

IN THE SENATE

SENATE BILL NO. 1155

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO EMPLOYMENT OF UNAUTHORIZED ALIENS; TO PROVIDE  
2 LEGISLATIVE FINDINGS; AMENDING SECTION 18-3001, IDAHO CODE, TO  
3 REVISE THE AMOUNT OF A FINE AND TO PROVIDE FOR A MISDEMEANOR;  
4 AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER  
5 4, TITLE 44, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE  
6 DEFINITIONS, TO PROHIBIT EMPLOYMENT OF UNAUTHORIZED ALIENS,  
7 TO PROVIDE PROVISIONS RELATING TO THE FILING AND INVESTIGATION  
8 OF A COMPLAINT, TO PROVIDE FOR A MISDEMEANOR, TO PROVIDE  
9 FOR NOTICE, TO PROVIDE PROVISIONS RELATING TO ACTIONS AGAINST  
10 CERTAIN EMPLOYERS, TO PROVIDE FOR EXCEPTIONS, TO PROVIDE  
11 FOR PENALTIES, TO PROVIDE THAT THE ATTORNEY GENERAL SHALL  
12 MAINTAIN A DATABASE OF CERTAIN COURT ORDERS, TO PROVIDE FOR  
13 APPLICATION OF FEDERAL LAW, TO PROVIDE FOR EXCEPTIONS AND  
14 AN AFFIRMATIVE DEFENSE, TO PROVIDE PROVISIONS RELATING TO  
15 CERTAIN EMPLOYMENT AUTHORIZATIONS, TO PROVIDE FOR COMPLIANCE  
16 WITH FEDERAL LAW, TO PROVIDE THAT THE STATE OF IDAHO SHALL  
17 VERIFY CERTAIN EMPLOYMENT AUTHORIZATIONS, TO PROVIDE FOR A  
18 PERFORMANCE AUDIT, TO REQUIRE POLITICAL SUBDIVISIONS TO VERIFY  
19 CERTAIN EMPLOYMENT AUTHORIZATIONS, TO PROVIDE PROVISIONS  
20 RELATING TO THE AWARD OF CERTAIN CONTRACTS AND TO DEFINE A  
21 TERM; AMENDING SECTION 49-303, IDAHO CODE, TO PROVIDE THAT THE  
22 IDAHO TRANSPORTATION DEPARTMENT SHALL NEITHER ISSUE A DRIVER'S  
23 LICENSE TO AN ILLEGAL ALIEN NOR TO CERTAIN OTHER PERSONS,  
24 TO PROVIDE THAT THE STATE OF IDAHO SHALL NOT HONOR CERTAIN  
25 DRIVER'S LICENSES, TO PROVIDE FOR PUBLIC POLICY, TO DEFINE A TERM  
26 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 2, TITLE  
27 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-218A, IDAHO  
28 CODE, TO PROHIBIT MUNICIPAL SANCTUARIES, TO PROVIDE PROVISIONS  
29 RELATING THERETO AND TO DEFINE A TERM; AMENDING CHAPTER 30,  
30 TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3035D,  
31 IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO NOTICE FROM  
32 THE STATE TAX COMMISSION TO CERTAIN EMPLOYERS; PROVIDING  
33 SEVERABILITY; AND TO PROVIDE EFFECTIVE DATES.  
34

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

36 SECTION 1. LEGISLATIVE FINDINGS. The Legislature finds that this act complies  
37 with the requirements of 8 U.S.C. section 1324a(h)(2) by discouraging the knowing  
38 employment of unauthorized aliens through licensing and similar laws. It is the intention  
39 of the Legislature to ensure that those who are employed in Idaho are legally authorized to

1 work in this state. The Legislature recognizes that there are industries in Idaho that are in  
 2 need of temporary and seasonal workers, and that historically these workers have come to the  
 3 United States from other countries through legal guest worker programs. While the Legislature  
 4 encourages our congressional delegation to pursue development of a guest worker program to  
 5 meet the needs of Idaho employers, such a program should not reward those who have already  
 6 broken our laws or provide any form of amnesty.

7 SECTION 2. That Section 18-3001, Idaho Code, be, and the same is hereby amended to  
 8 read as follows:

9 18-3001. FALSE PERSONATION. (1) Every person who falsely personates another,  
 10 and in such assumed character, either:

11 ~~1-(a)~~ Becomes bail or surety for any party in any proceeding whatever, before any court  
 12 or officer authorized to take such bail or surety; or

13 ~~2-(b)~~ Verifies, publishes, acknowledges or proves in the name of another person, any  
 14 written instrument, with the intent that the same may be recorded, delivered and used as  
 15 true; or

16 ~~3-(c)~~ Does any act whereby, if it were done by the person falsely personated, he might  
 17 in any event, become liable to any suit or prosecution, or to pay any sum of money, or to  
 18 incur any charge, forfeiture or penalty, or whereby any benefit might accrue to the party  
 19 personating, or to any other person;

20 Is punishable by imprisonment in the county jail not exceeding two (2) years, or by a fine not  
 21 exceeding five thousand dollars (\$5,000).

22 (2) Every person who falsely personates another and in such assumed character attempts  
 23 to obtain or does obtain employment shall be guilty of a misdemeanor.

24 SECTION 3. That Title 44, Idaho Code, be, and the same is hereby amended by the  
 25 addition thereto of a NEW CHAPTER, to be known and designated as Chapter 4, Title 44,  
 26 Idaho Code, and to read as follows:

27 CHAPTER 4  
 28 EMPLOYMENT OF UNAUTHORIZED ALIENS

29 44-401. SHORT TITLE. This chapter may be cited as the "Employment of  
 30 Unauthorized Aliens Act."

31 44-402. DEFINITIONS. In this chapter, unless the context otherwise requires:

32 (1) "Agency" means any agency, department, board or commission of this state or a  
 33 county or city that issues a permit or license for purposes of operating a business in this state.

34 (2) "Employee" means any person who performs services or labor for an employer in the  
 35 state for wages or other remuneration. For the purposes of this chapter, "employee" shall not  
 36 refer to a person performing casual domestic labor in or around one's personal abode. For the  
 37 purposes of this chapter an employer-employee relationship does not exist between a contractor  
 38 and the employees of a subcontractor.

39 (3) "Employer" means an individual, corporation, limited liability company, partnership  
 40 or other recognized legal entity that transacts business in this state, that has a permit or license  
 41 issued by an agency in this state and employs one (1) or more individuals who perform

1 employment in this state. Employer includes the state of Idaho, any political subdivision of the  
2 state and self-employed persons.

3 (4) "E-Verify," formerly known as the basic pilot/employment eligibility verification  
4 program, is the internet-based system operated by the federal department of homeland security  
5 in partnership with the social security administration that allows participating employers to  
6 electronically verify the employment eligibility of their newly-hired employees.

7 (5) "Knowingly employ an unauthorized alien" means the actions described in 8 U.S.C.  
8 section 1324a. This term shall be interpreted consistently with 8 U.S.C. section 1324a and any  
9 applicable federal rules and regulations.

10 (6) "Legal employment affidavit" means an affidavit that indicates that an employer does  
11 not knowingly employ an unauthorized alien, that an employer will not direct any other person  
12 to employ an unauthorized alien and that an employer makes a good faith effort to comply with  
13 all federal and state laws regarding the authorization for employment in the United States of  
14 every employee who is employed by the employer in this state.

15 (7) "License" or "permit" means any agency permit, certificate, approval, registration,  
16 charter or similar form of authorization that is required by law and that is issued by any agency  
17 for the purposes of operating a business in this state but does not include a license or permit  
18 issued by the department of water resources or the department of environmental quality and  
19 does not include any professional license issued pursuant to title 54, Idaho Code, or the Idaho  
20 state bar association.

21 (8) "Unauthorized alien" means an alien who does not have the legal right or  
22 authorization under federal law, to work in the United States as defined in 8 U.S.C section  
23 1324a(h)(3).

24 44-403. EMPLOYMENT OF UNAUTHORIZED ALIENS – PROHIBITION – LEGAL  
25 EMPLOYMENT AFFIDAVIT – VIOLATION – CLASSIFICATION. (1) An employer shall  
26 not employ an alien knowing the alien is an unauthorized alien, as defined in 8 U.S.C. section  
27 1324a(h)(3) with respect to such employment.

28 (2) On receipt of a complaint that an employer allegedly knowingly employs an  
29 unauthorized alien, the attorney general or prosecuting attorney of the county where the  
30 violation allegedly occurs shall investigate whether the employer has violated the provisions  
31 of subsection (1) of this section. When investigating a complaint, the attorney general or  
32 prosecuting attorney shall verify the work authorization and immigration status of the alleged  
33 unauthorized alien with the federal government pursuant to 8 U.S.C. section 1373(c). A  
34 state, county or local official shall not attempt to independently make a final determination on  
35 whether an alien is authorized to work in the United States. A person who knowingly files a  
36 false and frivolous complaint pursuant to this subsection (2) shall be guilty of a misdemeanor.  
37 A complaint that is based upon the race, ethnicity or national origin of an employee shall not  
38 be acted upon.

39 (3) If, after an investigation, the attorney general or prosecuting attorney determines that  
40 the complaint is not frivolous:

41 (a) The attorney general or prosecuting attorney shall notify the United States department  
42 of homeland security of the unauthorized alien.

43 (b) The attorney general or prosecuting attorney shall notify the county sheriff or city  
44 police of the unauthorized alien.

1 (c) The attorney general shall notify the appropriate prosecuting attorney for the purpose  
2 of bringing an action pursuant to subsection (4) of this section if the complaint was  
3 originally filed with the attorney general.

4 (4) An action for a violation of subsection (1) of this section shall be brought against  
5 the employer by the prosecuting attorney in the county where the unauthorized alien employee  
6 is employed. The prosecuting attorney shall not bring an action against an employer for any  
7 violation of subsection (1) of this section that occurs with respect to an employee's employment  
8 prior to October 1, 2009. A second violation of the provisions of this section shall be based  
9 only on an unauthorized alien who is employed by the employer after an action has been  
10 brought for a violation of the provisions of subsection (1) of this section.

11 (5) For any action in district court pursuant to this section, the court shall expedite the  
12 action, including assigning the hearing, at the earliest practicable date.

13 (6) On a finding of a violation of the provisions of subsection (1) of this section:

14 (a) For a first violation of the provisions of subsection (1) of this section, the court:

15 (i) Shall order the employer to terminate the employment of any unauthorized  
16 alien whose unauthorized status has been confirmed with finality by the federal  
17 government pursuant to 8 U.S.C. section 1373(c).

18 (ii) Shall order the employer to be subject to a three (3) year probationary period.  
19 During the probationary period the employer shall file quarterly reports with the  
20 prosecuting attorney identifying each new employee who is hired by the employer  
21 at the specific location where the unauthorized alien performed work.

22 (iii) Shall order the employer to file a signed sworn affidavit with the prosecuting  
23 attorney within three (3) business days after the order is issued. The affidavit  
24 shall state that the employer has terminated the employment of all unauthorized  
25 aliens and that the employer does not knowingly employ an unauthorized alien.  
26 The court shall order the appropriate agencies to suspend all licenses subject to  
27 this chapter that are held by the employer if the employer fails to file a signed  
28 sworn affidavit with the prosecuting attorney within three (3) business days after  
29 the order is issued. All licenses that are suspended under this paragraph (iii)  
30 shall remain suspended until the employer files a signed sworn affidavit with the  
31 prosecuting attorney. Notwithstanding any other provision of law, on filing of the  
32 affidavit the suspended licenses shall be reinstated immediately by the appropriate  
33 agencies for the purposes of this paragraph. The licenses that are subject to  
34 suspension under this paragraph (iii) are all licenses that are held by the employer  
35 and that are necessary to operate the employer's business at the employer's  
36 business location where the unauthorized alien performed work. If a license is  
37 not necessary to operate the employer's business at the specific location where  
38 the unauthorized alien performed work, but a license is necessary to operate the  
39 employer's business in general, the licenses that are subject to suspension under  
40 this subsection are all licenses that are held by the employer at the employer's  
41 primary place of business. On receipt of the court's order and notwithstanding  
42 any other law, the appropriate agencies shall suspend the licenses according to  
43 the court's order. The court shall send a copy of the court's order to the attorney  
44 general and the attorney general shall maintain a copy pursuant to subsection (7)  
45 of this section.

1 (b) For a second violation, during the probationary period the court may order the  
2 appropriate agencies to suspend all licenses described in subsection (6)(a)(iii) of this  
3 section that are held by the employer for a period not to exceed ten (10) business days.  
4 The court shall base its decision to suspend pursuant to this subsection, on any evidence  
5 or information submitted to it during the action for a violation of the provisions of this  
6 section and shall consider the following factors, if relevant:

7 (i) The number of unauthorized aliens employed by the employer;

8 (ii) Any prior misconduct by the employer;

9 (iii) The degree of harm resulting from the violation;

10 (iv) Whether the employer made good faith efforts to comply with any applicable  
11 requirements;

12 (v) The duration of the violation;

13 (vi) The role of the directors, officers or principals of the employer in the  
14 violation;

15 (vii) Any other factors the court deems appropriate.

16 (c) For a third or subsequent violation of subsection (1) of this section, during the  
17 probationary period the court shall order the appropriate agencies to permanently revoke  
18 all licenses that are held by the employer that are necessary to operate the employer's  
19 business at the employer's business location where the unauthorized alien performed  
20 work. If a license is not necessary to operate the performed work, but a license  
21 is necessary to operate the employer's business in general, the court shall order the  
22 appropriate agencies to permanently revoke all licenses that are held by the employer at  
23 the employer's primary place of business. Upon receipt of the order and notwithstanding  
24 any other provision of law to the contrary, the appropriate agencies shall immediately  
25 revoke the licenses.

26 (7) The attorney general shall maintain copies of court orders that are received pursuant  
27 to subsection (6) of this section and shall maintain a database of the employers who have a  
28 first violation of the provisions of subsection (1) of this section and shall make the court orders  
29 available on the attorney general's website.

30 (8) On determining whether an employee is an unauthorized alien, the court shall defer  
31 to the federal government's determination pursuant to 8 U.S.C. section 1373(c). The federal  
32 government's determination creates a rebuttable presumption of the employee's employment  
33 authorization or lack of employment authorization. The court may take judicial notice of  
34 the federal government's determination and may request the federal government to provide  
35 automated or testimonial verification pursuant to 8 U.S.C. section 1373(c). On or before  
36 October 1, 2009, the attorney general shall make publicly available on the attorney general's  
37 website the requirements of this chapter upon employers.

38 (9) For purposes of this section, proof that an employer verified the employment  
39 authorization of an employee through E-Verify creates a rebuttable presumption that an  
40 employer did not knowingly employ an unauthorized alien with respect to that particular  
41 employee.

42 (10) For purposes of this section, an employer who establishes that it has complied in  
43 good faith with the requirements of 8 U.S.C. section 1324a, and establishes an affirmative  
44 defense that the employer did not intentionally or knowingly employ an unauthorized alien with  
45 respect to that particular employee.

1 (11) In verifying the employment authorization of any individual with the federal  
 2 government, all state, county and local officials, including judges, shall notify the individual  
 3 in the event that the federal government responds with a "tentative nonconfirmation" of  
 4 the individual's employment authorization. The contest procedure available to such an  
 5 individual shall be allowed to occur, and the necessary time period for contesting a tentative  
 6 nonconfirmation shall be allowed to run, consistent with applicable federal statutes and  
 7 regulations.

8 44-404. EMPLOYER ACTIONS – FEDERAL LAW COMPLIANCE. The provisions  
 9 of this chapter shall not be construed to require an employer to take any action that the  
 10 employer believes in good faith would violate federal or state law.

11 44-405. VERIFICATION OF EMPLOYMENT ELIGIBILITY – PUBLIC  
 12 EMPLOYERS – E-VERIFY – OFFICE OF PERFORMANCE EVALUATIONS. (1) Before  
 13 hiring an employee, the state of Idaho shall verify the employment authorization of the  
 14 employee through E-Verify.

15 (2) The director of the office of performance evaluations shall conduct a performance  
 16 audit that evaluates the use of E-Verify by this state pursuant to subsection (1) of this section  
 17 and shall include the following:

18 (a) The costs incurred by this state to verify the employment authorization of employees  
 19 through E-Verify;

20 (b) The number of additional employees required by this state to verify the employment  
 21 authorization of employees through E-Verify; and

22 (c) A summary of results and any error rates that occurred when E-Verify was used by  
 23 this state.

24 (3) After October 1, 2009, every political subdivision of this state shall verify the  
 25 employment authorization of all newly-hired employees through E-Verify.

26 44-406. AWARD OF CONTRACTS – EMPLOYEE VERIFICATION –  
 27 DEFINITIONS. (1) No state agency shall award a contract to any contractor or subcontractor  
 28 that provides services in this state unless the employment authorization of the employees of the  
 29 contractor or subcontractor that perform services in this state has been verified by the contractor  
 30 or subcontractor through E-Verify. The provisions of this subsection only apply to contracts  
 31 that are awarded on and after October 1, 2009.

32 (2) After October 1, 2009, a political subdivision of this state shall not award a contract  
 33 to any contractor or subcontractor that provides services in this state unless the employment  
 34 authorization of the employees of the contractor or subcontractor that perform the services in  
 35 this state will be verified by the contractor or subcontractor through E-Verify.

36 (3) Before a contract is awarded pursuant to this section, the contractor or subcontractor  
 37 shall provide to the procurement officer of the state or political subdivision the E-Verify  
 38 verification documents for all employees who will perform services under the contract.

39 (4) For purposes of this section, "services" means the furnishing of labor, time or effort  
 40 in Idaho by a contractor or subcontractor. Services include construction or maintenance of any  
 41 structure, building or transportation facility or improvement of real property.

42 SECTION 4. That Section 49-303, Idaho Code, be, and the same is hereby amended to  
 43 read as follows:

1           49-303. WHAT PERSONS SHALL NOT BE LICENSED. The department shall not  
2 issue any driver's license, any instruction permit, privileges or right to drive and, if issued, may  
3 revoke or cancel the driver's license of a person who:

4           (1) As an operator of a vehicle requiring a class D driver's license, is under the age of  
5 seventeen (17) years, except that the department may issue a driver's license to any person  
6 who has successfully completed an approved driver's training course, has completed the  
7 requirements of a class D supervised instruction permit, and who is at least fifteen (15) years  
8 of age, with driving privileges restricted to daylight hours only except as provided in section  
9 49-307(9), Idaho Code, and with full privileges at sixteen (16) years of age. The restriction of  
10 daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half  
11 (1/2) hour after sunset. If a person who is at least fifteen (15) years but is under seventeen  
12 (17) years of age has successfully completed an approved driver's training course and has been  
13 issued a driver's license in another state, he may be issued a class D driver's license in this  
14 state. Provided however, that a restricted school attendance driving permit may be issued to  
15 those persons meeting the criteria set forth in section 49-307A, Idaho Code.

16           (2) As an operator of a vehicle requiring a class D driver's license, is under the age of  
17 seventeen (17) years and has not successfully completed an approved driver's training course  
18 and has not satisfied the requirements of a class D supervised instruction permit. Provided  
19 however, that a restricted school attendance driving permit may be issued to those persons  
20 meeting the criteria set forth in section 49-307A, Idaho Code.

21           (3) As an operator of a commercial vehicle requiring a class A, B or C driver's license is  
22 under the age of eighteen (18) years.

23           (4) Applicants with less than one (1) year of driving experience, as evidenced by a  
24 previous driver's license, shall not be issued a class A, B or C driver's license or a class A, B  
25 or C instruction permit.

26           (5) As a driver has had his license, class D instruction permit, restricted school  
27 attendance driving permit, privileges or right to drive suspended for the duration of the  
28 suspension, nor to any person who has had his class D driver's training instruction permit or  
29 class D supervised instruction permit canceled for the duration of the cancellation, nor to any  
30 person whose license has been revoked, suspended, canceled or disqualified by this state or any  
31 other jurisdiction; provided however, where a driver's license has been revoked, suspended,  
32 canceled or disqualified in any other jurisdiction, and the driver has completed the period of  
33 revocation, suspension, cancellation or disqualification as specified by the jurisdiction, that  
34 person may be granted a class D driver's license in this state if five (5) years have elapsed from  
35 the time of eligibility for reinstatement in the other jurisdiction, even though the driver has not  
36 fulfilled the requirements for reinstatement in the other jurisdiction.

37           (6) Has been adjudged by a court of competent jurisdiction to be an habitual drunkard or  
38 addicted to the use of narcotic drugs, and such order has been received by the department.

39           (7) Has been adjudged by a licensed physician or by a court of competent jurisdiction to  
40 be afflicted with or suffering from any mental incompetence that would affect the person's  
41 ability to safely operate a motor vehicle and who has not at the time of application been  
42 restored to competency by the methods provided by law, and such order has been received  
43 by the department.

44           (8) Is required by the provisions of this chapter to take an examination, unless that  
45 person shall have successfully passed such examination.

1 (9) May be required under any law of this state to furnish proof of financial  
2 responsibility and who has not furnished that proof.

3 (10) The department has good cause to believe that the operation of a motor vehicle on  
4 the highways by that person would be harmful to public safety or welfare.

5 (11) Is disqualified for a class A, B or C driver's license, except he may be issued a class  
6 D driver's license.

7 (12) Is under eighteen (18) years of age and is not enrolled in school, has not received a  
8 waiver pursuant to or has not satisfactorily completed school as provided in section 49-303A,  
9 Idaho Code.

10 (13) Is not a resident of the state of Idaho.

11 (14) Is not lawfully present in the United States.

12 (15) The department shall not issue any driver's license to an illegal alien nor to any  
13 person who cannot prove his or her lawful presence pursuant to the provisions of chapter 4,  
14 title 44, Idaho Code. A driver's license issued to an illegal alien in another state shall not  
15 be honored by the state of Idaho and the Idaho transportation department for any purpose.  
16 The state of Idaho hereby declares that granting driver's licenses to illegal aliens is repugnant  
17 to the public policy of Idaho and therefore, the state of Idaho shall not extend full faith and  
18 credit to out-of-state driver's licenses issued to illegal aliens. As used in this section, the term  
19 "illegal alien" means an alien who is not lawfully present in the United States, according to  
20 the terms of 8 U.S.C. section 1101, et seq. A driver's license shall not be issued to an illegal  
21 alien applicant until the United States department of homeland security has verified that the  
22 alien is lawfully present in the United States, using either the systematic alien verification for  
23 entitlements program or another method of verification of status.

24 SECTION 5. That Chapter 2, Title 50, Idaho Code, be, and the same is hereby amended  
25 by the addition thereto of a NEW SECTION, to be known and designated as Section 50-218A,  
26 Idaho Code, and to read as follows:

27 50-218A. MUNICIPAL SANCTUARY PROHIBITED. (1) Any municipality that  
28 enacts or adopts a sanctuary policy shall be ineligible for any moneys provided through grants  
29 administered by any state agency or department until the sanctuary policy is repealed or is no  
30 longer in effect. Upon the complaint of any state resident regarding a specific government  
31 entity, agency or political subdivision of this state or prior to the provision of funds or awarding  
32 of any grants to a government entity, agency or political subdivision of this state, any member  
33 of the state legislature may request that the attorney general of the state of Idaho issue an  
34 opinion stating whether the government entity, agency or political subdivision has current  
35 policies in contravention of this section. For purposes of this section, the term "municipality"  
36 means a city incorporated pursuant to title 50, Idaho Code.

37 (2) The governing body, sheriff or chief of police of each municipality shall provide each  
38 law enforcement officer written notice of his duty to cooperate with state and federal agencies  
39 and officials on matters pertaining to the enforcement of the provisions of this section.

40 (3) For the purposes of this section, a "sanctuary policy" is a written or unwritten policy  
41 or practice that either:

42 (a) Directs officers not to ask any person whether he is a United States citizen, or what  
43 his immigration status is; or

44 (b) In any way inhibits or discourages communication with the federal government  
45 concerning any person's immigration status.

1 SECTION 6. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended  
2 by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3035D,  
3 Idaho Code, and to read as follows:

4 63-3035D. EMPLOYER NOTICE. On or before July 1, 2009, the state tax commission  
5 shall provide a notice to every employer that is required to withhold tax pursuant to chapter  
6 30, title 63, Idaho Code. The notice shall explain the requirements of chapter 4, title 44, Idaho  
7 Code, including the following:

8 (1) A new state law prohibiting employers from knowingly employing an unauthorized  
9 alien.

10 (2) For a first violation of this new state law during a three (3) year period, the court  
11 shall order the appropriate licensing agencies to suspend all licenses held by the employer  
12 unless the employer files a signed sworn affidavit with the prosecuting attorney within three (3)  
13 business days. The filed affidavit must state that the employer has terminated the employment  
14 of all unauthorized aliens and that the employer will not knowingly employ an unauthorized  
15 alien. A license that is suspended will remain suspended until the employer files a signed  
16 sworn affidavit with the prosecuting attorney. A copy of the court order will be made available  
17 on the attorney general's website.

18 (3) For a second violation of this new state law, the court may order the appropriate  
19 agencies to suspend all business licenses held by the employer for up to ten (10) business days.

20 (4) For a third violation of this new state law, the court will order the appropriate  
21 licensing agencies to permanently revoke all licenses that are held by the employer.

22 (5) Proof of verifying the employment authorization of an employee through E-Verify, as  
23 defined in section 44-402, Idaho Code, shall be a defense of good faith.

24 (6) Instructions for the employer on how to enroll in E-Verify, as defined in section  
25 44-402, Idaho Code.

26 SECTION 7. The provisions of this act are hereby declared to be severable and if any  
27 provision of this act or the application of such provision to any person or circumstance is  
28 declared invalid for any reason, such declaration shall not affect the validity of the remaining  
29 portions of this act.

30 SECTION 8. Section 4 of this act shall be in full force and effect on and after July  
31 1, 2009. The remaining sections of this act shall be in full force and effect on and after  
32 September 1, 2009.