

## 1 HOUSE BILL NO. 440

2 INTRODUCED BY D. SALOMON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALL PUBLIC AND PRIVATE EMPLOYERS TO USE  
5 THE FEDERAL E-VERIFY PROGRAM TO DETERMINE WHETHER AN EMPLOYEE OR CONTRACTOR HIRED  
6 ON OR AFTER OCTOBER 1, 2012, IS AN UNAUTHORIZED ALIEN; AND PROVIDING FOR THE VOIDING OF  
7 PUBLIC CONTRACTS AND SUSPENSION OF BUSINESS LICENSES FOR EMPLOYERS FAILING TO USE  
8 THE E-VERIFY SYSTEM."

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

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12 **NEW SECTION. Section 1. Public employers required to use federal e-verify program -- contract**  
13 **voidness -- definitions.** (1) On or after October 1, 2012, a public employer shall, within the time period allowed  
14 under federal law for the completion of the federal I-9 form for employment eligibility verification, determine or  
15 make a good faith effort to determine whether an employee or contractor hired on or after October 1, 2012, is an  
16 unauthorized alien by registering with and using the federal e-verify program.

17 (2) Notwithstanding any other law, if a public employer knowingly or purposely hires an unauthorized  
18 alien on or after October 1, 2012, the contract between the public employer and the employee or contractor is  
19 void.

20 (3) There is a rebuttable presumption that a public employer who uses the e-verify program as required  
21 by this section did not knowingly or purposely hire the unauthorized alien.

22 (4) As used in this section, the following definitions apply:

23 (a) "Contractor" means a person who is not an employee of but is an independent contractor with a  
24 public employer.

25 (b) "E-verify program" means an internet-based computer program maintained by the U.S. department  
26 of homeland security or its successor that is designed to determine, using comparisons of federal data, if an  
27 individual is authorized by the federal government to hold employment in the United States.

28 (c) "Political subdivision" means a county, city, town, or consolidated local government.

29 (d) "Public employer" means any entity of the state, including any part of the Montana university system,  
30 a political subdivision, or a school district that hires an employee or contractor.

1 (e) "Unauthorized alien" has the meaning provided in 8 U.S.C. 1324a.

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3 **NEW SECTION. Section 2. Private employers required to use federal e-verify program --**

4 **suspension of business license -- definitions.** (1) On or after October 1, 2012, a private employer shall, within  
5 the time period allowed under federal law for the completion of the federal I-9 form for employment eligibility  
6 verification, determine or make a good faith effort to determine whether an employee or contractor hired on or  
7 after October 1, 2012, is an unauthorized alien by using the federal e-verify program.

8 (2) If a private employer knowingly or purposely hires an unauthorized alien on or after October 1, 2012,  
9 notwithstanding any other law, the business license of the private employer is suspended and ineffective for any  
10 purpose for the period during which the private employer employs or contracts with the unauthorized alien.

11 (3) There is a rebuttable presumption that a private employer who uses the e-verify program as required  
12 by this section did not knowingly or purposely hire the unauthorized alien.

13 (4) As used in this section, the following definitions apply:

14 (a) "Business license" means any license or permit, excluding a professional or occupational license  
15 issued pursuant to Title 37, issued by the state or a political subdivision as a prerequisite for doing business within  
16 the state or political subdivision.

17 (b) "Contractor" means a person who is not an employee of but is an independent contractor with a  
18 private employer.

19 (c) "E-verify program" means an internet-based computer program maintained by the U.S. department  
20 of homeland security or its successor that is designed to determine, using comparisons of federal data, if an  
21 individual is authorized by the federal government to hold employment in the United States.

22 (d) "Private employer" means a person, except a public employer as defined in [section 1], that hires an  
23 employee or contractor.

24 (e) "Unauthorized alien" has the meaning provided in 8 U.S.C. 1324a.

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26 **NEW SECTION. Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as an  
27 integral part of Title 2, chapter 18, and the provisions of Title 2, chapter 18, apply to [section 1].

28 (2) [Section 1] is intended to be codified as an integral part of Title 18, chapter 1, and the provisions of  
29 Title 18, chapter 1, apply to [section 1].

30 (3) [Section 2] is intended to be codified as an integral part of Title 39, chapter 2, part 3, and the

1 provisions of Title 39, chapter 2, part 3, apply to [section 2].

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