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1                   A bill to be entitled  
2           An act relating to the verification of employment  
3           eligibility; defining terms; requiring every employer  
4           to use the Employment Authorization Program to verify  
5           the employment eligibility of each new employee on or  
6           after a specified date; providing that a business that  
7           does not use the E-Verify system to verify the  
8           employment eligibility of the employee shall lose its  
9           license to do business in this state until the  
10          business has registered with the E-Verify system;  
11          requiring that each verification be made in accordance  
12          with certain provisions of federal law; prohibiting an  
13          employer from employing an unauthorized alien;  
14          authorizing certain persons to file a complaint with  
15          the Department of Business and Professional Regulation  
16          or the Department of Economic Opportunity alleging  
17          that an employer has employed an unauthorized alien;  
18          prohibiting the filing of a complaint based on race,  
19          color, or national origin; providing that a person who  
20          knowingly files a false and frivolous complaint  
21          commits a misdemeanor of the second degree; providing  
22          criminal penalties; requiring the department or the  
23          Department of Economic Opportunity to notify the  
24          employer upon receipt of a complaint; requiring the  
25          department or the Department of Economic Opportunity  
26          to investigate whether a violation has occurred;  
27          authorizing the department and the Department of  
28          Economic Opportunity to issue a subpoena for the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | production of documents; requiring the department or  
30 | the Department of Economic Opportunity to request that  
31 | the Federal Government verify the employment  
32 | eligibility of any employee named in a complaint;  
33 | prohibiting the department or the Department of  
34 | Economic Opportunity from independently making a final  
35 | determination regarding whether an employee is  
36 | authorized to be employed in the United States;  
37 | requiring the department or the Department of Economic  
38 | Opportunity to notify certain entities after  
39 | determining that the employer has employed an  
40 | unauthorized alien; prohibiting the department or the  
41 | Department of Economic Opportunity from acting on a  
42 | complaint for a violation of law occurring before a  
43 | specified date; requiring the department or the  
44 | Department of Economic Opportunity to order an  
45 | employer to take certain action upon a first violation  
46 | of the prohibition against hiring an unauthorized  
47 | alien; requiring that certain licenses of an employer  
48 | be suspended if the employer fails to file an  
49 | affidavit confirming the termination of employment of  
50 | an unauthorized alien; providing for reinstatement of  
51 | such licenses under certain circumstances; requiring  
52 | that the department or the Department of Economic  
53 | Opportunity take certain action against an employer  
54 | for a second violation within a specified period  
55 | following the prohibition against hiring an  
56 | unauthorized alien; specifying actions for which an

57 | employer registered with and participating in the E-  
58 | Verify system may not be held civilly liable;  
59 | providing specified immunity and nonliability with  
60 | respect to employers who properly comply with the E-  
61 | Verify system in good faith and rely upon information  
62 | provided by the system; requiring the Department of  
63 | Economic Opportunity to maintain a public database  
64 | containing certain information and make such  
65 | information available on its website; authorizing the  
66 | department or the Department of Economic Opportunity  
67 | to apply to the appropriate circuit court for a  
68 | judicial order directing an employer to comply with an  
69 | order issued by the department or the Department of  
70 | Economic Opportunity; creating a rebuttable  
71 | presumption for certain employers that the employer  
72 | did not knowingly employ an unauthorized alien;  
73 | authorizing an employer or employee to seek an  
74 | injunction under certain circumstances; providing that  
75 | certain actions by an employer constitute an unfair  
76 | trade practice; providing that an employee aggrieved  
77 | by such actions has a private cause of action against  
78 | the employer for a deceptive and unfair trade  
79 | practice; providing for an award of court costs and  
80 | attorneys fees; providing that a cause of action does  
81 | not exist against an employer participating in the E-  
82 | Verify system on the date of discharge of an employee  
83 | under specified circumstances; providing for  
84 | construction of the act; creating s. 287.136, F.S.;

85 | defining terms; requiring every public employer to  
86 | register with and participate in the E-Verify system  
87 | for specified purposes; prohibiting a public employer,  
88 | contractor, or subcontractor from entering into a  
89 | contract for the physical performance of services in  
90 | this state unless the contractor or subcontractor  
91 | registers and participates in the system; requiring  
92 | that subcontractors certify certain information to  
93 | contractors by specified means; requiring that a  
94 | contractor maintain a copy of the certification for a  
95 | specified period; authorizing a contractor to  
96 | terminate a contract with a subcontractor under  
97 | certain conditions; providing that such termination is  
98 | not a breach of contract; authorizing a subcontractor  
99 | to challenge a termination within a specified period;  
100 | requiring that a public contractor terminate a  
101 | contract if the contractor or subcontractor is in  
102 | violation of the act; providing that such termination  
103 | is not a breach of contract; authorizing a contractor  
104 | or subcontractor to challenge such a termination  
105 | within a specified period; providing guidelines for  
106 | interpretation of the provisions of the act; creating  
107 | s. 337.163, F.S.; defining terms; requiring the  
108 | Department of Transportation to register with and  
109 | participate in the E-Verify system for specified  
110 | purposes; prohibiting the department, a contractor, or  
111 | subcontractor from entering into a contract for the  
112 | physical performance of services in this state under

113 ch. 337, F.S., unless the contractor or subcontractor  
 114 registers and participates in the system; requiring  
 115 that subcontractors certify certain information to  
 116 contractors by specified means; requiring that a  
 117 contractor maintain a copy of the certification for a  
 118 specified period; authorizing a contractor to  
 119 terminate a contract with a subcontractor under  
 120 certain conditions; providing that such termination is  
 121 not a breach of contract; authorizing a subcontractor  
 122 to challenge a termination within a specified period;  
 123 requiring that a public contractor terminate a  
 124 contract if the contractor or subcontractor is in  
 125 violation of the act; providing that such termination  
 126 is not a breach of contract; authorizing a contractor  
 127 or subcontractor to challenge such a termination  
 128 within a specified period; providing guidelines for  
 129 interpretation of the provisions of the act; providing  
 130 for severability; providing an effective date.

131

132 Be It Enacted by the Legislature of the State of Florida:

133

134 Section 1. Use of E-Verify system required for private  
 135 employers; business licensing enforcement; private right of  
 136 action for wrongfully discharged worker.-

137 (1) DEFINITIONS.-As used in this section, the term:

138 (a) "Agency" means an agency, department, board, or  
 139 commission of this state or a county, municipality, or town  
 140 issuing a license for the purpose of operating a business in

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141 this state.

142 (b) "E-Verify system" means the Employment Authorization  
143 Program, formerly the "Basic Pilot Program," under Pub. L. No.  
144 104-208, Div. C, Title IV, Subtitle A, 110 Stat. 3009-655 (Sept.  
145 30, 1996), as amended, or any successor program designated by  
146 the Federal Government for verification that an employee is an  
147 unauthorized alien.

148 (c) "Employee" means any person who performs employment  
149 services in this state for an employer pursuant to an employment  
150 relationship between the person and employer. An employee does  
151 not include an independent contractor as defined by federal law  
152 and regulations.

153 (d) "Employer" means any person or entity transacting  
154 business in this state that employs individuals. The term does  
155 not include:

- 156 1. A government employer;
- 157 2. The occupant or owner of a private residence who hires  
158 casual domestic labor to perform work customarily performed by a  
159 homeowner entirely within a private residence;
- 160 3. That portion of labor and services provided to a person  
161 or entity by a licensed independent contractor; or
- 162 4. An employee leasing company licensed pursuant to part  
163 XI of chapter 468 that enters into a written agreement or  
164 understanding with its client company which places the primary  
165 obligation for compliance with this part upon its client  
166 company. In the absence of a written agreement or understanding,  
167 the contracting party, whether the licensed employee leasing  
168 company or client company, that initially hires the leased

169 employee is responsible for the obligations set forth in this  
 170 part. Such employee leasing company shall, at all times, remain  
 171 an employer as otherwise specified by law.

172 (e) "Enforcing authority" has the same meaning as  
 173 "agency," as defined in paragraph (a), if the agency has the  
 174 mechanisms to conduct investigations of a licensee and to  
 175 enforce discipline against a licensee. If the agency is not so  
 176 equipped, then "enforcing authority" means the Department of  
 177 Economic Opportunity.

178 (f) "License" means a license, permit, certificate,  
 179 approval, registration, charter, or similar form of  
 180 authorization required by law and issued by an agency for the  
 181 purpose of operating a business in this state. A license  
 182 includes, but is not limited to:

- 183 1. Articles of incorporation.
- 184 2. A certificate of partnership, a partnership  
 185 registration, or articles of organization.
- 186 3. A grant of authority issued pursuant to state or  
 187 federal law.
- 188 4. A transaction privilege tax license.

189 (g) "Unauthorized alien" means an alien is not authorized  
 190 under federal law to be employed in the United States, as  
 191 described in 8 U.S.C. s. 1324a(h) (3). This term shall be  
 192 interpreted consistently with that section and any applicable  
 193 federal rules or regulations.

194 (h) "Knowingly employ an unauthorized alien" has the same  
 195 meaning as prescribed in 8 U.S.C. s. 1324a. The term shall be  
 196 interpreted consistently with s. 1324a and any federal rule or

197 regulation applicable to the unlawful employment of aliens.

198 (2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; SUSPENSION OF  
 199 BUSINESS LICENSE.—

200 (a) Beginning January 1, 2013, every employer shall, after  
 201 making an offer of employment which has been accepted by an  
 202 employee, use the E-Verify system to verify the employment  
 203 eligibility of the employee. Verification must occur within the  
 204 period stipulated by federal law or regulations. However, an  
 205 employer is not required to verify the employment eligibility of  
 206 a continuing employee hired before the date of the employer's  
 207 registration with the system.

208 (b) A business that has not complied with paragraph (a)  
 209 shall lose its license to do business in this state until the  
 210 business has registered with the E-Verify system and provided  
 211 the department with an affidavit stating that the business has  
 212 registered with the E-Verify system.

213 (3) EMPLOYMENT OF UNAUTHORIZED ALIENS; PROHIBITION; FALSE  
 214 AND FRIVOLOUS COMPLAINTS; VIOLATION; CLASSIFICATION; SUSPENSION  
 215 AND REVOCATION OF LICENSE.—

216 (a) An employer may not employ an unauthorized alien.

217 (b) A person who has actual or constructive knowledge that  
 218 an employer employs, or has within the last 90 days employed, an  
 219 unauthorized alien may file a complaint with the department or  
 220 the Department of Economic Opportunity.

221 (c) A complaint may not be based on race, color, or  
 222 national origin, except to the extent permitted by the United  
 223 States Constitution or the State Constitution.

224 (d) A person who knowingly files a false and frivolous



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225 complaint under this subsection commits a misdemeanor of the  
226 second degree, punishable as provided in s. 775.082 or s.  
227 775.083.

228 (e) Upon the receipt of a valid complaint of a violation  
229 of paragraph (a), the department or the Department of Economic  
230 Opportunity shall notify the employer of the complaint and  
231 direct the employer to notify any affected employees named in  
232 the complaint.

233 (f) The department or the Department of Economic  
234 Opportunity shall investigate whether a violation has occurred  
235 and hold an administrative hearing at which the employer may  
236 present any evidence he or she desires and at which the employer  
237 has the right to counsel. The department or the Department of  
238 Economic Opportunity shall request that the Federal Government  
239 verify, pursuant to 8 U.S.C. s. 1373(c), the employment status  
240 of any employee named in the complaint. The department or the  
241 Department of Economic Opportunity may not independently make a  
242 final determination as to whether a particular employee is an  
243 unauthorized alien. The department or the Department of Economic  
244 Opportunity shall rely upon verification of employment  
245 authorization provided by the Federal Government.

246 (g) The department or the Department of Economic  
247 Opportunity may issue a subpoena to produce employment records  
248 that relate to the recruitment, hiring, employment, or  
249 termination policies, practices, or acts of employment relating  
250 to the investigation of a valid complaint.

251 (h) If the department or the Department of Economic  
252 Opportunity confirms that the employer has employed an

253 unauthorized alien, the department or the Department of Economic  
 254 Opportunity shall notify:

255 1. The United States Immigration and Customs Enforcement  
 256 Agency of the identity of the unauthorized alien and, if known,  
 257 the alien's address or location in the state; and

258 2. The local law enforcement agency of the presence of the  
 259 unauthorized alien in the jurisdiction.

260 (i) The department or the Department of Economic  
 261 Opportunity may not act upon a complaint against any employer  
 262 for any violation occurring before January 1, 2013.

263 (j)1. Upon finding that an employer has violated paragraph  
 264 (a), the department or the Department of Economic Opportunity  
 265 shall order the employer to:

266 a. Terminate the employment of all unauthorized aliens;  
 267 and

268 b. File a sworn affidavit with the department within 10  
 269 days after the receipt of the order. The affidavit must state  
 270 that the employer has corrected the violation by:

271 (I) Terminating all known unauthorized alien's employment;

272 (II) Requesting that a second or additional verification  
 273 of the alien's employment status be authorized, by using the E-  
 274 Verify system; or

275 (III) Attempting to terminate the unauthorized alien's  
 276 employment, and such termination has been challenged in a court  
 277 of competent jurisdiction.

278 2. If the employer fails to file the required affidavit,  
 279 the department or the Department of Economic Opportunity shall  
 280 order the appropriate agencies to suspend all applicable

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281 licenses held by the employer. All such licenses suspended shall  
282 remain suspended until the affidavit is filed. Notwithstanding  
283 any other law, the suspended licenses shall be deemed to have  
284 been reinstated upon the filing of the affidavit for the  
285 purposes of this section. During the pendency of an action, the  
286 10-day period shall be tolled. The 10-day period shall also be  
287 tolled during any period during which the Federal Government  
288 allows an alien to challenge the Federal Government's  
289 determination of his or her immigration status or employment  
290 authorization.

291 3. Licenses subject to suspension under this subsection  
292 include all licenses that are held by the employer that are  
293 necessary to operate the employer's business at the location at  
294 which the unauthorized alien performed work. If a license is not  
295 necessary to operate the employer's business at the specific  
296 location at which the unauthorized alien performed work, but a  
297 license is necessary to operate the employer's business in  
298 general, the licenses subject to suspension under subparagraph  
299 2. include all licenses held by the employer at the employer's  
300 primary place of business.

301 (k) Upon finding a second or subsequent violation of  
302 paragraph (a) during a 2-year period, the department or the  
303 Department of Economic Opportunity shall order the appropriate  
304 agencies to suspend, for at least 30 days, all licenses that are  
305 held by the employer that are necessary to operate the  
306 employer's business at the location at which the unauthorized  
307 alien performed work. If a license is not necessary to operate  
308 the employer's business at the specific location at which the

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309 unauthorized alien performed work, but a license is necessary to  
310 operate the employer's business in general, the department or  
311 the Department of Economic Opportunity shall order the  
312 appropriate agencies to suspend all licenses held by the  
313 employer at the employer's primary place of business. On receipt  
314 of the order and notwithstanding any other law, the appropriate  
315 agencies shall immediately suspend such licenses for at least 30  
316 days.

317 (1)1. An employer registered with and participating in the  
318 E-Verify system may not be held civilly liable in a cause of  
319 action for the employer's:

320 a. Unlawful hiring of an unauthorized alien if the  
321 information obtained in accordance with the E-Verify system  
322 indicated that the employee's federal legal employment status  
323 allowed the employer to hire the employee; or

324 b. Refusal to hire an individual if the information  
325 obtained in accordance with the E-Verify system indicated that  
326 the individual's federal legal employment status was that of an  
327 unauthorized alien.

328 2. Any employer who properly complies with the E-Verify  
329 system in good faith shall not be liable for any damages and  
330 shall be immune from any legal cause of action brought by any  
331 person or entity, including, but not limited to, former  
332 employees, for use and reliance upon any incorrect information  
333 provided by the E-Verify system when determining final action on  
334 an employee's employment status.

335 3. An employer is considered to have complied with the  
336 requirements of 8 U.S.C. s. 1324a(b), notwithstanding an

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337 isolated, sporadic, or accidental technical or procedural  
338 failure to meet the requirements, if there is a good faith  
339 attempt to comply with the requirements.

340 (m) The Department of Economic Opportunity shall maintain  
341 a public database containing copies of all orders issued  
342 pursuant to this section and make such information available on  
343 its website.

344 (n) If the department or the Department of Economic  
345 Opportunity determines that an agency or employer has failed to  
346 comply with an order under this section, the department or the  
347 Department of Economic Opportunity may apply to the circuit  
348 court for a judicial order directing the agency or employer to  
349 comply with the order of the department or Department of  
350 Economic Opportunity.

351 (o) For the purposes of this section, compliance with  
352 subsection (2) creates a rebuttable presumption that an employer  
353 did not knowingly employ an unauthorized alien in violation of  
354 paragraph (a).

355 (4) INJUNCTION.—At any time after the department or the  
356 Department of Economic Opportunity has notified an employer that  
357 a valid complaint was received and up to 30 days after the date  
358 of service on the employer of the notice of determination by the  
359 department or the Department of Economic Opportunity that the  
360 employer violated paragraph (3)(a), the employer subject to the  
361 complaint under this section, or any employee of the employer  
362 who is alleged to be an unauthorized alien, may challenge and  
363 seek to enjoin the enforcement of this section before a court of  
364 competent jurisdiction.

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365 (5) DECEPTIVE AND UNFAIR TRADE PRACTICE.—

366 (a) An employer commits a deceptive and unfair trade  
367 practice in violation of part II of chapter 501, Florida  
368 Statutes, if he or she discharges a United States citizen or  
369 legal permanent resident alien employee who has applied for  
370 naturalization, if, on the date of discharge, an unauthorized  
371 alien worker was employed by the employer at the same job site  
372 or in the same job classification elsewhere in the state, if  
373 such discharge is made knowingly or with reckless disregard for  
374 the fact that such alien worker lacked federal employment  
375 authorization.

376 (b) The discharged employee has a private cause of action  
377 against the employer for civil penalties and attorney's fees for  
378 the deceptive and unfair trade practice.

379 (c) The available remedies to a wrongfully discharged  
380 employee are limited to reinstatement, back pay, court costs,  
381 and attorneys fees. Criminal or civil sanctions, including  
382 finances, shall not be imposed against an employer for a violation  
383 of this subsection.

384 (d) A cause of action under this subsection does not exist  
385 against an employer who, on the date of discharge, was enrolled  
386 and participating in the E-Verify system and used the system to  
387 verify the employee hired on the date of discharge who was an  
388 unauthorized alien worker employed by the employer at the same  
389 job site or in the same job classification elsewhere in the  
390 state.

391 (6) CONSTRUCTION.—This section shall be enforced without  
392 regard to race or national origin and shall be construed in a

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393 manner so as to be fully consistent with any applicable  
394 provisions of federal law.

395 Section 2. Section 287.136, Florida Statutes, is created  
396 to read:

397 287.136 Verification of immigration status; public  
398 employers.-

399 (1) As used in the section, the term:

400 (a) "Contractor" means a person who has entered or is  
401 attempting to enter into a public contract for services with a  
402 state agency or political subdivision.

403 (b) "E-Verify system" means the electronic verification of  
404 the work-authorization program of the Illegal Immigration Reform  
405 and Immigration Responsibility Act of 1996, Pub. L. No. 104-208,  
406 Division C, Title IV, s. 403(a), as amended, and operated by the  
407 United States Department of Homeland Security, or a successor  
408 work-authorization program designated by the department or other  
409 federal agency authorized to verify the work-authorization  
410 status of newly hired employees pursuant to the Immigration  
411 Reform and Control Act of 1986, Pub. L. No. 99-603.

412 (c) "Public employer" means any department, agency, or  
413 political subdivision of the state.

414 (d) "Subcontractor" means any supplier, distributor,  
415 vendor, staffing agency, or firm furnishing supplies or services  
416 to or for a contractor or another subcontractor.

417 (e) "Unauthorized alien" means an alien is not authorized  
418 under federal law to be employed in the United States, as  
419 described in 8 U.S.C. s. 1324a(h) (3). This term shall be  
420 interpreted consistently with that section and any applicable

421 federal rules or regulations.

422 (2) (a) Every public employer shall register with and  
423 participate in the E-Verify system for the purpose of verifying  
424 the work authorization status of all new employees.

425 (b)1. A public employer may not enter into a contract for  
426 the physical performance of services within this state unless  
427 the contractor registers and participates in the E-Verify  
428 system.

429 2. A contractor or subcontractor may not enter into a  
430 contract or subcontract with a public employer in connection  
431 with the physical performance of services within this state  
432 unless the contractor or subcontractor registers with and uses  
433 the E-Verify system for the purpose of verifying information of  
434 all new employees employed within the state.

435 (3) (a) If a contractor uses a subcontractor, the  
436 subcontractor shall certify to the contractor in a manner that  
437 does not violate federal law that the subcontractor, at the time  
438 of certification, does not employ or contract with an  
439 unauthorized alien.

440 (b) A contractor shall maintain a copy of the  
441 certification of a subcontractor throughout the duration of the  
442 term of a contract with the subcontractor.

443 (4) (a) If a contractor knows that a subcontractor is in  
444 violation of this section, the contractor shall terminate a  
445 contract with the subcontractor for the violation.

446 (b) A contract terminated pursuant to paragraph (a) is not  
447 a breach of contract and may not be considered as such by the  
448 contractor or the subcontractor.



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449        (c) A subcontractor may file an action with a circuit or  
450 county court having jurisdiction in the county to challenge a  
451 termination of a contract under paragraph (a) no later than 20  
452 days after the date on which the contractor terminates the  
453 contract with the subcontractor.

454        (5) (a) If a public employer knows that a contractor is  
455 knowingly in violation of this section, the public employer  
456 shall immediately terminate the contract with the contractor and  
457 the contractor is not eligible for public contracts for 1 year  
458 after the date of termination. If the public employer has  
459 knowledge that a subcontractor has violated this section, and  
460 the contractor has otherwise complied with this section, the  
461 public employer shall promptly notify the contractor and order  
462 the contractor to terminate the contract with the noncompliant  
463 subcontractor.

464        (b) A contract terminated pursuant to paragraph (a) is not  
465 a breach of contract and may not be considered as such by the  
466 contractor or subcontractor.

467        (c) A contractor or subcontractor may file an action with  
468 a circuit or county court having jurisdiction in the county to  
469 challenge a termination of a contract under paragraph (a) no  
470 later than 20 days after the date on which the contract or  
471 subcontract was terminated.

472        (6) The provisions of this section shall be construed in a  
473 manner so as to be fully consistent with any applicable federal  
474 law.

475        Section 3. Section 337.163, Florida Statutes, is created  
476 to read:

477 337.163 Verification of immigration status.—

478 (1) As used in this section, the term:

479 (a) "Contractor" means a person who has entered or is  
 480 attempting to enter into a contract with the department for  
 481 services under this chapter.

482 (b) "E-Verify system" means the electronic verification of  
 483 the work-authorization program of the Illegal Immigration Reform  
 484 and Immigration Responsibility Act of 1996, Pub. L. No. 104-208,  
 485 Division C, Title IV, s. 403(a), as amended, and operated by the  
 486 United States Department of Homeland Security, or a successor  
 487 work-authorization program designated by the department or other  
 488 federal agency authorized to verify the work-authorization  
 489 status of newly hired employees pursuant to the Immigration  
 490 Reform and Control Act of 1986, Pub. L. No. 99-603.

491 (c) "Subcontractor" means any supplier, distributor,  
 492 vendor, staffing agency, or firm furnishing supplies or services  
 493 to or for a contractor or another subcontractor under this  
 494 chapter.

495 (d) "Unauthorized alien" means an alien is not authorized  
 496 under federal law to be employed in the United States, as  
 497 described in 8 U.S.C. s. 1324a(h) (3). This term shall be  
 498 interpreted consistently with that section and any applicable  
 499 federal rules or regulations.

500 (2) (a) The department shall register with and participate  
 501 in the E-Verify system for the purpose of verifying the work  
 502 authorization status of all new employees.

503 (b)1. The department may not enter into a contract for the  
 504 physical performance of services within this state unless the

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505 contractor registers and participates in the E-Verify system.

506 2. A contractor or subcontractor may not enter into a  
507 contract or subcontract with the department in connection with  
508 the physical performance of services within this state unless  
509 the contractor or subcontractor registers with and uses the E-  
510 Verify system for the purpose of verifying information of all  
511 new employees employed within the state.

512 (3) (a) If a contractor uses a subcontractor, the  
513 subcontractor shall certify to the contractor in a manner that  
514 does not violate federal law that the subcontractor, at the time  
515 of certification, does not employ or contract with an  
516 unauthorized alien.

517 (b) A contractor shall maintain a copy of the  
518 certification of a subcontractor throughout the duration of the  
519 term of a contract with the subcontractor.

520 (4) (a) If a contractor knows that a subcontractor is in  
521 violation of this section, the contractor shall terminate a  
522 contract with the subcontractor for the violation.

523 (b) A contract terminated pursuant to paragraph (a) is not  
524 a breach of contract and may not be considered as such by the  
525 contractor or the subcontractor.

526 (c) A subcontractor may file an action with a circuit or  
527 county court having jurisdiction in the county to challenge a  
528 termination of a contract under paragraph (a) no later than 20  
529 days after the date on which the contractor terminates the  
530 contract with the subcontractor.

531 (5) (a) If the department knows that a contractor is  
532 knowingly in violation of this section, the department shall

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533 immediately terminate the contract with the contractor and the  
534 contractor is not eligible for public contracts for 1 year after  
535 the date of termination. If the department has knowledge that a  
536 subcontractor has violated this section, and the contractor has  
537 otherwise complied with this section, the department shall  
538 promptly notify the contractor and order the contractor to  
539 terminate the contract with the noncompliant subcontractor.

540 (b) A contract terminated pursuant to paragraph (a) is not  
541 a breach of contract and may not be considered as such by the  
542 contractor or subcontractor.

543 (c) A contractor or subcontractor may file an action with  
544 a circuit or county court having jurisdiction in the county to  
545 challenge a termination of a contract under paragraph (a) no  
546 later than 20 days after the date on which the contract or  
547 subcontract was terminated.

548 (6) The provisions of this section shall be construed in a  
549 manner so as to be fully consistent with any applicable federal  
550 law.

551 Section 4. If any provision of this act or its application  
552 to any person or circumstance is held invalid, the invalidity  
553 does not affect the remaining provisions or applications of the  
554 act which can be given effect without the invalid provision or  
555 application, and to this end the provisions of this act are  
556 severable.

557 Section 5. This act shall take effect July 1, 2012.