

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH40709-MC-342

Short Title: Make E-Verify Great Again.

(Public)

Sponsors: Representative Gillespie.

Referred to:

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, REQUIRE STATE AND
4 LOCAL GOVERNMENT EMPLOYERS TO COMPLY WITH ARTICLE 2 OF CHAPTER
5 64 OF THE GENERAL STATUTES, CREATE A GOOD-FAITH SAFE HARBOR FOR
6 EMPLOYERS WHO UNKNOWINGLY RECEIVE FRAUDULENT DOCUMENTATION
7 RELATED TO E-VERIFY, ALLOW THE COMMISSIONER OF LABOR TO CONDUCT
8 RANDOM AND RISK-BASED COMPLIANCE CHECKS RELATED TO E-VERIFY,
9 ALLOW EMPLOYERS TO CURE FIRST VIOLATIONS OF E-VERIFY
10 REQUIREMENTS, INCREASE THE CIVIL PENALTIES FOR EMPLOYERS WHO FAIL
11 TO COMPLY WITH E-VERIFY REQUIREMENTS, PROTECT EMPLOYEES FROM
12 RETALIATION FOR GOOD-FAITH REPORTS OF SUSPECTED VIOLATIONS OF
13 E-VERIFY REQUIREMENTS, AND APPROPRIATE FUNDS TO THE DEPARTMENT
14 OF LABOR FOR THE ENFORCEMENT OF THIS ACT.

15 The General Assembly of North Carolina enacts:

16 SECTION 1.(a) G.S. 64-25 reads as rewritten:

17 "§ 64-25. Definitions.

18 The following definitions apply in this Article:

- 19 (1) Commissioner. – The North Carolina Commissioner of Labor.
20 (2) Employ. – Hire an employee.
21 (3) Employee. – Any individual who provides services or labor for an employer
22 in this State for wages or other remuneration. The term does not include an
23 individual whose term of employment is less than nine months in a calendar
24 year.
25 (4) Employer. – Any person, business entity, or other organization that transacts
26 business in this State and that employs ~~25~~ five or more employees in this State.
27 ~~This term does not include State agencies, counties, municipalities, or other~~
28 ~~governmental bodies.~~ The term also includes any entity required to participate
29 in E-Verify pursuant to any of the following:
30 a. State and local entities pursuant to G.S. 126-7.1(i).
31 b. Counties pursuant to G.S. 153A-99.1.
32 c. Municipalities pursuant to G.S. 160A-169.1.
33 (5) E-Verify. – The federal E-Verify program operated by the United States
34 Department of Homeland Security and other federal agencies, or any
35 successor or equivalent program used to verify the work authorization of
36 newly hired employees pursuant to federal law.



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

SECTION 1.(b) G.S. 64-26 reads as rewritten:

"§ 64-26. Verification of employee work authorization.

(a) Employers Must Use E-Verify. – Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify.

(b) Employer Preservation of E-Verify Forms. – Each employer shall retain the record of the verification of work authorization required by this section while the employee is employed and for one year thereafter.

(c) Repealed by Session Laws 2013-418, s. 2(g), effective September 4, 2013.

(d) Good-Faith Compliance. – An employer shall be deemed in good-faith compliance with this Article if the employer timely enrolls in and utilizes E-Verify as required by law, properly completes and retains all required forms and documentation, and does not knowingly or with reckless disregard accept fraudulent documentation. An employer acting in good-faith compliance with this Article shall not be subject to civil penalties under this Article solely because an employee submitted fraudulent information or documentation that could not reasonably have been detected."

SECTION 1.(c) G.S. 64-29 reads as rewritten:

"§ 64-29. Investigation of ~~complaints~~; complaints; compliance checks.

(a) Investigation. – Upon receipt of a complaint filed in accordance with G.S. 64-28, the Commissioner shall investigate whether a violation of G.S. 64-26 or G.S. 143-133.3 has in fact occurred. If, after an investigation, the Commissioner determines that the complaint is not false or frivolous, the Commissioner shall proceed in accordance with G.S. 64-30A for violations of G.S. 64-26 or G.S. 64-33.1 for violations of G.S. 143-133.3.

(a1) Random and Risk-Based Compliance Checks. – The Commissioner may conduct random or risk-based compliance checks of employers to determine compliance with G.S. 64-26 and G.S. 143-133.3. Compliance checks shall be conducted in a neutral and nondiscriminatory manner. If, after a compliance check, the Commissioner determines that there is a nonfrivolous possibility of a violation of G.S. 64-26 or G.S. 143-133.3, the Commissioner shall proceed in accordance with G.S. 64-30A for violations of G.S. 64-26 or G.S. 64-33.1 for violations of G.S. 143-133.3.

(b) Certain Complaints Shall Not Be Investigated. – The Commissioner shall not investigate complaints that are based solely on race, religion, gender, ethnicity, or national origin.

(c) Assistance by Law Enforcement. – The Commissioner may request that the State Bureau of Investigation assist in investigating a complaint under this section.

(d) Subpoena for Production of Documents. – The Commissioner may issue a subpoena for production of employment records that relate to the recruitment, hiring, employment, or termination policies, practices, or acts of employment as part of ~~the investigation of a valid complaint~~ an investigation or compliance check initiated under this section."

SECTION 1.(d) G.S. 64-30 is repealed.

SECTION 1.(e) Article 2 of Chapter 64 of the General Statutes is amended by adding a new section to read:

"§ 64-30A. Procedure and consequences for violation of G.S. 64-26.

(a) Cure Period for Alleged Violation. – Upon determining that a complaint alleging a violation of G.S. 64-26 is not false or frivolous in accordance with G.S. 64-29(a) or that there is a nonfrivolous possibility of a violation of G.S. 64-26 in accordance with G.S. 64-29(a1), the Commissioner shall determine whether the employer is entitled to the cure period under this subsection. An employer is entitled to the cure period under this subsection if the alleged violation occurs when the Commissioner has not previously issued an order against the employer pursuant to subsection (b) of this section or former G.S. 64-31, regardless of whether the employer has previously utilized the cure period under this subsection. If the employer is entitled to the cure period under this subsection, the Commissioner shall issue a written notice of

1 noncompliance to the employer. The employer shall have 30 calendar days from receipt of the
2 notice to cure the alleged violation by enrolling in E-Verify, completing required verifications,
3 and otherwise complying with G.S. 64-26. If the employer cures the alleged violation within the
4 30-day cure period and submits proof of compliance to the Commissioner, the Commissioner
5 shall not hold a hearing or issue an order against the employer under subsection (b) of this section
6 for the alleged violation.

7 (b) Hearing and Penalties. – If the employer fails to cure the alleged violation of
8 G.S. 64-26 in accordance with subsection (a) of this section, or if the employer is not entitled to
9 the cure period under subsection (a) of this section, the Commissioner shall hold a hearing to
10 determine if a violation of G.S. 64-26 has occurred and, upon a determination of a violation,
11 impose civil penalties as follows:

12 (1) First violation. – For a violation of G.S. 64-26 that occurs when the
13 Commissioner has not previously issued an order against the employer
14 pursuant to this subsection or former G.S. 64-31, the Commissioner may order
15 the employer to pay a civil penalty of up to one thousand dollars (\$1,000) for
16 each required employee verification the employer failed to make.

17 (2) Second violation. – For a violation of G.S. 64-26 that occurs after the
18 Commissioner has issued an order against the employer pursuant to
19 subdivision (1) of this subsection or former G.S. 64-31, the Commissioner
20 shall order the employer to pay a civil penalty of not less than two thousand
21 five hundred dollars (\$2,500) and not more than ten thousand dollars
22 (\$10,000), regardless of the number of required employee verifications the
23 employer failed to make.

24 (3) Third or subsequent violations. – For a violation of G.S. 64-26 that occurs
25 after the Commissioner has issued an order against the employer pursuant to
26 subdivision (2) of this subsection or former G.S. 64-32, the Commissioner
27 shall order the employer to pay a civil penalty of not less than ten thousand
28 dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000)
29 for each required employee verification the employer failed to make. The
30 Commissioner may also refer the matter to the Attorney General for
31 appropriate enforcement action.

32 (c) Notice to Law Enforcement. – If, during the course of a hearing pursuant to subsection
33 (b) of this section, the Commissioner concludes that there is a reasonable likelihood that an
34 employee is an unauthorized alien, the Commissioner shall notify the following entities of the
35 possible presence of an unauthorized alien:

36 (1) United States Immigration and Customs Enforcement.

37 (2) Local law enforcement agencies."

38 **SECTION 1.(f)** G.S. 64-31 is repealed.

39 **SECTION 1.(g)** G.S. 64-32 is repealed.

40 **SECTION 1.(h)** G.S. 64-33 is repealed.

41 **SECTION 1.(i)** G.S. 64-33.1 reads as rewritten:

42 **"§ 64-33.1. Consequences of violation of G.S. 143-133.3. Procedure and consequences for**
43 **violation of G.S. 143-133.3.**

44 For violation of G.S. 143-133.3, the Commissioner shall hold a hearing to determine if a
45 violation has occurred and, upon a determination of a violation, shall notify the board or
46 governing body of the State, or of any institution of the State government, or of any political
47 subdivision of the State, found to have committed the violation that the board or governing body
48 of the State, or of any institution of the State government, or of any political subdivision of the
49 State, is in violation of the applicable statute. The Department of Labor shall maintain a list of
50 any boards or governing bodies of the State, or of any institutions of the State government, or of

1 any political subdivisions of the State, issued notices pursuant to this section and shall make that
2 list available on its website."

3 **SECTION 1.(j)** Article 2 of Chapter 64 of the General Statutes is amended by adding
4 a new section to read:

5 **"§ 64-33.2. Proceeds of civil penalties.**

6 The clear proceeds of all civil penalties imposed pursuant to this Article shall be remitted to
7 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

8 **SECTION 1.(k)** G.S. 64-34 reads as rewritten:

9 **"§ 64-34. Commissioner to maintain copies of orders.**

10 The Commissioner shall maintain copies of orders issued pursuant to ~~G.S. 64-31, 64-32, and~~
11 ~~64-33, G.S. 64-30A~~ and shall maintain a database of the employers and business locations that
12 have a violation of G.S. 64-26 and make the orders available on the Commissioner's website. The
13 Commissioner shall also maintain records of compliance checks conducted pursuant to
14 G.S. 64-29(a1)."

15 **SECTION 1.(l)** G.S. 126-7.1(i) reads as rewritten:

16 "(i) Each State agency, department, institution, university, community college, and local
17 education agency shall (i) verify, in accordance with the Basic Pilot Program administered by the
18 United States Department of Homeland Security pursuant to 8 U.S.C. § 1101, et seq, each
19 individual's legal status or authorization to work in the United States after hiring the individual
20 as an employee to work in the ~~United States.~~ United States, and (ii) comply with Article 2 of
21 Chapter 64 of the General Statutes."

22 **SECTION 1.(m)** G.S. 153A-99.1 reads as rewritten:

23 **"§ 153A-99.1. County verification of employee work authorization.**

24 (a) Counties Must Use E-Verify. – Each county shall register and participate in E-Verify
25 to verify the work authorization of new employees hired to work in the United States.
26 Additionally, each county shall comply with Article 2 of Chapter 64 of the General Statutes.

27 (b) E-Verify Defined. – As used in this section, the term "E-Verify" means the federal
28 E-Verify program operated by the United States Department of Homeland Security and other
29 federal agencies, or any successor or equivalent program used to verify the work authorization
30 of newly hired employees pursuant to federal law.

31 (c) Nondiscrimination. – This section shall be enforced without regard to race, religion,
32 gender, ethnicity, or national origin."

33 **SECTION 1.(n)** G.S. 160A-169.1 reads as rewritten:

34 **"§ 160A-169.1. Municipality verification of employee work authorization.**

35 (a) Municipalities Must Use E-Verify. – Each municipality shall register and participate
36 in E-Verify to verify the work authorization of new employees hired to work in the United States.
37 Additionally, each municipality shall comply with Article 2 of Chapter 64 of the General Statutes.

38 (b) E-Verify Defined. – As used in this section, the term "E-Verify" means the federal
39 E-Verify program operated by the United States Department of Homeland Security and other
40 federal agencies, or any successor or equivalent program used to verify the work authorization
41 of newly hired employees pursuant to federal law.

42 (c) Nondiscrimination. – This section shall be enforced without regard to race, religion,
43 gender, ethnicity, or national origin."

44 **SECTION 1.(o)** The Commissioner of Labor shall amend its rules to make changes
45 that are consistent with this section, utilizing temporary rulemaking where necessary.

46 **SECTION 1.(p)** This section becomes effective October 1, 2026, and applies to
47 violations occurring on or after that date.

48 **SECTION 2.(a)** G.S. 95-241 reads as rewritten:

49 **"§ 95-241. Discrimination prohibited.**

50 (a) No person shall discriminate or take any retaliatory action against an employee
51 because the employee in good faith does or threatens to do any of the following:

- 1 (1) File a claim or complaint, initiate any inquiry, investigation, inspection,
 2 proceeding or other action, or testify or provide information to any person
 3 with respect to any of the following:
 4 a. Chapter 97 of the General Statutes.
 5 b. Article 2A or Article 16 of this Chapter.
 6 c. Article 2A of Chapter 74 of the General Statutes.
 7 d. G.S. 95-28.1.
 8 e. Article 16 of Chapter 127A of the General Statutes.
 9 f. G.S. 95-28.1A.
 10 g. Article 52 of Chapter 143 of the General Statutes.
 11 h. Article 5F of Chapter 90 of the General Statutes.
 12 i. Article 2 of Chapter 64 of the General Statutes.
 13 (2) Cause any of the activities listed in subdivision (1) of this subsection to be
 14 initiated on an employee's behalf.
 15 (3) Exercise any right on behalf of the employee or any other employee afforded
 16 by Article 2A or Article 16 of this Chapter, by Article 2A of Chapter 74 of the
 17 General Statutes, or by Article 52 of Chapter 143 of the General Statutes.
 18 (4) Comply with the provisions of Article 27 of Chapter 7B of the General
 19 Statutes.
 20 (5) Exercise rights under Chapter 50B. Actions brought under this subdivision
 21 shall be in accordance with the provisions of G.S. 50B-5.5.
 22 (b) It shall not be a violation of this Article for a person to discharge or take any other
 23 unfavorable action with respect to an employee who has engaged in protected activity as set forth
 24 under this Article if the person proves by the greater weight of the evidence that it would have
 25 taken the same unfavorable action in the absence of the protected activity of the employee."
 26 **SECTION 2.(b)** This section becomes effective October 1, 2026, and applies to
 27 discriminatory or retaliatory actions taken on or after that date.
 28 **SECTION 3.(a)** There is appropriated from the General Fund to the Department of
 29 Labor the sum of four hundred forty-eight thousand one hundred ninety-five dollars (\$448,195)
 30 in recurring funds for the 2026-2027 fiscal year for five full-time equivalent positions to assist in
 31 the enforcement of this Act. These positions shall be designated as exempt policymaking
 32 positions of the Commissioner of Labor, not subject to the limitations under G.S. 126-5(d)(2).
 33 **SECTION 3.(b)** This section becomes effective July 1, 2026.
 34 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
 35 law.