

Employing Illegal Aliens

This Act establishes penalties for knowingly employing an illegal alien. It defines “knowingly” as having actual knowledge that a person is an illegal alien or having a duty imposed by law to determine the immigration status of an illegal alien and failing to perform such duty. Violators can have their business license suspended.

The Act also permits local governments in the state to enter into a written agreement with the United States Department of Homeland Security to help enforce federal immigration laws concerning investigating, detaining, and removing illegal aliens.

Submitted as:

Tennessee

[Public Chapter No. 529](#)

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Prohibit Employing Illegal
2 Aliens.”

3
4 Section 2. [*Definitions.*]

5 (a) As used in this section, unless the context otherwise requires:

6 (1) “Commissioner” means the [commissioner of labor and workforce
7 development].

8 (2) “Department” means the [department of labor and workforce development].

9 (3) “Employ” or “employment” means any work engaged in for compensation in
10 money or other valuable consideration and for which a person paying the compensation for the
11 work performed is required to file a “Form W-2” Wage and Tax Statement with the Federal
12 Internal Revenue Service.

13 (4) “Illegal alien” means a person who is at the time of employment neither an alien
14 who is lawfully admitted for permanent residence in the United States pursuant to the Federal
15 Immigration and Naturalization Act nor authorized to be employed by the Federal Immigration
16 and Naturalization Act or the United States Attorney General.

17 (5) “Knowingly” means having actual knowledge that a person is an illegal alien or
18 having a duty imposed by law to determine the immigration status of an illegal alien and failing to
19 perform such duty.

20 (6) “Lawful resident alien” means a person who is entitled to lawful residence in
21 the United States pursuant to the Federal Immigration and Naturalization Act.

22 (7) “Lawful resident verification information” means the documentation that is
23 required by the United States Department of Homeland Security when completing the
24 employment eligibility verification form commonly referred to as the federal “Form I-9.”
25 Documentation that later proves to be falsified, but that at the time of employment satisfies the
26 requirements of the “Form I-9,” is lawful resident verification information.

27 (8) “License” means any certificate, approval, registration or similar form of
28 permission required by law.

29 (9) "Person" means an individual, corporation, partnership, association or any other
30 legal entity.

31 (b) A person shall not knowingly employ, recruit or refer for a fee for employment, an
32 illegal alien.

33 (c) A person has not violated subsection (b) with respect to a particular employee if the
34 person:

35 (1) Requested from the employee, received, and documented in the employee
36 record at least [fourteen (14) calendar days] after commencement of employment lawful resident
37 verification information consistent with employer requirements under the Immigration Reform
38 and Control Act of 1986; and

39 (2) The lawful resident verification information provided by the person later was
40 determined to be false.

41 (d) A person has not violated subsection (b) with respect to a particular employee if the
42 person verified the immigrant status of the person at least [fourteen (14) calendar days] after
43 commencement of employment by using the Federal Electronic Work Authorization Verification
44 Service provided by the United States Department of Homeland Security pursuant to the Federal
45 Basic Pilot Program Extension and Expansion Act of 2003.

46 (e) If any state or local governmental agency, officer, employee or entity has reason to
47 believe that a violation of subsection (b) has occurred, the agency, officer, employee or entity shall
48 file a complaint with the [department]. Upon receipt of the complaint, the [commissioner] shall
49 conduct an investigation. If there is substantial evidence that a violation of subsection (b) has
50 occurred, the [commissioner] shall conduct a contested case hearing pursuant to the Uniform
51 Administrative Procedures Act, complied in [insert citation], on the question of whether such
52 person has violated subsection (b). If the [commissioner] or the [commissioner's] designee
53 determines that there is clear and convincing evidence that a person has violated subsection (b)
54 and such violation occurred while the person was acting within the scope of practice of a license
55 issued by this state pursuant to [insert citation], the [commissioner] shall request an order
56 consistent with [insert citation], requiring the appropriate regulatory board or local government
57 with respect to business licensure pursuant to [insert citation], to revoke, suspend, or deny the
58 person's license. The [commissioner] shall state in their findings of fact and conclusions of law
59 whether there have been previous violations of subsection (b).

60 (1) For the first violation of subsection (b), the [commissioner] shall order that the
61 regulatory board or local government suspend the person's license until the person shows to the
62 satisfaction of the [commissioner] that the person is no longer in violation of subsection (b). Such
63 showing may be made by the person filing a sworn statement with the [commissioner] stating that
64 the person is no longer employing illegal aliens.

65 (2) For a second or subsequent violation of subsection (b) occurring within [three
66 (3)] years from the issuance of the [commissioner's] first order, the [commissioner] shall order
67 that the regulatory agency or local government suspend the license for [one (1)] year.

68
69 Section 3. *[Inter-Branch Agreements to Enforce this Act.]*

70 (a) For purposes of enforcing federal immigration laws, including, if applicable, federal
71 laws relating to the employment of illegal aliens, the legislative body of a municipality or county,
72 or the chief law enforcement officer of the county upon approval by the governing legislative
73 body, may enter into a written Memorandum of Understanding, in accordance with federal law,
74 between the municipality or county and the United States Department of Homeland Security
75 concerning the enforcement of federal immigration laws, detention and removals, and
76 investigations in the municipality or county.

77 (b) If a Memorandum of Understanding with the United States Department of Homeland
78 Security is executed pursuant to subsection (a), municipal and county law enforcement officers
79 shall be designated from local law enforcement agencies which, by written designation and
80 recommendation of a commanding officer, shall be trained pursuant to such Memorandum of
81 Understanding. Funding for such training shall be provided pursuant to the Federal Homeland
82 Security Appropriation Act of 2006, Public Law 109-90 or subsequent federal funding sources.

83

84 Section 4. [*Commissioner Authorized to Promulgate Rules and Regulations to Implement*
85 *this Act.*] The [commissioner] is authorized to promulgate rules and regulations to effectuate the
86 purposes of this Act. All such rules and regulations shall be promulgated in accordance with the
87 provisions of [insert citation].

88

89 Section 5. [*Severability.*] [Insert severability clause.]

90

91 Section 6. [*Repealer.*] [Insert repealer clause.]

92

93 Section 7. [*Effective Date.*] [Insert effective date.]