

## HOUSE BILL No. 2223

By Committee on Commerce and Economic Development

2-8

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1 AN ACT enacting the Kansas employer immigration accountability act.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) All business employers doing business in Kansas shall  
5 have the option of using e-verify for verification of employment status of  
6 all employees whose employment commenced after January 1, 2011. The  
7 use of e-verify shall be strictly voluntary and shall not be mandated in the  
8 state of Kansas.

9 (b) On and after July 1, 2011, if a business employer chooses to use  
10 e-verify and illegal aliens are hired by such employer because the  
11 person's paper work associated with the I-9 employment eligibility  
12 verification form is not completed or is incorrectly completed or the e-  
13 verify report has incorrectly provided an erroneous eligibility status for  
14 any person, including but not limited to, the applicant using and  
15 providing false identification and information during the I-9 completion  
16 process, the business shall not lose its license or be prohibited from doing  
17 business within the state or with the state provided the business takes  
18 steps to correct the information gathered when hiring an employee and  
19 terminating an illegal alien upon discovering the employee's illegal status.  
20 The good faith use of, and reliance upon, e-verify by a business shall be  
21 deemed a safe harbor and defense.

22 (c) On and after January 1, 2012, should any business employer be  
23 found to knowingly, intentionally and consistently in the ordinary course  
24 of business engage in the hiring of illegal aliens, such employer will lose  
25 its license to do business in or with the state of Kansas.

26 (d) On and after January 1, 2012, no state agency, department, board,  
27 commission, county or municipality, as defined in K.S.A. 75-1117, and  
28 amendments thereto, shall award a new public works or purchase contract  
29 to a bidder, contractor or employer, nor shall a bidder, contractor or  
30 employer be eligible to bid for or receive a public works contract if such  
31 bidder, contractor or employer does not verify the employment eligibility  
32 of the employees of such bidder, contractor or employer through e-verify.  
33 A bidder, contractor or employer shall require in a written statement with  
34 any subcontractor, which such bidder, contractor or employer contracts  
35 with for a public works or purchase contract, verifies the employment  
36 eligibility of the employees of such subcontractor through e-verify. No

1 bidder, contractor or employer who has such written statement shall be  
2 responsible for the result or omission of a subcontractor.

3 (e) Nothing in this section shall be construed to require a bidder,  
4 contractor or employer to take any action that the bidder, contractor or  
5 employer believes in good faith would violate federal or state law.

6 (f) As used in this section unless the context otherwise requires:

7 (1) "Business employer" means any individual or type of  
8 organization that transacts business in this state and that employs one or  
9 more individuals who perform employment services in this state.

10 (2) "E-verify" means an electronic system as jointly administered by  
11 the United States department of homeland security and the social security  
12 administration or its successor program, pursuant to 8 U.S.C. § 1324a,  
13 which is used to verify the employment authorization of employees.

14 (3) "Employee" means any person who performs employment  
15 services for an employer pursuant to an employment relationship between  
16 employee and employer.

17 Sec. 2. (a) As used in section 2 and 3, and amendments thereto:

18 (1) "Licensing body" means an official, agency, board or other entity  
19 of the state which authorizes individuals to practice a profession or do  
20 business in this state and issues a license, certificate, permit or other  
21 authorization to an individual so authorized; and

22 (2) "licensee" means an individual or business employer who is or  
23 may be authorized to practice a profession or do business in this state.

24 (b) All licensing bodies of this state shall have or adopt procedures  
25 for the suspension, termination, nonrenewal or denial of licensee's  
26 authority to practice a profession or do business in this state if the  
27 licensing body receives notice pursuant to section 3, and amendments  
28 thereto.

29 (c) Each licensing body in the state shall establish an inspection and  
30 audit process to investigate any allegations of a business engaging in the  
31 hiring of illegal aliens.

32 Sec. 3. (a) A notice shall be given to any licensing body of a  
33 violation of section 1, and amendments thereto. The notice shall advise  
34 the licensing body of the duty to comply with sections 2 and 3, and  
35 amendments thereto; shall provide the name of the licensee and  
36 information which will assist the licensing body to identify the correct  
37 person; and shall provide the name, mailing address and telephone  
38 number of the person serving the notice. If inadequate identifying  
39 information is included in the notice, the licensing body shall promptly  
40 contact the person serving the notice to request additional information.

41 (b) If a licensing body receives a notice pursuant to subsection (a),  
42 the licensing body shall, within 30 days after receiving the notice, notify  
43 the licensee of the licensing body's intent to suspend or to withhold

1 issuance or renewal of the licensee's authorization to practice a profession  
2 or do business in this state and of the licensee's rights and duties under  
3 this section. If the licensing body does not receive sufficient information  
4 with the notice to identify the correct licensee, the 30 days shall  
5 commence when sufficient identifying information is received.

6 (c) If the licensing body receives a notice pursuant to subsection (a),  
7 the licensing body shall proceed to suspend, terminate, deny or refuse to  
8 renew the licensee's authority to practice a profession or do business in  
9 this state.

10 (d) If an authorization to practice a profession or do business in this  
11 state is suspended, denied or not renewed pursuant to this section, any  
12 funds paid by the licensee shall not be refunded by the licensing body.

13 (e) In any review of the licensing body's actions pursuant to this  
14 section and section 2, and amendments thereto, conducted by the  
15 licensing body at the request of the licensee, the issues shall be limited to  
16 the identity of the licensee and the validity of notices pursuant to this  
17 section.

18 Sec. 4. (a) A state agency, department, board, commission, county or  
19 municipality shall not investigate without cause an audit of a bidder's  
20 employees and e-verify status. In the event of cause, the state shall not  
21 impose less than 30 days notice to the bidder to inspect and audit the  
22 bidder's employment records.

23 (b) No bidder shall have their state agency, department, board,  
24 commission, county or municipality contract revoked unless a bidder has  
25 been found to knowingly, intentionally and in the course of doing  
26 business engaged in the hiring of illegal aliens or ignored the e-verify  
27 reports on the eligibility status of its employees.

28 Sec. 5. Sections 1 through 4, and amendments thereto, shall be  
29 known and may be cited as the Kansas employer immigration  
30 accountability act.

31 Sec. 6. This act shall take effect and be in force from and after its  
32 publication in the statute book.