

By: Representative Currie

To: Workforce Development;  
Agriculture

HOUSE BILL NO. 153

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



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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

(ii) For purposes of determining bail for persons  
who are charged under this section, it shall be a rebuttable  
presumption that a defendant who has entered and remains in the  
United States unlawfully is deemed at risk of flight for purposes  
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, 2021.

