop a Statewide random
35 auditing program to inspect contractors for compliance with the E-
36 Verify requirement. The commissioner is also directed, upon
37 receipt of a written and signed complaint against a contractor, or
38 upon an investigation initiated by the commissioner for good cause,
39 to institute an investigation if the commissioner finds reasonable
40 grounds exist that a contractor violated the E-Verify requirement.

41 The bill provides for the assessment of a civil penalty of not less
42 than \$500 and not more than \$1,000 on contractors found to be in
43 violation of the E-Verify requirement. For a first occurrence
44 involving a violation, if the contractor complies within 72 hours of
45 notification by the commissioner, the contractor shall not be
46 assessed a penalty. Any subsequent occurrence involving a
47 violation by the contractor will result in the assessment of a civil
48 penalty by the commissioner, and the commissioner may deny

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1 renewal, revoke, or suspend, for a period of not more than one year,
2 the contractor's registration under "The Public Works Contractor
3 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.). A
4 subsequent occurrence shall be treated as a first occurrence if the
5 contractor has not committed a violation of the E-Verify
6 requirement within the previous five years.