

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4586

BY DELEGATE MOYE

[Introduced February 13, 2018; Referred
to the Committee on Industry and Labor then the
Judiciary.]

1 A BILL to amend and reenact §21-1B-3 of the Code of West Virginia, 1931, as amended, relating
2 to verification of eligibility for employment; requiring proof of identity and employment
3 eligibility for employment; specifying that federal E-Verify Program may serve to verify
4 employment eligibility status; requiring Commissioner of Labor to authorize by rule other
5 forms of acceptable identification; and requiring retention of records of documents.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1B. VERIFYING LEGAL EMPLOYMENT STATUS OF WORKERS.

§21-1B-3. Unauthorized workers; employment prohibited.

1 (a) It is unlawful for any employer to knowingly employ, hire, recruit or refer, either for him
2 or herself or on behalf of another, for private or public employment within the state, an
3 unauthorized worker who is not duly authorized to be employed by law.

4 (b) Employers shall be required to verify a prospective employee's legal status or
5 authorization to work prior to employing the individual or contracting with the individual for
6 employment services.

7 (c) ~~For purposes of this article~~ Proof of legal status or authorization to work includes ~~but~~
8 ~~is not limited to~~ verification of work authorization by utilizing the federal E-Verify Program pursuant
9 to the requirements of 8 U.S.C Section 1324, a valid social security card, a valid immigration or
10 nonimmigration visa, including photo identification, a valid birth certificate, a valid passport, a valid
11 photo identification card issued by a government agency, a valid work permit or supervision permit
12 authorized by the Division of Labor, a valid permit issued by the Department of Justice or other
13 valid document providing evidence of legal residence or authorization to work in the United States
14 or any other documentation authorized pursuant to rules of the commissioner.

15 (d) Documentation of proof of identity includes any state or federal government issued
16 photo identification card, a valid passport from any country, a government issued birth certificate,
17 or other identification authorized pursuant to rules of the commissioner.

18 (e) A copy of the document verifying the employee's identity and legal status must be

19 retained for three years or for one year after the employee is no longer employed by the employer,
20 whichever is longer.

21 (d) (f) For purposes of enforcing the provisions of this article, and notwithstanding any
22 other provision of this code to the contrary, the commissioner or his or her authorized
23 representative may access information maintained by any other state agency, including, but not
24 limited to, the Bureau of Employment Programs and the Division of Motor Vehicles, for the limited
25 purpose of confirming the validity of a worker's legal status or authorization to work. The
26 commissioner shall promulgate rules in accordance with ~~the provisions of~~ §29A-9-1 et seq. of this
27 code to safeguard against the release of any confidential or identifying information that is not
28 necessary for the limited purpose of enforcing the provisions of this article.

NOTE: The purpose of this bill is to assure that all persons hired in this state have their identity verified; authorizes the use of the federal E-Verify program to verify employment eligibility, require documents relating to verification of eligibility be retained, and authorizing the Commissioner of Labor to propose acceptable alternative forms of identification by rule.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.