

As Introduced

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H. B. No. 227

Representative Domenick

Cosponsors: Representatives Dyer, Winburn

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To enact sections 8.01 to 8.04 and 5747.027 of the 1
Revised Code to require in specified situations 2
the verification of immigration status of persons 3
who are not United States citizens, to impose 4
state income taxes at a rate of six per cent per 5
annum on the compensation of specified independent 6
contractors who fail to document such 7
verification, and to restrict the employment of 8
persons who are not legal residents of the United 9
States. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 8.01, 8.02, 8.03, 8.04, and 5747.027 11
of the Revised Code be enacted to read as follows: 12

Sec. 8.01. As used in the Revised Code: 13

(A) "Alien" means a person who is not a United States citizen 14
or a United States national. 15

(B) "Legal permanent resident alien" means an alien who has 16
been granted the right by the United States bureau of citizenship 17
and immigration services to reside permanently in the United 18
States and to work without restrictions in the United States. 19

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(C) "Nonimmigrant" means an alien who has been granted the right by the United States bureau of citizenship and immigration services to reside temporarily in the United States and the period of that temporary residence has not expired.

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(D) "Public employer" means any department, agency, or instrumentality of the state or a political subdivision of the state.

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(E) "Status verification system" means any electronic system the federal government operates to enable a person to verify or ascertain the citizenship or immigration status of any individual. "Status verification system" includes all of the following:

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(1) The electronic verification of work authorization program known as the "e-verify program," 8 U.S.C. 1324a, operated by the United States department of homeland security, and any equivalent federal program that the United States department of homeland security or other federal agency designates to verify the work eligibility status of newly hired employees, pursuant to the "Immigration Reform and Control Act of 1986," Pub. L. No. 99-603, 100 Stat. 3360.

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(2) Any independent, third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in division (E)(1) of this section.

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(3) The social security number verification service, or any similar online verification process the United States social security administration operates.

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(F) "Subcontractor" means a subcontractor, contract employee, staffing agency, or any contractor regardless of its tier.

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(G) "Unauthorized alien" means an alien who is not authorized to be employed as determined in accordance with section 101(a) of

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the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 50
8 U.S.C. 1324a. 51

Sec. 8.02. (A) Every public employer shall register with a 52
status verification system and use that system to verify the 53
employment authorization status of all new employees. 54

(B)(1) After July 1, 2009, no public employer shall enter 55
into a contract for the physical performance of services within 56
this state unless the contractor registers and participates in a 57
status verification system. 58

(2) After July 1, 2009, no contractor or subcontractor shall 59
enter into any contract to provide a public employer with the 60
physical performance of services in this state unless the 61
contractor or subcontractor registers and participates in a status 62
verification system to verify information of all new employees. 63

(3) Division (B) of this section does not apply to any 64
contract entered into prior to the effective date of this section 65
even if the service or labor is performed after July 1, 2009. 66

(C) The director of commerce shall adopt rules pursuant to 67
Chapter 119. of the Revised Code under which the director 68
administers sections 8.02 to 8.04 of the Revised Code. 69

Sec. 8.03. (A) Any individual who acts as an independent 70
contractor and contracts to provide the physical performance of 71
services in this state shall document the employment authorization 72
of persons who perform labor for that independent contractor. 73

(B) If a contractor fails to provide the contracting entity 74
with documentation of employment authorization as division (A) of 75
this section requires, the contracting entity shall withhold from 76
that contractor's compensation an amount for state income taxes at 77
the rate of six per cent of the total amount of compensation paid 78
to the contractor. The Ohio income taxes imposed on any such 79

compensation shall be computed pursuant to section 5747.027 of the 80
Revised Code. 81

(C) Any contracting entity that fails to comply with the 82
withholding division (B) of this section requires is liable for 83
the income taxes imposed pursuant to that section unless the 84
contracting entity is exempt from federal withholding with respect 85
to the contractor pursuant to a properly filed internal revenue 86
service form 8233 or its equivalent. 87

(D) Nothing in this section shall be construed as creating an 88
employer-employee relationship between a contracting entity and an 89
individual independent contractor. 90

Sec. 8.04. (A) No employer shall discharge an employee who is 91
a United States citizen or legal permanent resident alien while 92
that employer retains an employee whom the employer knows, or 93
reasonably should have known, is an unauthorized alien hired after 94
July 1, 2009 and who works for the employer in a job category 95
that, as defined by 29 U.S.C. 206(d)(1), requires equal skill, 96
effort, and responsibility and is performed under similar working 97
conditions as the job category of the discharged employee. 98

(B) An employer is exempt from liability, investigation, or 99
suit arising from any action under this division if on the date of 100
a discharge that is alleged to violate division (A) of this 101
section, the employer was enrolled in and used a status 102
verification system to verify the employment eligibility of its 103
employees. 104

(C) A violation of this section does not give rise to any 105
cause of action except as provided in this section. 106

Sec. 5747.027. In the case of an independent contractor who 107
fails to provide documentation of employment authorization to a 108
contracting entity as section 8.03 of the Revised Code requires, 109

the tax imposed on the total compensation the independent 110
contractor receives from the contracting entity shall be at the 111
rate of six per cent. 112