

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 35
PROPOSED COMMITTEE SUBSTITUTE H35-PCS40512-TM-7

Short Title: Protect North Carolina Workers Act.

(Public)

Sponsors:

Referred to:

February 2, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE NUMBER OF EMPLOYERS WHO ARE REQUIRED TO
3 PARTICIPATE IN THE FEDERAL E-VERIFY PROGRAM; TO REPEAL THE
4 E-VERIFY EXEMPTION FOR TEMPORARY EMPLOYEES; AND TO EXCLUDE
5 FARM WORKERS FROM THE DEFINITION OF EMPLOYEE UNDER ARTICLE 2 OF
6 CHAPTER 64 OF THE GENERAL STATUTES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 64-25 reads as rewritten:

9 **"§ 64-25. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Commissioner. – The North Carolina Commissioner of Labor.
12 (2) Employ. – Hire an employee.
13 (3) Employee. – Any individual who provides services or labor for an employer
14 in this State for wages or other remuneration. ~~The term does not include an~~
15 ~~individual whose term of employment is less than nine months in a calendar~~
16 ~~year.~~ The term does not include a farm worker, an independent contractor, or
17 an individual who provides domestic service in a private home that is
18 sporadic, irregular, or intermittent.
19 (4) Employer. – Any person, business entity, or other organization that transacts
20 business in this State and that employs ~~25-15~~ or more employees in this
21 State. This term does not include State agencies, counties, municipalities, or
22 other governmental bodies.
23 (5) E-Verify. – The federal E-Verify program operated by the United States
24 Department of Homeland Security and other federal agencies, or any
25 successor or equivalent program used to verify the work authorization of
26 newly hired employees pursuant to federal law.
27 (5a) Farm worker. – An individual who maintains farms, crops, or livestock by
28 doing physical labor or operating machinery under the supervision of a
29 farmer, rancher, or other agricultural manager. The term includes those who
30 perform tasks related to growing and harvesting grains, fruits, vegetables,
31 nuts, Christmas trees, and other agricultural crops but does not include those
32 who merely plant, transplant, or transport trees.
33 (5b) Independent contractor. – Any individual or entity who carries on
34 independent business, contracts to do a piece of work according to the
35 individual or entity's own means and methods, and is subject to control only
36 as to results. Whether an individual or entity is an independent contractor,



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1 regardless of what the individual or entity calls itself, shall be determined on
2 a case-by-case basis. Factors to be considered in that determination include,
3 but are not limited to, whether the individual or entity supplies the tools or
4 materials; makes services available to the general public; works for a
5 number of clients at the same time; has an opportunity for profit or loss as a
6 result of labor or services provided; invests in the facilities for work; directs
7 the order or sequence in which the work is to be done; and determines the
8 hours during which the work is to be done.

9 (6) Unauthorized alien. – As defined in 8 U.S.C. § 1324a(h)(3)."

10 **SECTION 2.** This act becomes effective October 1, 2017.