

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 252

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO UNAUTHORIZED WORKERS; AMENDING TITLE 44, IDAHO CODE, BY THE AD-  
2 DITION OF A NEW CHAPTER 3, TITLE 44, IDAHO CODE, TO DEFINE TERMS, TO PRO-  
3 HIBIT THE EMPLOYMENT OF CERTAIN PERSONS AND TO REQUIRE THE VERIFICATION  
4 OF LEGAL EMPLOYMENT STATUS OF WORKERS, TO PROVIDE FOR ACTIONS BY THE AT-  
5 TORNEY GENERAL, TO PROVIDE FOR VIOLATIONS, TO PROVIDE FOR DEFENSES, TO  
6 PROVIDE FOR EXCLUSIONS FROM LIABILITY, TO PROVIDE FOR INTERPRETATION,  
7 AND TO PROVIDE FOR EXCLUSIONS; AND DECLARING AN EMERGENCY AND PROVIDING  
8 AN EFFECTIVE DATE.  
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Title 44, Idaho Code, be, and the same is hereby amended  
12 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
13 ter 3, Title 44, Idaho Code, and to read as follows:

14 CHAPTER 3

15 VERIFYING LEGAL EMPLOYMENT STATUS OF WORKERS

16 44-301. DEFINITIONS. As used in this chapter:

17 (1) "Alien" means any person who is not a citizen or national of the  
18 United States as described in 8 U.S.C. 1101 et seq.

19 (2) "Director" means the director of the Idaho department of labor or  
20 the director's designated agent.

21 (3) "E-verify" or "e-verify program" means the electronic verifica-  
22 tion of federal employment authorization program of the illegal immigration  
23 reform and immigrant responsibility act, 8 U.S.C. 1324a, operated by the  
24 United States department of homeland security.

25 (4) "Employee" means any person directed, allowed, or permitted to per-  
26 form labor or service of any kind by an employer. For the purposes of this  
27 chapter, the employees of an independent contractor working for a business  
28 entity shall not be regarded as the employees of the business entity.

29 (5) "Employer" means any individual, person, corporation, depart-  
30 ment, board, bureau, agency, commission, division, office, company, firm,  
31 partnership, council, or committee of the state government, public benefit  
32 corporation, public authority, political subdivision of the state, or other  
33 business entity that employs or seeks to employ an individual or individuals  
34 and that registers with the secretary of state.

35 (6) "Federal work authorization program" means any of the electronic  
36 verification of work authorization programs operated by the United States  
37 department of homeland security or an equivalent federal work authorization  
38 program operated by the United States department of homeland security to  
39 verify information of newly hired employees under 8 U.S.C. 1324a.

40 (7) "Knowingly" means, with respect to conduct or to a circumstance de-  
41 scribed by a statute defining an offense, that a person is aware by docu-

1 mentation or action that the person's conduct is of that nature or that the  
2 circumstance exists. "Knowingly" includes the failure to request or review  
3 documentation of an employee's legal status or authorization to work.

4 (8) "Lawful presence" or "lawfully present" means a person shall be re-  
5 garded as an alien unlawfully present in the United States only if the per-  
6 son's unlawful immigration status has been verified by the federal govern-  
7 ment pursuant to 8 U.S.C. 1373(c). No officer of this state or any political  
8 subdivision of this state shall attempt to independently make a final deter-  
9 mination of an alien's immigration status. An alien possessing self-identi-  
10 fication in any of the following forms is entitled to the presumption that he  
11 is an alien lawfully present in the United States:

12 (a) A valid, unexpired Idaho driver's license;

13 (b) A valid, unexpired Idaho identification card issued pursuant to the  
14 provisions of section 49-2442, Idaho Code;

15 (c) A valid tribal enrollment card or other form of tribal identifica-  
16 tion bearing a photograph or other biometric identifier;

17 (d) Any valid United States federal or state government-issued identi-  
18 fication document bearing a photograph or other biometric identifier,  
19 if issued by an entity that requires proof of lawful presence in the  
20 United States before issuance;

21 (e) A foreign passport with an unexpired United States visa and a corre-  
22 sponding stamp or notation by the United States department of homeland  
23 security indicating the bearer's admission to the United States; or

24 (f) A foreign passport issued by a visa waiver program designated coun-  
25 try with the corresponding entry stamp and unexpired duration of stay  
26 annotation or an I-94W form by the United States department of homeland  
27 security indicating the bearer's admission to the United States.

28 (9) "License" means any permit, certificate, approval, registration,  
29 charter, or similar form of authorization that is required by law and that is  
30 issued for the purpose of operating a business in this state.

31 (10) "Unauthorized worker" means a person who does not have the legal  
32 right to be employed or is employed in violation of law or an alien who is not  
33 authorized to work in the United States as defined in 8 U.S.C. 1324a(h)(3).

34 44-302. UNAUTHORIZED WORKERS OR ALIENS -- EMPLOYMENT PROHIBITED. (1)  
35 It is unlawful for any employer to knowingly employ, hire, recruit, or re-  
36 fer, either for the employer itself or on behalf of another, for private or  
37 public employment within the state an unauthorized worker who is not duly au-  
38 thorized to be employed by law. No business entity, employer, or public em-  
39 ployer may knowingly employ, hire for employment, or continue to employ an  
40 unauthorized alien to perform work within the state of Idaho. "Knowingly  
41 employ, hire for employment, or continue to employ an unauthorized alien"  
42 means the actions described in 8 U.S.C. 1324a.

43 (2) Employers are required to verify an employee's legal status or au-  
44 thorization to work after employing the individual within the first three  
45 (3) days after the employee's first day of work for pay has elapsed or by no  
46 later than the first day of work for pay if the employee will work for fewer  
47 than three (3) days.

48 (3) For the purpose of this chapter, proof of legal status or authoriza-  
49 tion to work includes but is not limited to a valid social security card, a

1 valid immigration or nonimmigration visa with photo identification, a valid  
2 birth certificate, a valid passport, a valid photo identification card is-  
3 sued by a government agency, a valid work permit or supervision permit autho-  
4 rized by the Idaho department of labor, a valid permit issued by the United  
5 States department of justice, or another valid document providing evidence  
6 of legal residence or authorization to work in the United States.

7 (4) For the purpose of enforcing the provisions of this chapter and  
8 notwithstanding any other provision of law to the contrary, the director may  
9 access information maintained by any state agency, including but not limited  
10 to the Idaho department of labor and the Idaho state department of trans-  
11 portation, for the limited purpose of confirming the validity of a worker's  
12 legal status or authorization to work. The director shall promulgate rules,  
13 subject to legislative approval, in accordance with chapter 52, title 67,  
14 Idaho Code, to safeguard against the release of any confidential or identi-  
15 fying information that is not necessary for the limited purpose of enforcing  
16 the provisions of this chapter.

17 (5) On and after January 1, 2026, every business entity and employer  
18 in this state shall enroll in the e-verify program and shall thereafter, ac-  
19 cording to the federal statutes and regulations governing e-verify, verify  
20 the employment eligibility of new hires through e-verify. A business en-  
21 tity or employer that uses e-verify to verify the work authorization of an  
22 employee shall not be considered to have violated this section with respect  
23 to the employment of that employee.

24 (6) As a condition for the award of any contract, grant, or incentive  
25 by this state, any political subdivision of the state, or any state-funded  
26 entity to a business entity or employer that employs one (1) or more employ-  
27 ees, the business entity or employer shall provide documentation establish-  
28 ing that the business entity or employer is enrolled in the e-verify pro-  
29 gram. During the performance of the contract, the business entity or em-  
30 ployer shall participate in the e-verify program and shall verify every em-  
31 ployee that is required to be verified according to the applicable federal  
32 rules and regulations.

33 (7) No subcontractor on a project paid for by contract, grant, or in-  
34 centive by this state, any political subdivision of the state, or any state-  
35 funded entity may knowingly employ, hire for employment, or continue to em-  
36 ploy an unauthorized alien. Such a subcontractor shall enroll in the e-ver-  
37 ify program prior to performing any work on the project and shall verify ev-  
38 ery employee that is required to be verified according to the applicable fed-  
39 eral rules and regulations.

40 (8) Compliance with this section may be verified by state authorities  
41 or law enforcement at any time to ensure a contractual agreement as provided  
42 for in this section is being met.

43 44-303. ACTIONS BY ATTORNEY GENERAL. (1) The attorney general may  
44 bring a civil complaint in any court of competent jurisdiction to enforce the  
45 requirements of this chapter.

46 (2) Any resident of this state may petition the attorney general to  
47 bring an enforcement action against a specific business entity or employer  
48 by means of a written, signed petition. A valid petition shall include an  
49 allegation that describes the alleged violator or violators, as well as

1 the action constituting the violation, and the date and location where the  
2 violation occurred. A petition that alleges a violation on the basis of  
3 national origin, ethnicity, or race shall be considered invalid and may not  
4 be acted upon. The attorney general shall respond to any petition under  
5 this subsection within sixty (60) days of receiving the petition, either by  
6 filing a civil complaint in a court of competent jurisdiction or by inform-  
7 ing the petitioner in writing that the attorney general has determined that  
8 filing a civil complaint is not warranted.

9 44-304. VIOLATIONS. (1) In any court proceedings, the determination  
10 of whether an employee is an unauthorized alien shall be made by the fed-  
11 eral government, pursuant to 8 U.S.C. 1373(c). The court shall consider only  
12 the federal government's determination when deciding whether an employee is  
13 an unauthorized alien. The court may take judicial notice of any verifica-  
14 tion of an individual's immigration status previously provided by the fed-  
15 eral government and may request the federal government to provide further  
16 automated or testimonial verification.

17 (2) (a) Upon the first violation of section 44-302(6), Idaho Code, by  
18 any business entity or employer awarded a contract by the state, any  
19 political subdivision of the state, or any state-funded entity, the  
20 business entity or employer shall be considered in breach of contract  
21 and the state, political subdivision, or state-funded entity may ter-  
22 minate the contract after providing notice and an opportunity to be  
23 heard. Upon application by the state entity, political subdivision,  
24 or state-funded entity, the attorney general may bring an action to  
25 suspend the business licenses and permits of the business entity or  
26 employer for a period not to exceed sixty (60) days, according to the  
27 procedures described in this section. The court shall order the busi-  
28 ness entity or employer to file a signed, sworn affidavit with the  
29 attorney general within three (3) days after the order is issued by the  
30 court stating that the business entity or employer has terminated the  
31 employment of every unauthorized alien and that the business entity or  
32 employer will not knowingly or intentionally employ an unauthorized  
33 alien in this state.

34 (b) Upon a second or subsequent violation of section 44-302(6), Idaho  
35 Code, by any business entity or employer awarded a contract by the  
36 state, any political subdivision, or any state-funded entity, the busi-  
37 ness entity or employer shall be considered in breach of contract and  
38 the state, political subdivision, or state-funded entity shall ter-  
39 minate the contract after providing notice and an opportunity to be  
40 heard. Upon application by the state entity, political subdivision, or  
41 state-funded entity, the attorney general may bring an action to perma-  
42 nently revoke the business licenses and permits of the business entity  
43 or employer.

44 (3) (a) Upon the first violation of section 44-302(7), Idaho Code, by  
45 a subcontractor, the state or political subdivision of the state may  
46 bar the subcontractor from doing business with the state, any politi-  
47 cal subdivision of the state, or any state-funded entity, or with any  
48 contractor who contracts with the state, any political subdivision of  
49 the state, or any state-funded entity, after providing notice and an op-

1 portunity to be heard. Upon application by the state entity, political  
2 subdivision, or state-funded entity, the attorney general may bring an  
3 action to suspend the business licenses and permits of the subcontractor  
4 for a period not to exceed sixty (60) days. The court shall order  
5 the subcontractor to file a signed, sworn affidavit with the attorney  
6 general within three (3) days after the order is issued by the court  
7 stating that the subcontractor has terminated the employment of every  
8 unauthorized alien and that the subcontractor will not knowingly or  
9 intentionally employ an unauthorized alien in this state.

10 (b) Upon a second or subsequent violation of section 44-302(7), Idaho  
11 Code, by a subcontractor and upon application by the state entity, political  
12 subdivision, or state-funded entity, the attorney general may  
13 bring an action to permanently suspend the business licenses of the  
14 business entity or employer.

15 (4) Upon a finding by a court of competent jurisdiction that a business  
16 entity or employer knowingly violated the provisions of section 44-302(5),  
17 Idaho Code, for the first time, the court shall:

18 (a) Order the business entity or employer to terminate the employment  
19 of every unauthorized alien;

20 (b) Subject the business entity or employer to a three (3) year proba-  
21 tionary period throughout the state. During the probationary period,  
22 the business entity or employer shall file quarterly reports with the  
23 attorney general of each new employee who is hired by the business en-  
24 tity or employer in the state;

25 (c) Order the business entity or employer to file a signed, sworn af-  
26 fidavit with the attorney general within three (3) days after the or-  
27 der is issued by the court stating that the business entity or employer  
28 has terminated the employment of every unauthorized alien and that the  
29 business entity or employer will not knowingly or intentionally employ  
30 an unauthorized alien in this state; and

31 (d) Direct the applicable state, county, or municipal governing bodies  
32 to suspend any business licenses and permits of the business entity or  
33 employer for a period not to exceed ten (10) business days specific to  
34 the business location where the unauthorized alien performed work.

35 (5) For a second violation of section 44-302(5), Idaho Code, by a  
36 business entity or employer, the court shall direct the applicable state,  
37 county, or municipal governing body to permanently revoke any business li-  
38 censes and permits held by the business entity or employer specific to the  
39 business location where the unauthorized alien performed work. Upon receipt  
40 of the order and notwithstanding any other law, the appropriate agencies  
41 shall immediately revoke the licenses and permits held by the business en-  
42 tity or employer.

43 (6) For a third or subsequent violation of section 44-302(5), Idaho  
44 Code, the court shall direct the applicable governing bodies to permanently  
45 suspend any business licenses and permits of the business entity or employer  
46 throughout the state.

47 (7) The suspension of a business license or permit pursuant to subsec-  
48 tion (2) (a), (3) (a), or (4) (d) of this section shall terminate one (1) busi-  
49 ness day after a legal representative of the business entity, employer, or  
50 subcontractor submits to the court a signed, sworn affidavit stating that

1 the business entity, employer, or subcontractor is in compliance with the  
2 provisions of this chapter, along with a copy of the memorandum of under-  
3 standing issued at the time of enrollment in the e-verify program.

4 (8) If an employee of any agency of the state or any political subdi-  
5 vision of the state fails to suspend the business licenses or permits of any  
6 business entity or employer as a result of a violation of this chapter, the  
7 agency shall be deemed to have violated section 44-302(1), Idaho Code, and  
8 may be compelled to enforce this chapter by a writ of mandamus brought by the  
9 attorney general in any court of competent jurisdiction.

10 (9) The secretary of state shall promulgate rules, subject to legisla-  
11 tive approval, in accordance with chapter 52, title 67, Idaho Code, as neces-  
12 sary to provide for the suspension, reinstatement, and cancellation of busi-  
13 ness licenses required under this chapter.

14 44-305. DEFENSES. (1) This chapter may not be construed to deny any  
15 procedural mechanisms or legal defenses included in the e-verify program or  
16 any other federal work authorization program. A business entity, employer,  
17 subcontractor, or other person that establishes that it has complied in good  
18 faith with section 44-302(5), Idaho Code, establishes an affirmative de-  
19 fense that the business entity, employer, or subcontractor did not knowingly  
20 hire or employ an unauthorized alien.

21 (2) It is an affirmative defense to a violation of section 44-302(1),  
22 Idaho Code, that a business entity or employer was entrapped. To claim en-  
23 trapment, the business entity or employer must admit by testimony or other  
24 evidence the substantial elements of the violation. A business entity or em-  
25 ployer who asserts an entrapment defense has the burden of proving by clear  
26 and convincing evidence the following:

27 (a) The idea of committing the violation started with law enforcement  
28 officers or their agents rather than with the business entity or em-  
29 ployer;

30 (b) The law enforcement officers or their agents urged and induced the  
31 business entity or employer to commit the violation; and

32 (c) The business entity or employer was not already predisposed to com-  
33 mit the violation before the law enforcement officers or their agents  
34 urged and induced the employer to commit the violation.

35 44-306. EXCLUSIONS FROM LIABILITY. (1) A contractor of any tier shall  
36 not be liable under this chapter when its direct subcontractor violates sec-  
37 tion 44-302, Idaho Code, if the contractor receives a sworn affidavit from  
38 the subcontractor signed before a notary that the direct subcontractor, in  
39 good faith, has complied with respect to verifying each employee's eligibil-  
40 ity for employment, unless the contractor knows the direct subcontractor is  
41 violating this section.

42 (2) Any business entity or employer that terminates the employment of  
43 an employee to comply with this chapter shall not be liable for any claims  
44 made against the business entity or employer by the terminated employee if  
45 such termination is made without regard to the race, ethnicity, or national  
46 origin of the employee.

1           44-307. INTERPRETATION. The provisions of this chapter shall be in-  
2     terpreted consistently with 8 U.S.C. 1324a and any applicable federal rules  
3     and regulations.

4           44-308. EXCLUSIONS. This chapter does not apply to the relationship  
5     between a party and the employees of an independent contractor performing  
6     work for the party and does not apply to casual domestic labor performed  
7     within a household.

8           SECTION 2. An emergency existing therefor, which emergency is hereby  
9     declared to exist, this act shall be in full force and effect on and after  
10    July 1, 2025.