

Senate Amendments to House Bill No. 1379

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

12 SECTION 1. Title. This act shall be known as "The
13 Mississippi Employment Protection Act of 2007."

14 SECTION 2. Definitions. For the purposes of this act only:

15 (a) The term "employee" means an individual who
16 provides services or labor in the State of Mississippi for an
17 employer for wages or other remuneration but does not mean
18 independent contractors or those engaged in casual domestic
19 employment.

20 (b) The term "employer" means a person or entity,
21 including an agent or anyone acting directly or indirectly in the
22 interest thereof, who engages the services or labor of any
23 employee to be performed in the State of Mississippi for wages or
24 other remuneration. In the case of an independent contractor or
25 contract labor or services, the term employer shall mean the
26 independent contractor or contractor and not the person or entity
27 using the contract labor.

28 (c) The term "independent contractor" includes
29 individuals or entities in the State of Mississippi who carry on
30 independent business, contract to do a piece of work according to
31 their own means and methods, and are subject to control only as to
32 results. Whether an individual or entity is an independent
33 contractor, regardless of what the individual or entity calls
34 itself, will be determined on a case-by-case basis. Factors to be
35 considered in that determination include, but are not limited to,
36 whether the individual or entity: supplies the tools or
37 materials; makes services available to the general public; works

38 for a number of clients at the same time; has an opportunity for
39 profit or loss as a result of labor or services provided; invests
40 in the facilities for work; directs the order or sequence in which
41 the work is to be done and determines the hours during which the
42 work is to be done.

43 (d) The term "refer for a fee" means the act of sending
44 or directing a person or transmitting documentation or information
45 to another, directly or indirectly, with the intent of obtaining
46 employment in the State of Mississippi for such person, for
47 remuneration whether on a retainer or a contingency basis;
48 however, this term does not include union hiring halls that refer
49 union members or nonunion individuals who pay union membership
50 dues.

51 (e) The term "recruit for a fee" means the act of
52 soliciting a person, directly or indirectly, and referring that
53 person to another with the intent of obtaining employment in the
54 State of Mississippi for that person, for remuneration whether on
55 a retainer or contingency basis; however, this term does not
56 include union hiring halls that refer union members or nonunion
57 individuals who pay union membership dues.

58 (f) All other terms in this act shall be defined in
59 accordance with the definitions found in Title 8 of the United
60 States Code, Section 1324a and Title 8 of the Code of Federal
61 Regulations, Sections 274a.1 through 274a.11.

62 **SECTION 3. Employee verification.** Any employer in the State
63 of Mississippi and/or any individual or entity who refers or
64 recruits an employee or employees for a fee in the State of
65 Mississippi shall follow the verification of employment
66 eligibility procedures specified in 8 CFR Sections 274a.1 through
67 274a.11.

68 **SECTION 4. Penalties.** Whenever the government of the United
69 States, acting through an agency charged with administering the
70 provisions of the Immigration and Nationality Act (8 USC Section
71 1101 et seq.) or exercising its judicial powers under same, issues
72 a final order determining that an employer or recruiter or

73 referrer for a fee in the State of Mississippi has violated the
74 provisions of 8 USC Section 1324a(a)(1)(A) or (a)(2) and the
75 employer or recruiter or referrer for a fee is subject to the
76 penalties found in 8 USC Section 1324a(e)(4) or (f), then the
77 following supplemental penalties shall apply:

78 (a) If the employer or recruiter or referrer for a fee
79 is a contractor with the State of Mississippi, then the state
80 agency or agencies with which the employer has formerly contracted
81 shall debar the employer or recruiter or referrer for a fee from
82 receiving future state contracts for the period of one (1) year
83 from the date the government of the United States issues a final
84 order determining that a violation has been committed; and

85 (b) Any state or local government agency or agencies
86 may withdraw any or all grants, tax incentives, tax exemptions
87 and/or tax waivers for the period of one (1) year from the date
88 the government of the United States issues a final order
89 determining that a violation has been committed.

90 **SECTION 5. Relationship to other laws.** (1) Nothing in this
91 act shall alter, suspend, limit, supersede, supplement or repeal
92 the provisions of the Mississippi Anti-Human Trafficking Act,
93 codified at Sections 97-3-54 through 97-3-54.4, Mississippi Code
94 of 1972.

95 (2) Nothing in this act shall alter, suspend, limit,
96 supersede, supplement or repeal the provisions of Section 57-1-371
97 or Section 57-1-373, Mississippi Code of 1972.

98 (3) Any individual employee who presents any fictitious,
99 fraudulently altered or fraudulently obtained Mississippi driver's
100 license for the purposes of securing authorization for employment
101 in the State of Mississippi shall be subject to the penalties set
102 forth in Section 63-1-60, Mississippi Code of 1972.

103 **SECTION 6. Mississippi Employment Protection Task Force.**

104 (1) There is created the Mississippi Employment Protection Task
105 Force, which shall be composed of thirteen (13) members as
106 follows:

107 (a) Five (5) members appointed by the Governor, three
108 (3) who shall represent the interest of business, labor and the
109 general public and two (2) members to serve from the state at
110 large;

111 (b) Three (3) members appointed by the Lieutenant
112 Governor, each who shall represent the interest of business, labor
113 and the general public;

114 (c) Three (3) members appointed by the Speaker of the
115 House, each who shall represent the interest of business, labor
116 and the general public;

117 (d) One (1) representative from the Mississippi
118 Department of Employment Security; and

119 (e) One (1) representative from the Office of the
120 Attorney General.

121 (2) All members of the task force shall be designated or
122 appointed in accordance with Section 1 above and shall be so
123 designated or appointed in sufficient time so as to allow for all
124 members of the task force to be identified prior to the first
125 meeting of the task force.

126 (3) The first meeting of the task force shall take place no
127 later than July 1, 2007, on the call of the Governor at a place
128 designated by him. At the first meeting of the task force, the
129 members shall elect a chairman and a vice chairman from its
130 membership. Following the election of the chairman and the vice
131 chairman, the task force shall adopt rules for transacting its
132 business and keeping records. Members of the task force other
133 than agency representatives shall receive reimbursement for travel
134 expenses incurred while engaged in official business of the task
135 force in accordance with Section 25-3-41 of the Mississippi Code.
136 Payment of such expenses set forth herein shall be from funds made
137 available therefor by the Legislature or from any other public or
138 private source.

139 (4) The duties of the task force shall be to:

140 (a) Conduct a study of the status of the federal
141 immigration and nationality laws, acts and policies to determine
142 the implementation of state law;

143 (b) Review and determine the potential penalties,
144 judicial process and enforcement provisions applicable under state
145 law;

146 (c) Determine the adequate funding and personnel
147 requirements necessary to carry out any state laws;

148 (d) Make appropriate findings and recommendations
149 regarding the matters considered above in accordance with the
150 necessity for state laws regarding employment protection.

151 (5) Before June 30, 2008, the task force shall develop and
152 make a report presenting such findings and recommendations to the
153 Governor and to all members of the Legislature for consideration
154 during the 2009 Regular Session.

155 (6) The Mississippi Department of Employment Security shall
156 provide appropriate staff support and shall designate an
157 appropriate employee to act as a point of contact for the
158 provision of staff support to the task force. All other agencies,
159 departments, offices and institutions of the state, including all
160 state universities and community and junior colleges, shall
161 cooperate with the task force and provide such assistance as
162 requested by the task force.

163 (7) Upon presentation of its report, the task force shall be
164 dissolved.

165 **SECTION 7. Effective date and repealer.** This act shall take
166 effect and be in force from and after July 1, 2007, and shall
167 stand repealed on July 1, 2009.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE MISSISSIPPI EMPLOYMENT PROTECTION ACT;
2 TO PROVIDE DEFINITIONS; TO PROVIDE THAT EMPLOYERS IN THE STATE OF
3 MISSISSIPPI SHALL FOLLOW THE VERIFICATION OF EMPLOYMENT
4 ELIGIBILITY PROCEDURES PRESCRIBED IN APPLICABLE FEDERAL LAW; TO
5 INCORPORATE FEDERAL PENALTIES AND CERTAIN SUPPLEMENTAL PENALTIES
6 FOR VIOLATIONS OF THIS EMPLOYEE VERIFICATION REQUIREMENT; TO
7 CREATE THE MISSISSIPPI EMPLOYMENT PROTECTION TASK FORCE TO DEVELOP
8 A REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE NECESSITY OF

9 LEGISLATION REGARDING IMMIGRATION AND ALIEN CERTIFICATION; AND FOR
10 RELATED PURPOSES.

SS26\HB1379A.1J

John O. Gilbert
Secretary of the Senate