

By: Representative Currie

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 262

1 AN ACT TO AMEND SECTION 71-11-3, MISSISSIPPI CODE OF 1972, TO
2 TRANSFER THE RESPONSIBILITY OF ADMINISTERING THE ELECTRONIC
3 VERIFICATION OF WORK AUTHORIZATION PROGRAM ("E-VERIFY PROGRAM")
4 FROM THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY TO THE
5 MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE; TO IMPOSE
6 ADDITIONAL PENALTIES UPON EMPLOYERS FOUND TO BE IN VIOLATION; TO
7 AMEND SECTION 69-1-13, MISSISSIPPI CODE OF 1972, TO REVISE THE
8 POWERS AND DUTIES OF THE COMMISSIONER OF AGRICULTURE AND COMMERCE
9 TO INCLUDE THE ADMINISTRATION AND SUPERVISION OF THE E-VERIFY
10 PROGRAM; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** Section 71-11-3, Mississippi Code of 1972, is
13 amended as follows:

14 71-11-3. (1) This chapter shall be known as the
15 "Mississippi Employment Protection Act."

16 (2) The provisions of this section shall be enforced without
17 regard to race, gender, religion, ethnicity or national origin.

18 (3) For the purpose of this section only, the following
19 words shall have the meanings ascribed herein unless the content
20 clearly states otherwise:

21 (a) "Employer" is any person or business that is
22 required by federal or state law to issue a United States Internal



23 Revenue Service Form W-2 or Form 1099 to report income paid to
24 employed or contracted personnel in Mississippi.

25 (b) "Employee" is any person or entity that is hired to
26 perform work within the State of Mississippi and to whom a United
27 States Internal Revenue Service Form W-2 or Form 1099 must be
28 issued.

29 (c) "Third-party employer" is any person or company
30 that provides workers for another person or company. This
31 includes, but is not limited to, leasing companies and contract
32 employers.

33 (d) "Status verification system" means the electronic
34 verification of work authorization program of the Illegal
35 Immigration Reform and Immigration Responsibility Act of 1996,
36 Public Law 104-208, Division C, Section 403(a); 8 USC, Section
37 1324a, and operated by the United States Department of Homeland
38 Security, known as the E-Verify Program.

39 (e) "Unauthorized alien" means an alien as defined in
40 Section 1324a(h) (3) of Title 8 of the United States Code.

41 (f) "Public employer" means every department, agency or
42 instrumentality of the state or a political subdivision of the
43 state.

44 (g) "Subcontractor" means a subcontractor, contract
45 employee, staffing agency or any contractor regardless of its
46 tier.



47 (4) (a) Employers in the State of Mississippi shall only
48 hire employees who are legal citizens of the United States of
49 America or are legal aliens. For purposes of this section, a
50 legal alien is an individual who was lawfully present in the
51 United States at the time of employment and for the duration of
52 employment, or was permanently residing in the United States under
53 color of law at the time of employment and for the duration of
54 employment.

55 (b) (i) Every employer shall register with and utilize
56 the status verification system to verify the federal employment
57 authorization status of all newly hired employees.

58 (ii) No contractor or subcontractor shall hire any
59 employee unless the contractor or subcontractor registers and
60 participates in the status verification system to verify the work
61 eligibility status of all newly hired employees.

62 (iii) No contractor or subcontractor who enters
63 into a contract with a public employer shall enter into such a
64 contract or subcontract unless the contractor or subcontractor
65 registers and participates in the status verification system to
66 verify information of all newly hired employees.

67 (c) The provision of this section shall not apply to
68 any contracts entered into on or before July 1, 2008.

69 (d) It shall be a discriminatory practice for an
70 employer to discharge an employee working in Mississippi who is a
71 United States citizen or permanent resident alien while retaining



72 an employee who the employing entity knows, or reasonably should
73 have known, is an unauthorized alien hired after July 1, 2008, and
74 who is working in Mississippi in a job category that requires
75 equal skill, effort and responsibility, and which is performed
76 under similar working conditions, as defined by 29 USC, Section
77 206(d) (1), as the job category held by the discharged employee.

78 (e) An employing entity which, on the date of the
79 discharge in question, was enrolled in and used the status
80 verification system to verify the employment eligibility of its
81 employees in Mississippi hired after July 1, 2008, shall be exempt
82 from liability, investigation or suit arising from any action
83 under this section.

84 (f) No cause of action for a violation of this section
85 shall lie under any other Mississippi law but shall arise solely
86 from the provisions of this section.

87 (5) Any employer that complies with the requirements of this
88 section shall be held harmless by the Mississippi Department
89 of * * * Agriculture and Commerce, provided the employer is not
90 directly involved in the creation of any false documents, and
91 provided that the employer did not knowingly and willfully accept
92 false documents from the employee.

93 (6) (a) All third-party employers that conduct business in
94 Mississippi shall register to do business in Mississippi with the
95 Mississippi Department of * * * Agriculture and Commerce before
96 placing employees into the workforce in Mississippi.



97 (b) Third-party employers shall provide proof of
98 registration and any participation in the status verification
99 system to any Mississippi employer with whom they do business.

100 (7) (a) State of Mississippi agencies and political
101 subdivisions, public contractors and public subcontractors and
102 private employers with two hundred fifty (250) or more employees
103 shall meet verification requirements not later than July 1, 2008.

104 (b) Employers with at least one hundred (100) but less
105 than two hundred fifty (250) employees shall meet verification
106 requirements not later than July 1, 2009.

107 (c) Employers with at least thirty (30) but less than
108 one hundred (100) employees shall meet verification requirements
109 not later than July 1, 2010.

110 (d) All employers shall meet verification requirements
111 not later than July 1, 2011.

112 (e) (i) Any employer violating the provisions of this
113 section shall be subject to the cancellation of any state or
114 public contract, resulting in ineligibility for any state or
115 public contract for up to three (3) years, the loss of any
116 license, permit, certificate or other document granted to the
117 employer by any agency, department or government entity in the
118 State of Mississippi for the right to do business in Mississippi
119 for up to one (1) year, or both, and be subject to the criminal
120 penalties imposed under subsection (8)(c)(i) of this section for
121 violations by unauthorized alien employees.



122 (ii) The contractor or employer shall be liable
123 for any additional costs incurred by the agencies and institutions
124 of the State of Mississippi, or any of its political subdivisions,
125 because of the cancellation of the contract or the loss of any
126 license or permit to do business in the state.

127 (iii) Any person or entity penalized under this
128 section shall have the right to appeal to the appropriate entity
129 bringing charges or to the circuit court of competent
130 jurisdiction.

131 (f) The Department of * * * Agriculture and
132 Commerce, * * * Department of Revenue, Secretary of State,
133 Department of Human Services and the Attorney General shall have
134 the authority to seek penalties under this section and to bring
135 charges for noncompliance against any employer or employee.

136 (8) (a) There shall be no liability under this section in
137 the following circumstances:

138 (i) An employer who hires an employee through a
139 state or federal work program that requires verification of the
140 employee's social security number and provides for verification of
141 the employee's lawful presence in the United States in an
142 employment-authorized immigration status;

143 (ii) Any candidate for employment referred by the
144 Mississippi Department of * * * Agriculture and Commerce, if the
145 Mississippi Department of * * * Agriculture and Commerce has
146 verified the social security number and provides for verification



147 of the candidate's lawful presence in the United States in an
148 employment-authorized immigration status; or

149 (iii) Individual homeowners who hire workers on
150 their private property for noncommercial purposes, unless required
151 by federal law to do so.

152 (b) (i) Compliance with the sections of this statute
153 shall not exempt the employer from regulations and requirements
154 related to any federal laws or procedures related to employers.

155 (ii) This section shall not be construed as an
156 attempt to preempt federal law.

157 (c) (i) It shall be a felony for any person to accept
158 or perform employment for compensation knowing or in reckless
159 disregard that the person is an unauthorized alien with respect to
160 employment during the period in which the unauthorized employment
161 occurred. Upon conviction, a violator shall be subject to
162 imprisonment in the custody of the Department of Corrections for
163 not less than one (1) year nor more than five (5) years, a fine of
164 not less than One Thousand Dollars (\$1,000.00) nor more than Ten
165 Thousand Dollars (\$10,000.00), or both.

166 (ii) For purposes of determining bail for persons
167 who are charged under this section, it shall be a rebuttable
168 presumption that a defendant who has entered and remains in the
169 United States unlawfully is deemed at risk of flight for purposes
170 of bail determination.



171 **SECTION 2.** Section 69-1-13, Mississippi Code of 1972, is
172 amended as follows:

173 69-1-13. The following are the duties of the Commissioner of
174 Agriculture and Commerce:

175 (a) He shall encourage the proper development of
176 agriculture, horticulture and kindred industries.

177 (b) He shall encourage the organization of neighborhood
178 and county agricultural clubs and associations, and out of these
179 the organization of the state agricultural association.

180 (c) He shall collect and publish statistics and such
181 other information regarding such industries of this state and of
182 other states as may be of benefit in developing the agricultural
183 resources of the state. To this end he shall put himself in
184 connection and shall cooperate with the agricultural department of
185 other states and with the Commissioner of Agriculture of the
186 United States, and shall provide for the proper and careful
187 distribution of all documents and information coming into his
188 possession on account of the department that may be of interest
189 and benefit to the people of the state.

190 (d) He shall cause to be investigated the diseases of
191 grain, cotton, fruit and other crops grown in this state and also
192 remedies for such diseases, and also the habits and propagation of
193 the various insects that are injurious to the crops of the state
194 and the proper mode of their destruction.



195 (e) He shall investigate the subject of grasses and
196 report upon their value and the cultivation of the varieties best
197 adapted to the different sections of the state.

198 (f) He shall inquire into the subjects connected with
199 dairying that he may deem of interest to the people of the state,
200 and in this connection the raising of stock and poultry, the
201 obtaining of such as are of most value, and the breeding and
202 propagation of the same; and shall encourage raising of fish and
203 the culture of bees.

204 (g) He shall investigate the subjects of subsoiling,
205 drainage, etc., and the best modes of effecting each, and of
206 irrigation and what portions of the state can be best benefited
207 thereby.

208 (h) He shall investigate and report upon the culture of
209 wool and the utility and profit of sheep-raising, also the culture
210 of silk and its manufacture and preparation for market.

211 (i) He shall investigate and report on the question of
212 broadening the market for cotton and cotton goods in the United
213 States and foreign countries.

214 (j) He shall cause a proper collection of agricultural
215 statistics to be made annually, and to this end shall furnish
216 blank forms to the tax assessors of each county, and it is made
217 the special duty of the tax assessor to whom said blanks are
218 furnished to report to the bureau a list of all public or private
219 ginners in his county, with their post offices, upon the demand of



220 the commissioner. It shall be the duty of the commissioner to
221 furnish to such ginner a form or forms of report to be made to the
222 bureau at such time as the commissioner may direct. A failure to
223 make such reports on the part of the ginner or assessor as
224 required by said commissioner shall be deemed a misdemeanor, and,
225 upon conviction, punished as provided by law. It shall be the
226 duty of the members of the boards of supervisors and the county
227 tax assessor of each county in this state to make such reports as
228 may be required by this bureau touching the matter within the
229 scope of this chapter; and failure of any supervisor or tax
230 assessor to make such report when required shall be deemed a
231 misdemeanor and shall be punished as provided by law.

232 (k) He shall appoint county correspondents who shall
233 report to him from time to time, as may be desired.

234 (l) He shall collect specimens of wood suitable for
235 manufacture and other purposes, and specimens of agricultural,
236 mineral, phosphate and marl deposits of the state; cause correct
237 analysis of such as may be deemed expedient to be made and
238 recorded in a substantial book to be kept for this purpose.

239 (m) He shall also, as soon as practicable, prepare a
240 convenient handbook with necessary illustrated maps, which shall
241 contain all necessary information as to the mines, mineral,
242 forest, soil, and other products, climate, water, waterpower for
243 the establishing of factories, land, flowers, fisheries,
244 mountains, streams, and all other statistics as are best adapted



245 to the giving of proper information and the attraction of
246 advantages which the state affords to immigrants, and shall make
247 illustrated expositions thereof whenever practicable at
248 international and state expositions.

249 (n) He shall have the primary responsibility for
250 developing programs that will enhance the marketing of the state's
251 agricultural products to both national and international markets.

252 (o) He shall have the primary responsibility of
253 administering and supervising the electronic verification of work
254 authorization program ("E-Verify Program"), for the purpose of
255 enforcing the illegal employment of unauthorized aliens in the
256 Mississippi workforce.

257 **SECTION 3.** This act shall take effect and be in force from
258 and after July 1, 2020.

