



LEGAL ALERT

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Arizona's Immigration Bill Creating Additional Employer Sanctions Heads to Governor's Desk.

HB 2779 dealing with the employment of unauthorized aliens in Arizona is on its way to the Governor's desk. Although it is unclear whether the Governor will sign the bill, the fact that it passed both the Senate and the House with bipartisan support is indicative of the legislature's impatience with the inability of their federal counterparts to pass comprehensive immigration reform.

The key points from the HB 2779 include the following:

- Applies to all employers who employ one or more employees.
 - After Dec. 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the Basic Pilot Program.
 - Employers are prohibited from "intentionally" or "knowingly" hiring unauthorized aliens.
 - "Intentionally" means the employer's objective is to cause that result or to engage in that conduct which is prohibited.
 - "Knowingly" means not only actual knowledge but also knowledge which may fairly be inferred through notice of certain facts and circumstances which would lead an employer, through reasonable care, to know about a certain condition.
- Anyone can make a complaint, triggering the duty of the Attorney General or County Attorney to investigate.



- If the complaint is not frivolous, Immigration and Customs Enforcement (ICE), local law enforcement.
- The County Attorney then brings an action against the employer. (*note that no such action can be filed prior to Jan 1, 2008)
- The penalties for “knowingly” hiring an undocumented worker are less than “intentionally” hiring such workers.
- If an employer “knowingly” hires undocumented workers:
 - The employer must terminate the worker.
 - The employer is placed on a 3 year probation during which it must file quarterly reports.
 - The employer must sign a sworn affidavit that it has terminated the employees and will not knowingly or intentionally hire undocumented workers (failure to sign this affidavit will result in the suspension of the employer’s business licenses).
 - The Court may order business licenses suspended for not more than 10 business days.
- If an employer “intentionally” hires undocumented workers:
 - The employer must terminate the worker
 - The employer is placed on a 5 year probation during which it must file quarterly reports.
 - The business license will be suspended for at least 10 days
 - The employer must sign a sworn affidavit that it has terminated the employees and will not knowingly or intentionally hire undocumented workers (failure to sign this affidavit will result in the continued suspension of the employer’s business licenses)
- For Repeat offenders during the probationary period--- all licenses will be permanently revoked.
- There is a rebuttable presumption that an employer did not knowingly or intentionally hire undocumented workers if
 - The employer participates in the Basic Pilot Program, or
 - The employer has complied with the Federal I-9 requirements

If you need additional information about HB 2779 or other immigration or employment matters, please contact Rebecca Winterscheidt at 602-382-6343.