LEGISLATURE OF THE STATE OF IDAHO
Sixty-seventh Legislature Second Regular Session - 2024

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 756

BY STATE AFFAIRS COMMITTEE

AN ACT
RELATING TO ILLEGAL IMMIGRATION; AMENDING THE IDAHO CODE, BY THE ADDITION OF
A NEW TITLE 24, IDAHO CODE, RELATING TO ALIENS; AMENDING THE IDAHO CODE,
BY THE ADDITION OF A NEW CHAPTER 1, TITLE 24, IDAHO CODE, TO ESTABLISH
PROVISIONS REGARDING ILLEGAL IMMIGRATION, TO DEFINE TERMS, TO PROVIDE
A RESTRICTION OF FUNDS FOR CERTAIN IDENTIFICATION DOCUMENTS, TO ES-
TABLISH RESTRICTIONS REGARDING AN ILLEGAL IMMIGRANT DRIVER'S LICENSE,
TO ESTABLISH A PROHIBITION ON ILLEGAL IMMIGRANT HIRING, AND TO RE-
QUIRE CERTAIN MEDICAL FACILITIES TO COLLECT AND REPORT DATA ON PATIENT
CITIZENSHIP STATUS; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF
A NEW CHAPTER 3, TITLE 44, IDAHO CODE, TO DEFINE TERMS, TO ESTABLISH
PROVISIONS REQUIRING THE USE OF E-VERIFY BY EMPLOYERS, TO ESTABLISH
PROVISIONS REGARDING PUBLIC AGENCY CONTRACTS WITH CONTRACTORS AND SUB-
CONTRACTORS, AND TO PROVIDE FOR COMPLIANCE, VIOLATIONS, AND PENALTIES;
AMENDING TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 89, TITLE
18, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE CRIME OF HUMAN
SMUGGLING; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That the Idaho Code, be, and the same is hereby amended by the
addition thereto of a NEW TITLE, to be known and designated as Title 24, Idaho
Code, and to read as follows:

TITLE 24
ALIENS

CHAPTER 1
ILLEGAL IMMIGRATION

24-101. DEFINITIONS. As used in this chapter:
(1) "Illegal immigrant" means any individual in the United States who
is a foreign-born non-citizen without status to reside, work, or visit the
United States. This includes but is not limited to such terms as undocu-
mented immigrant, undocumented noncitizen, undocumented individual, or
unauthorized immigrant.
(2) "Law enforcement agency" means any state or local agency given
law enforcement powers or that has authority to investigate, enforce,
prosecute, or punish violations of state or federal criminal statutes, ordi-
nances, or regulations.
(3) "Private agency" means an individual, corporation, limited liabil-
ity company, partnership, or other legally recognized entity that transacts
business in this state, has a permit or license issued by an agency in this
state, and employs one (1) or more individuals.
(4) "Public agency" means any state, county, city, school district, municipal corporation, independent public body corporate and politic, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.

24-102. RESTRICTION OF FUNDS FOR IDENTIFICATION DOCUMENTS. No public agency shall provide funds to any person, entity, or organization for the purpose of issuing an identification card or document to an individual who does not provide proof of lawful presence in the United States.

24-103. ILLEGAL IMMIGRANT DRIVER'S LICENSE. (1) Any out-of-state driver's licenses or other permits authorizing the holder to operate a motor vehicle on public roadways and issued exclusively to illegal immigrants who are unable to provide proof of lawful presence in the United States upon issue shall be invalid in the state of Idaho and shall not be an authorization to lawfully operate a motor vehicle on public roadways.

(2) A law enforcement agency who stops a person driving with an invalid license as described in subsection (1) of this section may issue a citation to the driver for driving without a license in accordance with the provisions of section 49-301, Idaho Code.

(3) The division of motor vehicles shall publish on its website a list of out-of-state driver's licenses that are invalid in the state of Idaho.

24-104. PROHIBITION ON ILLEGAL IMMIGRANT HIRING. (1) No public or private agency, on behalf of itself or on behalf of another, shall knowingly employ, hire, recruit, or refer for public or private employment within the state of Idaho an immigrant who is not duly authorized to work by the immigration laws of the United States, the attorney general of the United States, the United States secretary of homeland security, or the United States citizenship and immigration services.

(2) For a violation of this section, the Idaho department of labor shall act in accordance with section 44-304, Idaho Code.

24-105. MEDICAL FACILITIES DATA COLLECTION. (1) Every medical facility that accepts medicaid must include a provision on its patient admission or registration forms for the patient or the patient's representative to indicate whether the patient is a United States citizen, is lawfully present in the United States, or is not lawfully present in the United States. The form shall include a statement that the responses given shall not affect patient care or result in reporting the individual patient's immigration status to authorities.

(2) Every medical facility described in subsection (1) of this section shall submit a quarterly report to the department of health and welfare and the medicaid fraud control unit of the office of the attorney general within thirty (30) days after the end of each calendar quarter. Such report shall include the number of admissions or emergency department visits within the previous quarter that were made by a patient self-reporting as a citizen of the United States, as being lawfully present in the United States, as being not lawfully present in the United States, or as declining to answer.
(3) The department of health and welfare shall submit a report to the
governor, the president pro tempore of the senate, and the speaker of the
house of representatives no later than January 30 of each year. The report
shall include the total number of hospital admissions and emergency depart-
ment visits for the previous calendar year, broken down by the four (4) cat-
egories described in subsection (2) of this section, the costs of uncompens-
sated care for illegal immigrants, the impact of uncompensated care on the
cost or ability of medical facilities to provide services to the public, on
hospital funding needs, and other necessary costs.

(4) The department of health and welfare shall promulgate rules pur-
suant to chapter 52, title 67, Idaho Code, subject to legislative approval,
to prescribe the format and information to be contained in quarterly reports
and the acceptable formats for medical facilities to use in requesting in-
formation regarding a patient's residency status on admission or registra-
tion forms.

SECTION 2. That Title 44, Idaho Code, be, and the same is hereby amended
by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
ter 3, Title 44, Idaho Code, and to read as follows:

CHAPTER 3
E-VERIFY REQUIRED FOR EMPLOYMENT

44-301. DEFINITIONS. As used in this chapter:
(1) "E-verify" means the internet-based system operated by the United
States department of homeland security that allows participating employers
to electronically verify the employment eligibility of new employees.
(2) "Employee" means any individual who performs services or labor for
a public or private agency for wages or other remuneration. For the pur-
pose of this chapter, "employee" does not mean an individual performing ca-
sual domestic labor in or around a person's personal abode. For the purpose
of this chapter, an employer-employee relationship does not exist between a
contractor and the employees of a subcontractor.
(3) "Illegal immigrant" means any individual in the United States who
is a foreign-born non-citizen without status to reside, work, or visit the
United States. This includes but is not limited to such terms as undocu-
mented immigrant, undocumented noncitizen, undocumented individual, or
unauthorized immigrant.
(4) "Law enforcement agency" means any state or local agency given
law enforcement powers or that has authority to investigate, enforce,
prosecute, or punish violations of state or federal criminal statutes, ordi-
nances, or regulations.
(5) "Private agency" means an individual, corporation, limited liabil-
ity company, partnership, or other legally recognized entity that transacts
business in this state, that has a permit or license issued by an agency in
this state, and that employs one (1) or more individuals.
(6) "Public agency" means any state, county, city, school district,
municipal corporation, independent public body corporate and politic,
district, public health district, political subdivision, or any agency
thereof, or any committee of a local agency, or any combination thereof.
44-302. E-VERIFY REQUIREMENT. (1) Employers shall verify each new employee's employment eligibility within three (3) business days after the first day that the new employee begins working, as provided in this chapter.

(2) Every public agency, as defined in section 44-301, Idaho Code, shall use the e-verify system to verify a new employee's employment eligibility.

(3) A private employer with twenty (20) or more employees shall use the e-verify system to verify a new employee's employment eligibility.

(4) Each employer required to use the e-verify system pursuant to this section must certify on its first return each calendar year to the Idaho department of labor that it is in compliance with the provisions of this section when making contributions to or reimbursing the employment security fund established pursuant to section 72-1346, Idaho Code.

(5) If the e-verify system is unavailable for three (3) business days after the first day that the new employee begins working for pay and an employer cannot access the system to verify a new employee's employment eligibility, the employer must verify employment eligibility using form I-9, the employment eligibility verification form from United States citizenship and immigration services. The employer must document the unavailability of the e-verify system by reasonable means for each day the employer is unable to access the system.

(6) The employer must maintain a copy of the documentation provided and any official verification generated pursuant to this section, if applicable, for three (3) years.

(7) No employer shall continue to employ an illegal immigrant after obtaining knowledge that the person is or has become an illegal immigrant.

(8) An employer shall provide any documentation relied upon by the employer for the verification of a new employee's employment eligibility if requested by a law enforcement agency, the Idaho attorney general, the Idaho department of labor, the Idaho state department of agriculture, or the Idaho department of health and welfare.

44-303. PUBLIC AGENCY CONTRACTS. (1) In any contract with a contractor, a public agency shall require the contractor and any subcontractor to register with and use the e-verify system to verify the work authorization status of all new employees of the contractor or subcontractor. No public agency may enter into a contract unless each party to the contract registers with and uses the e-verify system.

(2) If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an illegal immigrant. The contractor shall maintain a copy of such affidavit for the duration of the contract.

(3) A public agency, contractor, or subcontractor who has a reasonable belief that a person or entity with which it is contracting has knowingly violated the provisions of section 44-302, Idaho Code, shall terminate the contract.

(4) A public agency that reasonably believes that a subcontractor knowingly violated the provisions of this section, but the contractor otherwise complied with the provisions of this section, shall notify the contractor
and order the contractor to immediately terminate the contract with the sub-
contractor.

(5) Any contract terminated pursuant to this section shall not be ad-
judged a breach of contract. If a public agency terminates a contract with
a contractor pursuant to the provisions of this section, the contractor may
not be awarded a public contract for at least one (1) year after the date on
which the contract was terminated. A contractor shall be liable for any ad-
ditional costs incurred by a public agency because of the termination of a
contract as well as reimbursement of funds already paid by the state for ser-
vices.

44-304. COMPLIANCE -- VIOLATIONS -- PENALTIES. (1) If the Idaho de-
partment of labor determines that an employer has failed to use the e-ver-
ify system in accordance with the provisions of this chapter, the depart-
ment must notify the employer of the determination of noncompliance and pro-
vide the employer with thirty (30) days to become compliant. If the employer
does not comply within thirty (30) days, then a fine of one thousand dollars
($1,000) shall be imposed per day until the employer provides sufficient in-
formation that the employer is now in compliance.

(2) An employer who fails to comply with the provisions of this chapter
within six (6) months of the notification by the Idaho department of labor
shall be guilty of a misdemeanor.

(3) Two (2) violations of the provisions of this chapter by an employer
within two (2) years shall constitute grounds for the suspension or revoca-
tion of all licenses issued by a licensing agency to the employer.

(4) An employer who violates the provisions of this chapter three (3) or
more times shall be guilty of a misdemeanor.

(5) An employer who violates the provisions of this chapter four (4) or
more times shall be guilty of a felony.

(6) Any fines collected pursuant to this section shall be deposited
into the state general fund.

SECTION 3. That Title 18, Idaho Code, be, and the same is hereby amended
by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
ter 89, Title 18, Idaho Code, and to read as follows:

CHAPTER 89
HUMAN SMUGGLING

18-8901. HUMAN SMUGGLING. (1) A person who knowingly and willfully
transports into this state an individual whom the person knows, or reason-
ably should know, has entered the United States in violation of law and has
not been authorized by the United States to lawfully enter the United States
from another country shall be guilty of a felony.

(2) A person commits a separate offense for each individual transported
into this state in violation of the provisions of this section.

SECTION 4. This act shall be in full force and effect on and after Jan-
uary 1, 2025.