

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 629
Economic Matters

(Delegate Moe, *et al.*)

Labor and Employment - Licensing - Penalties for Employment of
Undocumented Aliens

This bill establishes penalties to be imposed on an employer, licensed or similarly regulated by a unit of State government under the Labor and Employment Article, who hires or employs an undocumented alien and has been sanctioned by a federal agency for violation of immigration laws. For the first offense, each State-issued license, certification, permit, registration, or charter held by the employer must be suspended for six months. A subsequent offense results in permanent revocation of each license, certification, permit, registration, or charter. The Attorney General must enforce the bill's provisions, and each licensing authority may adopt regulations to carry out the bill's provisions.

Fiscal Summary

State Effect: Potential minimal reductions in license revenues from employers that have their license, certification, permit, registration, or charter revoked. It is assumed that enforcement, including suspensions and revocations, could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: Potential meaningful for a farm labor contractor that has its license, certification, permit, registration, or charter suspended or revoked.

Analysis

Current Law: The federal Immigration Reform and Control Act of 1986 (IRCA) prohibits employers from knowingly hiring an alien not authorized to work in the United States. Three types of conduct are specifically prohibited: (1) hiring, recruiting, or referring for a fee an alien knowing that person is unauthorized to work; (2) continuing to employ an alien knowing that person has become unauthorized; and (3) hiring any person without following the record keeping requirements of the Immigration and Nationality Act of 1952. Employers violating these provisions are subject to possible civil fines and criminal prosecution. The federal Department of Homeland Security is authorized to conduct investigations to determine whether employers have violated the prohibitions. An employer who fails to comply with the federal immigration laws is subject to civil penalties ranging from \$110 to \$11,000 per employee and possible criminal action depending on the level of violation and the employer's history of violations.

Background: According to the Department of Labor, Licensing, and Regulation (DLLR), the only employers licensed under the Labor and Employment Article are farm labor contractors, where fewer than 20 licenses are issued per year. Most of the licensing done by DLLR is under the Business Occupations and Professions Article and the Business Regulation Article.

During 2005 several other states, including Arizona, Connecticut, Georgia, New York, and South Carolina, considered legislation to punish employers of unauthorized workers through the imposition of fines and/or revocation of licensing but none of the measures passed the respective legislature. Recently Congress has considered an increasing number of bills dealing with immigration policy, including ones that affect employee verification requirements, penalties on employers, and expansion of visas to allow more workers into the United States for specified jobs.

According to information from the Center for Immigration Studies, between January 2000 and January 2005, there is only one documented case of sanctions against a Maryland employer for immigration violations. The federal Department of Homeland Security does not currently conduct worksite inspections unless specific complaints are received.

State Revenues: State revenues could decrease minimally to the extent that a farm labor contractor is sanctioned more than once by a federal agency for violation of immigration laws. There are currently only 20 farm labor contractors licensed in the State, and there is no evidence that any of those 20 have ever been sanctioned by a federal agency for violation of immigration laws. However, if it were to happen, this bill would require any State agency that issues a license, certification, permit, registration, or charter to the

affected employer suspend or revoke the specified item. That would include, but not be limited to, a business license, driver's license, vehicle registration, and business charter. Presumably there would be no loss of revenue for a first violation as it is a six-month suspension and the fees would have previously been collected. The likelihood of a second federal sanction for a farm labor contractor in the State is minimal and any resulting reduction in revenues from license, certification, permit, registration, or charter revocation would be negligible.

Additional Comments: It is unclear the manner by which relevant State agencies would be notified of federal immigration sanctions on employers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; State Department of Assessments and Taxation; Department of Housing and Community Development; Department of Human Resources; Public Service Commission; Maryland Department of Transportation; Department of Business and Economic Development; Department of Labor, Licensing, and Regulation; Office of the Attorney General; National Conference of State Legislatures; Center for Immigration Studies; Congressional Research Service; Department of Legislative Services

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