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HOUSE BILL NO. 536

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INTRODUCED BY L. SCHUBERT, M. VINTON, K. LOVE, G. OVERSTREET, T. SHARP, E. BYRNE, J.

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FULLER, C. HINKLE, N. NICOL, B. LER, J. SCHILLINGER, L. DEMING, F. NAVÉ, B. USHER, P. FIELDER, J.

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6 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE HIRING, RECRUITING, REFERRING, OR
7 EMPLOYING OF ALIENS NOT LAWFULLY AUTHORIZED TO ACCEPT EMPLOYMENT; PROVIDING FOR
8 REVOCATION AND SUSPENSION OF LICENSING; PROVIDING A CAUSE OF ACTION; PROVIDING
9 STATUTORY DAMAGES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY;
10 PROVIDING AN APPROPRIATION; AND AMENDING SECTION 39-2-305, MCA."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 **Section 1.** Section 39-2-305, MCA, is amended to read:

15 **"39-2-305. Employment of aliens not lawfully authorized to accept employment prohibited. (1)**
16 ~~No employer~~ A person ~~may knowingly not hire, recruit, refer, or employ, either for the person's self or on behalf~~
17 ~~of another person~~, an alien who is not lawfully authorized to accept employment.

18 (2) ~~A person convicted of violating this section shall be fined no more than \$300.~~

19 (2) (a) A court shall issue an order suspending or revoking all licenses of a person who knowingly
20 violates subsection (1) as follows:

21 (i) for a first violation, 1 year;

22 (ii) for a second violation, 3 years; and

23 (iii) for a third or subsequent violation, 20 years.

24 (b) During the period of suspension or revocation in subsections (2)(a)(i) through (2)(a)(iii), a
25 license issued to the person by another state may not be recognized in Montana.

26 (3) A person who solicits, commands, encourages, or facilitates a violation of subsection (1) with
27 the intention that a violation of subsection (1) occur shall be punished as provided under subsection (2).

28 (4) A person who attempts to violate subsection (1) by taking an action toward committing a

1 violation of subsection (1) with the intention of violating that subsection shall be punished as provided under
2 subsection (2).

3 (5) The attorney general, a county attorney, or the department of labor may sue to enforce
4 subsections (1) through (4).

5 (6) The prosecuting county attorney, attorney general, or department of labor shall notify all
6 licensing authorities in writing of the revocation order in subsection (2). A licensing authority shall take action on
7 the order as required under [section 2].

8 (3)(7) The department of labor and industry or a person harmed by a violation of this section may sue
9 to enjoin an employer from violating this section and to gain other appropriate relief.

10 (8) (a) A person harmed by a violation of this section may sue to enjoin a person from violating this
11 section and to gain other appropriate relief. A successful plaintiff is entitled to actual damages or the following
12 amounts, whichever is greater:

13 (i) for a negligent violation of subsection (1), \$500 for each day an alien who is not authorized to
14 accept employment performed any amount of work; or

15 (ii) for a knowing violation of subsection (1), \$2,000 for each day an alien who is not authorized to
16 accept employment performed any amount of work.

17 (b) A person may be awarded damages under only one category of statutory damages provided in
18 subsections (8)(a)(i) and (8)(a)(ii).

19 (9) A peace officer of this state may investigate potential violations of this section.

20 (10) For the purposes of [section 2] and this section, the following definitions apply:

21 (a) "License" means a license, certificate, registration, permit, approval, charter, membership, or
22 any other authorization issued by an agency of the state granting a person a right or privilege to engage in a
23 business, occupation, profession, conservation activity, or any other privilege that is subject to suspension,
24 revocation, forfeiture, termination, or a declaration of ineligibility to purchase by the licensing authority prior to
25 its date of expiration.

26 (b) "Licensing authority" means a department, division, board, agency, or instrumentality of this
27 state that issues a license.

28 (c) "Peace officer" has the same meaning as provided in 46-1-202.

1 (d) "Person" has the same meaning as provided in 1-1-201."

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3 **NEW SECTION. Section 2. Revocation, suspension, denial, termination, and nonrenewal of**

4 **licenses for hiring, recruiting, referring, or employing aliens not lawfully authorized to accept**

5 **employment.** (1) On receipt of the notice of revocation or suspension of the license pursuant to 39-2-305, a

6 licensing authority shall implement the revocation or suspension of the license by:

7 (a) determining if the licensing authority has issued a license to the person whose name appears

8 on the notice;

9 (b) entering the revocation or suspension on the appropriate records;

10 (c) reporting the revocation or suspension as appropriate; and

11 (d) if required by law, demanding surrender of the revoked or suspended license.

12 (2) The order revoking or suspending the license and notice of revocation or suspension pursuant

13 to 39-2-305 must be processed by the licensing authority without an additional review or hearing involving the

14 licensing authority concerning revocation or suspension of the license.

15 (3) Notwithstanding the provisions of any other law setting terms of revocation, suspension, denial,

16 termination, or nonrenewal of a license, an order issued pursuant to 39-2-305 revoking a license or suspending

17 a license must be implemented by the licensing authority and continues until the time period provided in the

18 order expires.

19 (4) In the event that a license is revoked or suspended, any funds paid by the person to the

20 licensing authority for costs related to issuance, renewal, or maintenance of a license may not be refunded to

21 the person.

22 (5) The licensing authority has no jurisdiction to modify, remand, reverse, vacate, or stay the order

23 revoking a license or the order suspending a license pursuant to 39-2-305.

24 (6) To the extent that inconsistencies exist between this part and the procedural requirements for

25 revocation or suspension of a license by a licensing agency, this part supersedes those requirements. The

26 provisions of 2-4-631 do not apply.

27 (7) A licensing authority may not issue a new license to the person during the time a license is

28 revoked or suspended pursuant to 39-2-305.

1 (8) A licensing authority shall adopt rules necessary for the implementation and administration of
2 this section.

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4 **NEW SECTION. Section 3. Appropriation.** The following money is appropriated from the general
5 fund to the department of justice for the purpose of assisting county attorneys in enforcing 39-2-305:

6 Fiscal year 2026 \$5,000,000

7 Fiscal year 2027 \$5,000,000

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9 **NEW SECTION. Section 4. Codification instruction.** [Section 2] is intended to be codified as an
10 integral part of Title 39, chapter 2, part 3, and the provisions of Title 39, chapter 2, part 3, apply to [section 2].

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12 **NEW SECTION. Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are
13 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
14 the part remains in effect in all valid applications that are severable from the invalid applications.

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