

HOUSE BILL NO. 226

INTRODUCED BY C. SPRUNGER, W. GALT, M. NIKOLAKAKOS, S. KELLY, S. KLAKKEN, R. GREGG, C. SCHOMER, V. MOORE, T. MILLETT, D. BEDEY, M. BERTOGLIO, E. BUTTREY, S. GIST, L. JONES, R. TEMPEL, J. KASSMIER, S. VINTON, S. FITZPATRICK, K. WALSH, J. SCHILLINGER, G. OBLANDER, K. ZOLNIKOV, L. DEMING, B. USHER, B. BARKER, L. BREWSTER, G. HERTZ, T. MCGILLVRAY, G. NIKOLAKAKOS, K. SEEKINS-CROWE, B. PHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE LEGAL EMPLOYMENT AND GOVERNMENT ACCOUNTABILITY LAW; PROVIDING DEFINITIONS; REQUIRING EMPLOYER VERIFICATION OF LEGAL ABILITY TO WORK IN THE UNITED STATES OF ALL EMPLOYEES PRIOR TO COMMENCEMENT OF WORK; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO ENFORCE THE ACT; PROVIDING FOR PENALTIES FOR VIOLATION; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT FOR PENALTIES; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 8] may be referred to as the "Legal Employment and Government Accountability Law".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 8], the following definitions apply:

- (1) "Commissioner" means the commissioner of labor and industry as provided in 2-15-1701 or the commissioner's designee.
- (2) "Department" means the department of labor and industry as provided in 2-15-1701.
- (3) "Employee" has the meaning provided in 39-71-118.
- (4) "Employer" has the meaning provided in 39-71-117.
- (5) "E-Verify program" means the federal electronic work authorization verification service provided

1 by the United States department of homeland security pursuant to the federal Basic Pilot Program Extension
2 and Expansion Act of 2003, Public Law 108-156, or any successor program.

3 (6) "Government entity" means a department, commission, council, board, agency, county,
4 consolidated city-county government, city, or town.

5 (7) "License" means a certificate, approval, registration, or similar form of permission issued by a
6 government entity with respect to business, professional, or occupational licensure.

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8 **NEW SECTION. Section 3. Employer verification of employee.** (1) ~~Prior to an employee providing~~
9 ~~labor or services~~ WITHIN THE TIMELINES ESTABLISHED BY 8 CFR 274A.2, an employer shall request and maintain a
10 copy of either of the following:

11 (a) the citizenship or work authorization status that has been verified by the United States
12 citizenship and immigration services' E-Verify program; or

13 (b) a completed form I-9 with corresponding documents that establish both identity and
14 employment authorization.

15 (2) An employer who has utilized the E-Verify system to determine the employment eligibility of an
16 employee is presumed to have done so in good faith and is not subject to a penalty because of the reliance on
17 the accuracy of the E-Verify system.

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19 **NEW SECTION. Section 4. Enforcement -- investigations -- rulemaking -- enforcement without**
20 **prejudice -- compliance with federal immigration law.** (1) The department shall enforce the provisions of
21 [sections 1 through 8] and may perform an investigation, audit, or review necessary to determine whether an
22 employer has violated a provision of [sections 1 through 8] or a rule promulgated by the department to
23 implement [sections 1 through 8].

24 (2) The department shall adopt rules for the purpose of carrying out the provisions of [sections 1
25 through 8].

26 (3) Nothing in [sections 1 through 8] may be construed to abrogate any obligations by an employer
27 to comply with federal immigration law, including but not limited to the proper completing and maintaining of
28 federal employment eligibility verification forms or documents.

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NEW SECTION. Section 5. Books, records, and payrolls open to inspection -- penalty for refusal -- subpoenas. (1) The books, records, and payrolls of an employer pertinent to the administration of this chapter must ~~always~~ be open to inspection by the department or an authorized employee of the department ON 3 BUSINESS DAYS' NOTICE for the purpose of ascertaining adherence to the provisions of [section 3]. Refusal on the part of an employer to submit the books, records, and payrolls for inspection must subject the offending employer to a penalty not exceeding \$500 for each offense.

(2) In addition to the remedy provided in subsection (1), the department may issue subpoenas and compel testimony to produce evidence, including books, records, papers, documents, and other objects that may be necessary and proper regarding an investigation or proceeding under this part. In case of disobedience of a subpoena issued and served or the refusal of a witness to testify as to a matter for which the witness may be interrogated in a proceeding before the department, the department may apply to a district court for an order to compel compliance with the subpoena or testimony. Disobedience of the court's order constitutes contempt of court.

NEW SECTION. Section 6. Civil penalties for violation. (1) The department may assess civil penalties against an employer violating the provisions of [sections 1 through 8], or when appropriate, inform the proper government entity to suspend a license as follows:

- (a) for a first violation, the penalty may not be more than \$500 for each individual employed, hired, or recruited in violation of [section 3];
- (b) for a second violation, the penalty may not be more than \$1,000 for each individual employed, hired, or recruited in violation of [section 3]; and
- (c) for a third or subsequent violation, the appropriate government entity shall immediately on notification suspend the violator's license or licenses for not less than 30 days or more than 6 months, and a fine must be assessed that may not be more than \$2,500 for each individual employed, hired, or recruited in violation of [section 3].

(2) A hearing must be conducted according to contested case procedures under Title 2, chapter 4, part 6, except that service need not be made as prescribed for civil actions in the district court and the hearings

1 officer is not bound by statutory or common-law rules of evidence.

2 (3) A penalty collected under this section must be deposited in the lawful employment enforcement
3 fund established in [section 8].

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5 NEW SECTION. **Section 7. Interpretation as fully consistent with federal immigration and labor**
6 **laws.** [Sections 1 through 8] must be interpreted to be fully consistent with all federal laws, including but not
7 limited to federal laws regulating immigration and labor.

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9 NEW SECTION. **Section 8. Lawful employment enforcement fund.** (1) There is a lawful
10 employment enforcement fund account in the state special revenue fund established in 17-2-102.

11 (2) There must be paid into the account money collected pursuant to 39-2-305 and [section 6].

12 (3) Money in the account is available to the department of labor and industry by appropriation and
13 may only be used by the department to implement and administer the purposes set forth in [sections 1 through
14 8], including but not limited to enforcement and education.

15 (4) Interest and income earned on the account and any unspent or unencumbered money in the
16 account at the end of a fiscal year must remain in the account.

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18 NEW SECTION. **Section 9. Codification instruction.** [Sections 1 through 8] are intended to be
19 codified as a new part in Title 39, chapter 2, and the provisions of Title 39, chapter 2, apply to [sections 1
20 through 8].

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22 NEW SECTION. **Section 10. Effective date.** [This act] is effective July 1, 2025.

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