

**Amendment - 2nd Reading-yellow - Requested by: Lukas Schubert - (H) Committee of the Whole**

- 2025

69th Legislature 2025

Drafter: Maddie Krezowski,

HB0536.002.001

HOUSE BILL NO. 536

INTRODUCED BY L. SCHUBERT, M. VINTON, K. LOVE, G. OVERSTREET, T. SHARP, E. BYRNE, J. FULLER, C. HINKLE, N. NICOL, B. LER, J. SCHILLINGER, L. DEMING, F. NAVE, B. USHER, P. FIELDER, J.

HINKLE

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

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

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

**"39-2-305. Employment of aliens not lawfully authorized to accept employment prohibited. (1)**

~~No employer~~ A person may knowingly not hire, recruit, refer, or employ, either for the person's self or on behalf of another person, an alien who is not lawfully authorized to accept employment.

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

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

(i) for a first violation, ~~1 year 6 months~~;

(ii) for a second violation, ~~3 years 1 year~~; and

(iii) for a third or subsequent violation, ~~20 5 years~~.

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

(c) FOR THE PURPOSES OF DETERMINING THE NUMBER OF VIOLATIONS UNDER THIS SUBSECTION (2), IT IS A SINGLE VIOLATION OF SUBSECTION (1) WHEN A PERSON HIRES, RECRUITS, REFERS, OR EMPLOYS, EITHER FOR THE

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PERSON'S SELF OR ON BEHALF OF ANOTHER PERSON, MORE THAN ONE ALIEN SIMULTANEOUSLY WHO IS NOT AUTHORIZED TO ACCEPT EMPLOYMENT.

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

(4) A person who attempts to violate subsection (1) by taking an action toward committing a violation of subsection (1) with the intention of violating that subsection shall be punished as provided under subsection (2).

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

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

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

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

(i) for a negligent violation of subsection (1), \$ 500 \$200 for each day an alien who is not authorized to accept employment performed any amount of work; or

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

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

(c) AS AN AFFIRMATIVE DEFENSE TO SUIT UNDER SUBSECTION (8)(A)(i), THE DEFENDANT MAY SHOW THAT THE DEFENDANT OBTAINED VERIFIED WORK AUTHORIZATION BY MEANS OF E-VERIFY FOR THE PERSON WHOSE AUTHORIZATION TO ACCEPT EMPLOYMENT IS IN QUESTION.

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

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

(A) "E-VERIFY" MEANS THE ELECTRONIC VERIFICATION SYSTEM KNOWN AS E-VERIFY, OPERATED BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES OR ITS SUCCESSOR PROGRAM AS AUTHORIZED BY THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996, PUBLIC LAW 104-208, 8 U.S.C. 1324A.

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

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

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

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

**NEW SECTION. Section 2. Revocation, suspension, denial, termination, and nonrenewal of licenses for hiring, recruiting, referring, or employing aliens not lawfully authorized to accept employment.** (1) On receipt of the notice of revocation or suspension of the license pursuant to 39-2-305, a licensing authority shall implement the revocation or suspension of the license by:

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

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

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

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

(2) The order revoking or suspending the license and notice of revocation or suspension pursuant to 39-2-305 must be processed by the licensing authority without an additional review or hearing involving the licensing authority concerning revocation or suspension of the license.

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