

Amendment - 1st Reading/2nd House-blue - Requested by: Mark Noland - (S) Business, Labor and Economic Affairs

- 2025

69th Legislature 2025

Drafter: Matthew Weaver,

HB0226.002.001

HOUSE BILL NO. 226

INTRODUCED BY C. SPRUNGER, W. GALT, M. NIKOLAKAKOS, S. KELLY, S. KLAKKEN, R. GREGG, C. SCHOMER, V. MOORE, T. MILLETT, D. BEDEY, M. BERTOGLIO, E. BUTTREY, S. GIST, L. JONES, R. TEMPEL, J. KASSMIER, S. VINTON, S. FITZPATRICK, K. WALSH, J. SCHILLINGER, G. OBLANDER, K. ZOLNIKOV, L. DEMING, B. USHER, B. BARKER, L. BREWSTER, G. HERTZ, T. MCGILLVRAY, G.

NIKOLAKAKOS, K. SEEKINS-CROWE, B. PHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE LEGAL EMPLOYMENT AND GOVERNMENT ACCOUNTABILITY LAW; PROVIDING DEFINITIONS; REQUIRING EMPLOYER VERIFICATION OF LEGAL ABILITY TO WORK IN THE UNITED STATES OF ALL EMPLOYEES PRIOR TO COMMENCEMENT OF WORK; AUTHORIZING THE DEPARTMENT OF LABOR AND INDUSTRY TO ENFORCE THE ACT; PROVIDING FOR PENALTIES FOR VIOLATION; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT FOR PENALTIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 39-2-305, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 8] may be referred to as the "Legal Employment and Government Accountability Law".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 8], the following definitions apply:

- (1) "Commissioner" means the commissioner of labor and industry as provided in 2-15-1701 or the commissioner's designee.
- (2) "Department" means the department of labor and industry as provided in 2-15-1701.
- (3) "Employee" has the meaning provided in 39-71-118.
- (4) "Employer" has the meaning provided in 39-71-117.

Amendment - 1st Reading/2nd House-blue - Requested by: Mark Noland - (S) Business, Labor and Economic Affairs

- 2025

69th Legislature 2025

Drafter: Matthew Weaver,

HB0226.002.001

(5) "E-Verify program" means the federal electronic work authorization verification service provided by the United States department of homeland security pursuant to the federal Basic Pilot Program Extension and Expansion Act of 2003, Public Law 108-156, or any successor program.

(6) "Government entity" means a department, commission, council, board, agency, county, consolidated city-county government, city, or town.

(7) "License" means a certificate, approval, registration, or similar form of permission issued by a government entity with respect to business, professional, or occupational licensure.

NEW SECTION. Section 3. Employer verification of employee. (1) ~~Prior to an employee providing labor or services~~ WITHIN THE TIMELINES ESTABLISHED BY 8 CFR 274A.2, an employer shall request and maintain a copy of either of the following:

(a) the citizenship or work authorization status that has been verified by the United States citizenship and immigration services' E-Verify program; or

(b) a completed form I-9 with corresponding documents that establish both identity and employment authorization.

(2) An employer who has utilized the E-Verify system to determine the employment eligibility of an employee is presumed to have done so in good faith and is not subject to a penalty because of the reliance on the accuracy of the E-Verify system.

NEW SECTION. Section 4. Enforcement -- investigations -- rulemaking -- enforcement without prejudice -- compliance with federal immigration law. (1) The department shall enforce the provisions of [sections 1 through 8] and may perform an investigation, audit, or review necessary to determine whether an employer has violated a provision of [sections 1 through 8] or a rule promulgated by the department to implement [sections 1 through 8].

(2) The department shall adopt rules for the purpose of carrying out the provisions of [sections 1 through 8].

(3) Nothing in [sections 1 through 8] may be construed to abrogate any obligations by an employer

Amendment - 1st Reading/2nd House-blue - Requested by: Mark Noland - (S) Business, Labor and Economic Affairs

- 2025

69th Legislature 2025

Drafter: Matthew Weaver,

HB0226.002.001

1 to comply with federal immigration law, including but not limited to the proper completing and maintaining of
2 federal employment eligibility verification forms or documents.

3
4 **NEW SECTION. Section 5. Books, records, and payrolls open to inspection -- penalty for**
5 **refusal -- subpoenas.** (1) The books, records, and payrolls of an employer pertinent to the administration of
6 this chapter must ~~always~~ be open to inspection by the department or an authorized employee of the department
7 ON 3 BUSINESS DAYS' NOTICE for the purpose of ascertaining adherence to the provisions of [section 3]. Refusal
8 on the part of an employer to submit the books, records, and payrolls for inspection must subject the offending
9 employer to a penalty not exceeding \$500 for each offense.

10 (2) In addition to the remedy provided in subsection (1), the department may issue subpoenas and
11 compel testimony to produce evidence, including books, records, papers, documents, and other objects that
12 may be necessary and proper regarding an investigation or proceeding under this part. In case of disobedience
13 of a subpoena issued and served or the refusal of a witness to testify as to a matter for which the witness may
14 be interrogated in a proceeding before the department, the department may apply to a district court for an order
15 to compel compliance with the subpoena or testimony. Disobedience of the court's order constitutes contempt
16 of court.

17
18 **NEW SECTION. Section 6. Civil penalties for violation.** (1) The department may assess civil
19 penalties against an employer violating the provisions of [sections 1 through 8], or when appropriate, inform the
20 proper government entity to suspend a license as follows:

21 (a) for a first violation, the penalty may not be more than \$500 for each individual employed, hired,
22 or recruited in violation of [section 3];

23 (b) for a second violation, the penalty may not be more than \$1,000 for each individual employed,
24 hired, or recruited in violation of [section 3]; and

25 (c) for a third or subsequent violation, the appropriate government entity shall immediately on
26 notification suspend the violator's license or licenses for not less than 30 days or more than 6 months, and a
27 fine must be assessed that may not be more than \$2,500 for each individual employed, hired, or recruited in

Amendment - 1st Reading/2nd House-blue - Requested by: Mark Noland - (S) Business, Labor and Economic Affairs

- 2025

69th Legislature 2025

Drafter: Matthew Weaver,

HB0226.002.001

1 violation of [section 3].

2 (2) A hearing must be conducted according to contested case procedures under Title 2, chapter 4,
3 part 6, except that service need not be made as prescribed for civil actions in the district court and the hearings
4 officer is not bound by statutory or common-law rules of evidence.

5 (3) A penalty collected under this section must be deposited in the lawful employment enforcement
6 fund established in [section 8].

7
8 **NEW SECTION. Section 7. Interpretation as fully consistent with federal immigration and labor**
9 **laws.** [Sections 1 through 8] must be interpreted to be fully consistent with all federal laws, including but not
10 limited to federal laws regulating immigration and labor.

11
12 **NEW SECTION. Section 8. Lawful employment enforcement fund.** (1) There is a lawful
13 employment enforcement fund account in the state special revenue fund established in 17-2-102.

14 (2) There must be paid into the account money collected pursuant to 39-2-305 and [section 6].

15 (3) Money in the account is available to the department of labor and industry by appropriation and
16 may only be used by the department to implement and administer the purposes set forth in [sections 1 through
17 8], including but not limited to enforcement and education.

18 (4) Interest and income earned on the account and any unspent or unencumbered money in the
19 account at the end of a fiscal year must remain in the account.

20

21 **Section 9.** Section 39-2-305, MCA, is amended to read:

22 **"39-2-305. Employment of aliens not lawfully authorized to accept employment prohibited --**
23 **penalties.** (1) ~~No employer~~ A person may ~~knowingly not knowingly or negligently hire, recruit, refer, or~~ employ
24 ~~either for the person's self or on behalf of another person~~ an alien who is not lawfully authorized to accept
25 employment.

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

27 (3) (a) The department of labor and industry or a person harmed by a violation of this section may

Amendment - 1st Reading/2nd House-blue - Requested by: Mark Noland - (S) Business, Labor and Economic Affairs

- 2025

69th Legislature 2025

Drafter: Matthew Weaver,

HB0226.002.001

1 ~~sue to enjoin an employer from violating this section and to gain other appropriate relief. a person from violating~~
2 ~~this section and to gain other appropriate relief. A successful plaintiff is entitled to actual damages or the~~
3 ~~following amounts, whichever is greater:~~

4 ~~(i) _____ for a negligent violation of subsection (1), \$150 for each day an alien who is not authorized to~~
5 ~~accept employment performed any amount of work; or~~

6 ~~(ii) _____ for a knowing violation of subsection (1), \$900 for each day an alien who is not authorized to~~
7 ~~accept employment performed any amount of work.~~

8 ~~(b) _____ A person may be awarded damages under only one category of statutory damages provided in~~
9 ~~subsections (3)(a)(i) and (3)(a)(ii).~~

10 ~~(c) _____ As an affirmative defense to suit under subsection (3)(a)(i), the defendant may show that the~~
11 ~~defendant obtained verified work authorization by means of E-Verify for the person whose authorization to~~
12 ~~accept employment is in question.~~

13 ~~(4) _____ For the purposes of this section, the following definitions apply:~~

14 ~~(a) _____ "E-Verify" means the electronic verification system known as E-Verify, operated by the United~~
15 ~~States citizenship and immigration services or its successor program as authorized by the Illegal Immigration~~
16 ~~Reform and Immigrant Responsibility Act of 1996, Public Law 104-208, 8 U.S.C. 1324a.~~

17 ~~(b) _____ "Person" has the same meaning as provided in 1-1-201."~~

18
19 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 8] are intended to be
20 codified as a new part in Title 39, chapter 2, and the provisions of Title 39, chapter 2, apply to [sections 1
21 through 8].

22
23 **NEW SECTION. Section 11. Effective date.** [This act] is effective July 1, 2025.

24 - END -