



STATE OF ARIZONA

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July 2, 2007

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2779: fair and legal employment

Dear Speaker Weiers:

Today I signed House Bill 2779, the Legal Arizona Workers Act.

With my signature on this bill, Arizona has taken the most aggressive action in the country against employers who knowingly or intentionally hire undocumented workers. Unlike House Bill 2577 from last session, which I vetoed because it offered employer amnesty and indemnification, this bill imposes tough consequences on those who knowingly employ undocumented workers.

Immigration is a federal responsibility, but I signed House Bill 2779 because it is now abundantly clear that Congress finds itself incapable of coping with the comprehensive immigration reforms our country needs. I signed it, too, out of the realization that the flow of illegal immigration into our state is due to the constant demand of some employers for cheap, undocumented labor.

In our desire to stop illegal immigration, however, we must not overlook some drafting problems and omissions in House Bill 2779. We must not harm legitimate Arizona employers and employees as we seek to curb illegal employment practices. The problems in House Bill 2779 include the following:

- The bill lacks an antidiscrimination clause to ensure that it is enforced in a fair and non-discriminatory manner. Federal and state law preclude employment discrimination against Arizonans on the basis of race or national origin and this bill can and must be enforced in a way to ensure that no lawful worker faces discrimination on these bases. Indeed, even in the absence of a legislative fix on this issue, I will call upon my Office of Equal Employment Opportunity and the Attorney General's Civil Rights Division to actively promote efforts to educate

employers on how to implement this bill fairly and to aggressively prosecute cases of discrimination that may arise.

- Unlike earlier draft amendments, the final version of House Bill 2779 omits the license revocation exception for businesses servicing critical infrastructure. Despite our compelling interest in ensuring fair and legal employment, it is not in the state's best interest to close hospitals, power plants and other similarly critical businesses because of wrongful employment decisions. Other sanctions should be explored.
- The bill's license revocation provisions are also overly broad to the extent that they are susceptible to an interpretation requiring the closure of multiple locations or franchises of a business based solely on the wrongful hiring practices of one location. The legislature should preclude such a result.
- This bill provides woefully inadequate funding for the law enforcement agencies charged with enforcing it. The Attorney General's Office in particular is underfunded by the bill. The \$100,000 appropriated to that office will be inadequate for it to meet its obligations of both developing the extensive database required and investigating complaints. More funding is needed for those purposes as well as to ensure that the Civil Rights Division has sufficient resources to guarantee that the law is enforced in a non-discriminatory manner. The \$70,000 appropriated for employer notification is also inadequate.
- Finally, I note that House Bill 2779 contains an important typographical error that must be corrected. On page 6, line 14, the bill cites 8 U.S.C. § 1324b for the purposes of establishing a rebuttable presumption for employers who comply with federal employment verification procedures. The correct cite should be to 8 U.S.C. § 1324a (b).

Because of these infirmities, and because many employers have told me either that they did not have sufficient time to let the legislature know of their concerns with the *final* version of House Bill 2779 or that their concerns were not given thorough consideration, I am willing to call the legislature into special session this fall to enable it to fix this bill before its January 1, 2008 effective date. As Representative Pearce and Senator Burns acknowledged in a June 28, 2007 letter to me "Notwithstanding all our efforts, we understand that no bill is perfect and changes may be needed as the bill is implemented. For that reason, we believe that dealing with this issue through the legislative process is preferable to the initiative process." I agree, but I believe some changes to this bill are needed even before it becomes effective. The date of the special session will be determined after I have had the opportunity to consult legislative leadership. The special session will be aimed at clarifications, omissions, and corrections, *not* at undercutting the underlying strength of House Bill 2779.

The Honorable Jim Weiers

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Because of Congress' failure to act, states like Arizona have no choice but to take strong action to discourage the further flow of illegal immigration through our borders. I renew my call to Congress to enact comprehensive immigration reform legislation. Now that Arizona has acted, other states are likely to follow. For our country to have a uniform and uniformly enforced immigration law, the United States Congress must act swiftly and definitively to solve this problem at the national level.

Yours very truly,



Janet Napolitano
Governor

JN:TAN/jm

cc: The Honorable Timothy Bee
The Honorable Russell K. Pearce

Conference Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 279

HOUSE BILL 2779

AN ACT

AMENDING SECTION 13-2009, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; MAKING APPROPRIATIONS; RELATING TO EMPLOYMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-2009, Arizona Revised Statutes, is amended to
3 read:

4 13-2009. Aggravated taking identity of another person or
5 entity; classification

6 A. A person commits aggravated taking the identity of another person
7 or entity if the person knowingly takes, purchases, manufactures, records,
8 possesses or uses any personal identifying information or entity identifying
9 information of either:

10 1. ~~Five~~ THREE or more other persons or entities, including real or
11 fictitious persons or entities, without the consent of the other persons or
12 entities, with the intent to obtain or use the other persons' or entities'
13 identities for any unlawful purpose or to cause loss to the persons or
14 entities whether or not the persons or entities actually suffer any economic
15 loss.

16 2. Another person or entity, including a real or fictitious person or
17 entity, without the consent of that other person or entity, with the intent
18 to obtain or use the other person's or entity's identity for any unlawful
19 purpose and causes another person or entity to suffer an economic loss of
20 three thousand dollars or more.

21 3. ANOTHER PERSON, INCLUDING A REAL OR FICTITIOUS PERSON, WITH THE
22 INTENT TO OBTAIN EMPLOYMENT.

23 B. In an action for aggravated taking the identity of another person
24 or entity under subsection A, paragraph 1 of this section, proof of
25 possession out of the regular course of business of the personal identifying
26 information or entity identifying information of ~~five~~ THREE or more other
27 persons or entities may give rise to an inference that the personal
28 identifying information or entity identifying information of the ~~five~~ THREE
29 or more other persons or entities was possessed for an unlawful purpose.

30 C. This section does not apply to a violation of section 4-241 by a
31 person who is under twenty-one years of age.

32 D. Aggravated taking the identity of another person or entity is a
33 class 3 felony.

34 Sec. 2. Title 23, chapter 2, Arizona Revised Statutes, is amended by
35 adding article 2, to read:

36 ARTICLE 2. EMPLOYMENT OF UNAUTHORIZED ALIENS

37 23-211. Definitions

38 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

39 1. "AGENCY" MEANS ANY AGENCY, DEPARTMENT, BOARD OR COMMISSION OF THIS
40 STATE OR A COUNTY, CITY OR TOWN THAT ISSUES A LICENSE FOR PURPOSES OF
41 OPERATING A BUSINESS IN THIS STATE.

42 2. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT VERIFICATION PILOT
43 PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND
44 SECURITY AND THE SOCIAL SECURITY ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

1 3. "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS EMPLOYMENT SERVICES FOR AN
2 EMPLOYER PURSUANT TO AN EMPLOYMENT RELATIONSHIP BETWEEN THE EMPLOYEE AND
3 EMPLOYER.

4 4. "EMPLOYER" MEANS ANY INDIVIDUAL OR TYPE OF ORGANIZATION THAT
5 TRANSACTS BUSINESS IN THIS STATE, THAT HAS A LICENSE ISSUED BY AN AGENCY IN
6 THIS STATE AND THAT EMPLOYS ONE OR MORE INDIVIDUALS WHO PERFORM EMPLOYMENT
7 SERVICES IN THIS STATE. EMPLOYER INCLUDES THIS STATE, ANY POLITICAL
8 SUBDIVISION OF THIS STATE AND SELF-EMPLOYED PERSONS.

9 5. "INTENTIONALLY" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-105.

10 6. "KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN" MEANS THE ACTIONS
11 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324A. THIS TERM SHALL BE
12 INTERPRETED CONSISTENTLY WITH 8 UNITED STATES CODE SECTION 1324A AND ANY
13 APPLICABLE FEDERAL RULES AND REGULATIONS.

14 7. "LICENSE":

15 (a) MEANS ANY AGENCY PERMIT, CERTIFICATE, APPROVAL, REGISTRATION,
16 CHARTER OR SIMILAR FORM OF AUTHORIZATION THAT IS REQUIRED BY LAW AND THAT IS
17 ISSUED BY ANY AGENCY FOR THE PURPOSES OF OPERATING A BUSINESS IN THIS STATE.

18 (b) INCLUDES:

19 (i) ARTICLES OF INCORPORATION UNDER TITLE 10.

20 (ii) A CERTIFICATE OF PARTNERSHIP, A PARTNERSHIP REGISTRATION OR
21 ARTICLES OF ORGANIZATION UNDER TITLE 29.

22 (iii) A GRANT OF AUTHORITY ISSUED UNDER TITLE 10, CHAPTER 15.

23 (iv) ANY TRANSACTION PRIVILEGE TAX LICENSE.

24 (c) DOES NOT INCLUDE:

25 (i) ANY LICENSE ISSUED PURSUANT TO TITLE 45 OR 49 OR RULES ADOPTED
26 PURSUANT TO THOSE TITLES.

27 (ii) ANY PROFESSIONAL LICENSE.

28 8. "UNAUTHORIZED ALIEN" MEANS AN ALIEN WHO DOES NOT HAVE THE LEGAL
29 RIGHT OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS
30 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324a(h)(3).

31 23-212. Employment of unauthorized aliens; prohibition; false
32 and frivolous complaints; violation; classification;
33 license suspension and revocation

34 A. AN EMPLOYER SHALL NOT INTENTIONALLY EMPLOY AN UNAUTHORIZED ALIEN OR
35 KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN.

36 B. ON RECEIPT OF A COMPLAINT THAT AN EMPLOYER ALLEGEDLY INTENTIONALLY
37 EMPLOYS AN UNAUTHORIZED ALIEN OR KNOWINGLY EMPLOYS AN UNAUTHORIZED ALIEN, THE
38 ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL INVESTIGATE WHETHER THE EMPLOYER
39 HAS VIOLATED SUBSECTION A. WHEN INVESTIGATING A COMPLAINT, THE ATTORNEY
40 GENERAL OR COUNTY ATTORNEY SHALL VERIFY THE WORK AUTHORIZATION OF THE ALLEGED
41 UNAUTHORIZED ALIEN WITH THE FEDERAL GOVERNMENT PURSUANT TO 8 UNITED STATES
42 CODE SECTION 1373(c). A STATE, COUNTY OR LOCAL OFFICIAL SHALL NOT ATTEMPT TO
43 INDEPENDENTLY MAKE A FINAL DETERMINATION ON WHETHER AN ALIEN IS AUTHORIZED TO
44 WORK IN THE UNITED STATES. AN ALIEN'S IMMIGRATION STATUS OR WORK

1 AUTHORIZATION STATUS SHALL BE VERIFIED WITH THE FEDERAL GOVERNMENT PURSUANT
2 TO 8 UNITED STATES CODE SECTION 1373(c). A PERSON WHO KNOWINGLY FILES A
3 FALSE AND FRIVOLOUS COMPLAINT UNDER THIS SUBSECTION IS GUILTY OF A CLASS 3
4 MISDEMEANOR.

5 C. IF, AFTER AN INVESTIGATION, THE ATTORNEY GENERAL OR COUNTY ATTORNEY
6 DETERMINES THAT THE COMPLAINT IS NOT FRIVOLOUS:

7 1. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL NOTIFY THE UNITED
8 STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OF THE UNAUTHORIZED ALIEN.

9 2. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL NOTIFY THE LOCAL LAW
10 ENFORCEMENT AGENCY OF THE UNAUTHORIZED ALIEN.

11 3. THE ATTORNEY GENERAL SHALL NOTIFY THE APPROPRIATE COUNTY ATTORNEY
12 TO BRING AN ACTION PURSUANT TO SUBSECTION D IF THE COMPLAINT WAS ORIGINALLY
13 FILED WITH THE ATTORNEY GENERAL.

14 D. AN ACTION FOR A VIOLATION OF SUBSECTION A SHALL BE BROUGHT AGAINST
15 THE EMPLOYER BY THE COUNTY ATTORNEY IN THE COUNTY WHERE THE UNAUTHORIZED
16 ALIEN EMPLOYEE IS EMPLOYED. THE COUNTY ATTORNEY SHALL NOT BRING AN ACTION
17 AGAINST ANY EMPLOYER FOR ANY VIOLATION OF SUBSECTION A THAT OCCURS BEFORE
18 JANUARY 1, 2008. A SECOND VIOLATION OF THIS SECTION SHALL BE BASED ONLY ON
19 AN UNAUTHORIZED ALIEN WHO IS EMPLOYED BY THE EMPLOYER AFTER AN ACTION HAS
20 BEEN BROUGHT FOR A VIOLATION OF SUBSECTION A.

21 E. FOR ANY ACTION IN SUPERIOR COURT UNDER THIS SECTION, THE COURT
22 SHALL EXPEDITE THE ACTION, INCLUDING ASSIGNING THE HEARING AT THE EARLIEST
23 PRACTICABLE DATE.

24 F. ON A FINDING OF A VIOLATION OF SUBSECTION A:

25 1. FOR A FIRST VIOLATION DURING A THREE YEAR PERIOD THAT IS A KNOWING
26 VIOLATION OF SUBSECTION A, THE COURT:

27 (a) SHALL ORDER THE EMPLOYER TO TERMINATE THE EMPLOYMENT OF ALL
28 UNAUTHORIZED ALIENS.

29 (b) SHALL ORDER THE EMPLOYER TO BE SUBJECT TO A THREE YEAR
30 PROBATIONARY PERIOD. DURING THE PROBATIONARY PERIOD THE EMPLOYER SHALL FILE
31 QUARTERLY REPORTS WITH THE COUNTY ATTORNEY OF EACH NEW EMPLOYEE WHO IS HIRED
32 BY THE EMPLOYER AT THE SPECIFIC LOCATION WHERE THE UNAUTHORIZED ALIEN
33 PERFORMED WORK.

34 (c) SHALL ORDER THE EMPLOYER TO FILE A SIGNED SWORN AFFIDAVIT WITH THE
35 COUNTY ATTORNEY WITHIN THREE BUSINESS DAYS AFTER THE ORDER IS ISSUED. THE
36 AFFIDAVIT SHALL STATE THAT THE EMPLOYER HAS TERMINATED THE EMPLOYMENT OF ALL
37 UNAUTHORIZED ALIENS AND THAT THE EMPLOYER WILL NOT INTENTIONALLY OR KNOWINGLY
38 EMPLOY AN UNAUTHORIZED ALIEN. THE COURT SHALL ORDER THE APPROPRIATE AGENCIES
39 TO SUSPEND ALL LICENSES SUBJECT TO THIS SUBDIVISION THAT ARE HELD BY THE
40 EMPLOYER IF THE EMPLOYER FAILS TO FILE A SIGNED SWORN AFFIDAVIT WITH THE
41 COUNTY ATTORNEY WITHIN THREE BUSINESS DAYS AFTER THE ORDER IS ISSUED. ALL
42 LICENSES THAT ARE SUSPENDED UNDER THIS SUBDIVISION SHALL REMAIN SUSPENDED
43 UNTIL THE EMPLOYER FILES A SIGNED SWORN AFFIDAVIT WITH THE COUNTY ATTORNEY.
44 NOTWITHSTANDING ANY OTHER LAW, ON FILING OF THE AFFIDAVIT THE SUSPENDED

1 LICENSES SHALL BE REINSTATED IMMEDIATELY BY THE APPROPRIATE AGENCIES FOR THE
2 PURPOSES OF THIS SUBDIVISION, THE LICENSES THAT ARE SUBJECT TO SUSPENSION
3 UNDER THIS SUBDIVISION ARE ALL LICENSES THAT ARE HELD BY THE EMPLOYER AND
4 THAT ARE NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS AT THE EMPLOYER'S
5 BUSINESS LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK. IF A LICENSE
6 IS NOT NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS AT THE SPECIFIC LOCATION
7 WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK, BUT A LICENSE IS NECESSARY TO
8 OPERATE THE EMPLOYER'S BUSINESS IN GENERAL, THE LICENSES THAT ARE SUBJECT TO
9 SUSPENSION UNDER THIS SUBDIVISION ARE ALL LICENSES THAT ARE HELD BY THE
10 EMPLOYER AT THE EMPLOYER'S PRIMARY PLACE OF BUSINESS. ON RECEIPT OF THE
11 COURT'S ORDER AND NOTWITHSTANDING ANY OTHER LAW, THE APPROPRIATE AGENCIES
12 SHALL SUSPEND THE LICENSES ACCORDING TO THE COURT'S ORDER. THE COURT SHALL
13 SEND A COPY OF THE COURT'S ORDER TO THE ATTORNEY GENERAL AND THE ATTORNEY
14 GENERAL SHALL MAINTAIN THE COPY PURSUANT TO SUBSECTION G.

15 (d) MAY ORDER THE APPROPRIATE AGENCIES TO SUSPEND ALL LICENSES
16 DESCRIBED IN SUBDIVISION (c) OF THIS PARAGRAPH THAT ARE HELD BY THE EMPLOYER
17 FOR NOT TO EXCEED TEN BUSINESS DAYS. THE COURT SHALL BASE ITS DECISION TO
18 SUSPEND UNDER THIS SUBDIVISION ON ANY EVIDENCE OR INFORMATION SUBMITTED TO IT
19 DURING THE ACTION FOR A VIOLATION OF THIS SUBSECTION AND SHALL CONSIDER THE
20 FOLLOWING FACTORS, IF RELEVANT:

- 21 (i) THE NUMBER OF UNAUTHORIZED ALIENS EMPLOYED BY THE EMPLOYER.
- 22 (ii) ANY PRIOR MISCONDUCT BY THE EMPLOYER.
- 23 (iii) THE DEGREE OF HARM RESULTING FROM THE VIOLATION.
- 24 (iv) WHETHER THE EMPLOYER MADE GOOD FAITH EFFORTS TO COMPLY WITH ANY
25 APPLICABLE REQUIREMENTS.
- 26 (v) THE DURATION OF THE VIOLATION.
- 27 (vi) THE ROLE OF THE DIRECTORS, OFFICERS OR PRINCIPALS OF THE EMPLOYER
28 IN THE VIOLATION.
- 29 (vii) ANY OTHER FACTORS THE COURT DEEMS APPROPRIATE.

30 2. FOR A FIRST VIOLATION DURING A FIVE YEAR PERIOD THAT IS AN
31 INTENTIONAL VIOLATION OF SUBSECTION A, THE COURT SHALL:

32 (a) ORDER THE EMPLOYER TO TERMINATE THE EMPLOYMENT OF ALL UNAUTHORIZED
33 ALIENS.

34 (b) ORDER THE EMPLOYER TO BE SUBJECT TO A FIVE YEAR PROBATIONARY
35 PERIOD. DURING THE PROBATIONARY PERIOD THE EMPLOYER SHALL FILE QUARTERLY
36 REPORTS WITH THE COUNTY ATTORNEY OF EACH NEW EMPLOYEE WHO IS HIRED BY THE
37 EMPLOYER AT THE SPECIFIC LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED
38 WORK.

39 (c) ORDER THE APPROPRIATE AGENCIES TO SUSPEND ALL LICENSES, DESCRIBED
40 IN SUBDIVISION (d) OF THIS PARAGRAPH THAT ARE HELD BY THE EMPLOYER FOR A
41 MINIMUM OF TEN DAYS. THE COURT SHALL BASE ITS DECISION ON THE LENGTH OF THE
42 SUSPENSION UNDER THIS SUBDIVISION ON ANY EVIDENCE OR INFORMATION SUBMITTED TO
43 IT DURING THE ACTION FOR A VIOLATION OF THIS SUBSECTION AND SHALL CONSIDER
44 THE FOLLOWING FACTORS, IF RELEVANT:

1 (i) THE NUMBER OF UNAUTHORIZED ALIENS EMPLOYED BY THE EMPLOYER.
2 (ii) ANY PRIOR MISCONDUCT BY THE EMPLOYER.
3 (iii) THE DEGREE OF HARM RESULTING FROM THE VIOLATION.
4 (iv) WHETHER THE EMPLOYER MADE GOOD FAITH EFFORTS TO COMPLY WITH ANY
5 APPLICABLE REQUIREMENTS.
6 (v) THE DURATION OF THE VIOLATION.
7 (vi) THE ROLE OF THE DIRECTORS, OFFICERS OR PRINCIPALS OF THE EMPLOYER
8 IN THE VIOLATION.
9 (vii) ANY OTHER FACTORS THE COURT DEEMS APPROPRIATE.
10 (d) ORDER THE EMPLOYER TO FILE A SIGNED SWORN AFFIDAVIT WITH THE
11 COUNTY ATTORNEY. THE AFFIDAVIT SHALL STATE THAT THE EMPLOYER HAS TERMINATED
12 THE EMPLOYMENT OF ALL UNAUTHORIZED ALIENS AND THAT THE EMPLOYER WILL NOT
13 INTENTIONALLY OR KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN. ALL LICENSES THAT
14 ARE SUSPENDED UNDER THIS SUBDIVISION SHALL REMAIN SUSPENDED UNTIL THE
15 EMPLOYER FILES A SIGNED SWORN AFFIDAVIT WITH THE COUNTY ATTORNEY. FOR THE
16 PURPOSES OF THIS SUBDIVISION, THE LICENSES THAT ARE SUBJECT TO SUSPENSION
17 UNDER THIS SUBDIVISION ARE ALL LICENSES THAT ARE HELD BY THE EMPLOYER AND
18 THAT ARE NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS AT THE EMPLOYER'S
19 BUSINESS LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK. IF A LICENSE
20 IS NOT NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS AT THE SPECIFIC LOCATION
21 WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK, BUT A LICENSE IS NECESSARY TO
22 OPERATE THE EMPLOYER'S BUSINESS IN GENERAL, THE LICENSES THAT ARE SUBJECT TO
23 SUSPENSION UNDER THIS SUBDIVISION ARE ALL LICENSES THAT ARE HELD BY THE
24 EMPLOYER AT THE EMPLOYER'S PRIMARY PLACE OF BUSINESS. ON RECEIPT OF THE
25 COURT'S ORDER AND NOTWITHSTANDING ANY OTHER LAW, THE APPROPRIATE AGENCIES
26 SHALL SUSPEND THE LICENSES ACCORDING TO THE COURT'S ORDER. THE COURT SHALL
27 SEND A COPY OF THE COURT'S ORDER TO THE ATTORNEY GENERAL AND THE ATTORNEY
28 GENERAL SHALL MAINTAIN THE COPY PURSUANT TO SUBSECTION G.
29 3. FOR A SECOND VIOLATION OF SUBSECTION A DURING THE PERIOD OF
30 PROBATION, THE COURT SHALL ORDER THE APPROPRIATE AGENCIES TO PERMANENTLY
31 REVOKE ALL LICENSES THAT ARE HELD BY THE EMPLOYER AND THAT ARE NECESSARY TO
32 OPERATE THE EMPLOYER'S BUSINESS AT THE EMPLOYER'S BUSINESS LOCATION WHERE THE
33 UNAUTHORIZED ALIEN PERFORMED WORK. IF A LICENSE IS NOT NECESSARY TO OPERATE
34 THE EMPLOYER'S BUSINESS AT THE SPECIFIC LOCATION WHERE THE UNAUTHORIZED ALIEN
35 PERFORMED WORK, BUT A LICENSE IS NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS
36 IN GENERAL, THE COURT SHALL ORDER THE APPROPRIATE AGENCIES TO PERMANENTLY
37 REVOKE ALL LICENSES THAT ARE HELD BY THE EMPLOYER AT THE EMPLOYER'S PRIMARY
38 PLACE OF BUSINESS. ON RECEIPT OF THE ORDER AND NOTWITHSTANDING ANY OTHER
39 LAW, THE APPROPRIATE AGENCIES SHALL IMMEDIATELY REVOKE THE LICENSES.
40 G. THE ATTORNEY GENERAL SHALL MAINTAIN COPIES OF COURT ORDERS THAT ARE
41 RECEIVED PURSUANT TO SUBSECTION F AND SHALL MAINTAIN A DATABASE OF THE
42 EMPLOYERS WHO HAVE A FIRST VIOLATION OF SUBSECTION A AND MAKE THE COURT
43 ORDERS AVAILABLE ON THE ATTORNEY GENERAL'S WEBSITE.

1 H. ON DETERMINING WHETHER AN EMPLOYEE IS AN UNAUTHORIZED ALIEN, THE
2 COURT SHALL CONSIDER ONLY THE FEDERAL GOVERNMENT'S DETERMINATION PURSUANT TO
3 8 UNITED STATES CODE SECTION 1373(c). THE FEDERAL GOVERNMENT'S DETERMINATION
4 CREATES A REBUTTABLE PRESUMPTION OF THE EMPLOYEE'S LAWFUL STATUS. THE COURT
5 MAY TAKE JUDICIAL NOTICE OF THE FEDERAL GOVERNMENT'S DETERMINATION AND MAY
6 REQUEST THE FEDERAL GOVERNMENT TO PROVIDE AUTOMATED OR TESTIMONIAL
7 VERIFICATION PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c).

8 I. FOR THE PURPOSES OF THIS SECTION, PROOF OF VERIFYING THE EMPLOYMENT
9 AUTHORIZATION OF AN EMPLOYEE THROUGH THE BASIC PILOT PROGRAM CREATES A
10 REBUTTABLE PRESUMPTION THAT AN EMPLOYER DID NOT INTENTIONALLY EMPLOY AN
11 UNAUTHORIZED ALIEN OR KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN.

12 J. FOR THE PURPOSES OF THIS SECTION, AN EMPLOYER WHO ESTABLISHES THAT
13 IT HAS COMPLIED IN GOOD FAITH WITH THE REQUIREMENTS OF 8 UNITED STATES CODE
14 SECTION 1324b ESTABLISHES AN AFFIRMATIVE DEFENSE THAT THE EMPLOYER DID NOT
15 INTENTIONALLY OR KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN.

16 23-213. Employer actions; federal or state law compliance

17 THIS ARTICLE SHALL NOT BE CONSTRUED TO REQUIRE AN EMPLOYER TO TAKE ANY
18 ACTION THAT THE EMPLOYER BELIEVES IN GOOD FAITH WOULD VIOLATE FEDERAL OR
19 STATE LAW.

20 23-214. Verification of employment eligibility; basic pilot
21 program

22 AFTER DECEMBER 31, 2007, EVERY EMPLOYER, AFTER HIRING AN EMPLOYEE,
23 SHALL VERIFY THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYEE THROUGH THE BASIC
24 PILOT PROGRAM.

25 Sec. 3. Employer notice

26 On or before October 1, 2007, the department of revenue shall provide a
27 notice to every employer that is required to withhold tax pursuant to title
28 43, chapter 4, Arizona Revised Statutes. The notice shall explain the
29 requirements of title 23, chapter 2, article 2, Arizona Revised Statutes, as
30 added by this act, including the following:

31 1. A new state law prohibits employers from intentionally employing an
32 unauthorized alien or knowingly employing an unauthorized alien.

33 2. For a first violation of this new state law during a three year
34 period that is a knowing violation, the court will order the appropriate
35 licensing agencies to suspend all licenses held by the employer unless the
36 employer files a signed sworn affidavit with the county attorney within three
37 business days. The filed affidavit must state that the employer has
38 terminated the employment of all unauthorized aliens and that the employer
39 will not intentionally or knowingly employ an unauthorized alien. A license
40 that is suspended will remain suspended until the employer files a signed
41 sworn affidavit with the county attorney. A copy of the court order will be
42 made available on the attorney general's website.

43 3. For a first violation of this new state law during a five year
44 period that is an intentional violation, the court will order the appropriate

1 licensing agencies to suspend all licenses held by the employer for a minimum
2 of ten days. The employer must file a signed sworn affidavit with the county
3 attorney. The filed affidavit must state that the employer has terminated
4 the employment of all unauthorized aliens and that the employer will not
5 intentionally or knowingly employ an unauthorized alien. A license that is
6 suspended will remain suspended until the employer files a signed sworn
7 affidavit with the county attorney. A copy of the court order will be made
8 available on the attorney general's website.

9 4. For a second violation of this new state law, the court will order
10 the appropriate licensing agencies to permanently revoke all licenses that
11 are held by the employer.

12 5. Proof of verifying the employment authorization of an employee
13 through the basic pilot program, as defined in section 23-211, Arizona
14 Revised Statutes, as added by this act, will create a rebuttable presumption
15 that an employer did not violate the new state law.

16 6. After December 31, 2007, every employer, after hiring an employee,
17 is required to verify the employment eligibility of the employee through the
18 basic pilot program, as defined in section 23-211, Arizona Revised Statutes,
19 as added by this act.

20 7. Instructions for the employer on how to enroll in the basic pilot
21 program, as defined in section 23-211, Arizona Revised Statutes, as added by
22 this act.

23 Sec. 4. Employer sanctions legislative study committee

24 A. The employer sanctions legislative study committee is established
25 consisting of the following members:

26 1. Three members of the senate who are appointed by the president of
27 the senate, not more than two of whom shall be members of the same political
28 party. The president of the senate shall designate one of these members to
29 co-chair the committee.

30 2. Three members of the house of representatives who are appointed by
31 the speaker of the house of representatives, not more than two of whom shall
32 be members of the same political party. The speaker of the house of
33 representatives shall designate one of these members to co-chair the
34 committee.

35 3. A citizen of Arizona appointed by the president of the senate who
36 owns a business in Arizona with no more than 30 employees.

37 4. A citizen of Arizona appointed by the speaker of the house of
38 representatives who owns a business in Arizona with more than 30 employees.

39 B. The Committee shall:

40 1. Examine the laws and regulations pertaining to employers sanctions
41 in Arizona.

42 2. Examine the effects of these laws and whether such laws are being
43 properly implemented.

1 3. Examine if these laws are being applied to all businesses in
2 Arizona in a fair manner.

3 4. Examine if the complaint process is being implemented in a fair and
4 just manner.

5 5. Submit a report of its findings and recommendations to the
6 governor, the president of the senate and speaker of the house of
7 representatives on or before December 31, 2008 and submit a copy of its
8 report to the secretary of state and the director of the Arizona state,
9 library archives and public records.

10 C. Committee members are not eligible to receive compensation or
11 reimbursement of expenses.

12 Sec. 5. Severability

13 If any provision of this act or its application to any person or
14 circumstance is held invalid, the invalidity does not affect other provisions
15 or applications of this act that can be given effect without the invalid
16 provision or application, and to this end the provisions of this act are
17 severable.

18 Sec. 6. Short title

19 This act shall be known as and may be cited as the "Legal Arizona
20 Workers Act."

21 Sec. 7. Appropriation; attorney general enforcement; exemption

22 A. The sum of \$100,000 is appropriated from the state general fund in
23 fiscal year 2007-2008 to the attorney general for the purpose of enforcing
24 any immigration related matters and section 23-212, Arizona Revised Statutes,
25 as added by this act.

26 B. The appropriation made in subsection A of this section is exempt
27 from the provisions of section 35-190, Arizona Revised Statutes, relating to
28 lapsing of appropriations.

29 Sec. 8. Appropriation; county attorney enforcement; department
30 of revenue; employer notice; exemption

31 A. The sum of \$2,430,000 is appropriated from the state general fund
32 in fiscal year 2007-2008 to the department of administration to be
33 distributed to the county attorneys in this state for the purpose of
34 enforcing any immigration related matters and section 23-212, Arizona Revised
35 Statutes, as added by this act. The department of administration shall
36 distribute these monies to each county attorney as follows:

37 1. \$1,430,000 to each county attorney of a county in this state having
38 a population of one million five hundred thousand or more persons.

39 2. \$500,000 to each county attorney of a county in this state having a
40 population of eight hundred thousand or more persons but less than one
41 million five hundred thousand persons.

1 3. The remainder of monies to be distributed as equally as possible to
2 each county attorney of counties in this state having a population of less
3 than five hundred thousand persons.

4 B. The sum of \$70,000 is appropriated from the state general fund in
5 fiscal year 2007-2008 to the department of revenue for the purposes
6 prescribed in section 3 of this act.

7 C. The appropriation made in subsection A of this section is exempt
8 from the provisions of section 35-190, Arizona Revised Statutes, relating to
9 lapsing of appropriations.

10 Sec. 9. Delayed repeal

11 Section 4 as added by this act is repealed from and after January 1,
12 2009.

APPROVED BY THE GOVERNOR JULY 2, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 2, 2007.

Passed the House March 15, 20 07

Passed the Senate May 23, 20 07

by the following vote: 46 Ayes,

by the following vote: 23 Ayes,

13 Nays, 1 Not Voting

4 Nays, 3 Not Voting

Speaker of the House
Pro Tempore

President of the Senate

Chief Clerk of the House

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

Secretary of State

H.B. 2779

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House June 20, 20 07

by the following vote: 47 Ayes,
11 Nays, 2 Not Voting

[Signature]
Speaker of the House
[Signature]
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate June 20, 20 07

by the following vote: 20 Ayes,
4 Nays, 6 Not Voting

[Signature]
President of the Senate
[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

21st day of June, 2007

at 8:20 o'clock a. M.

[Signature]
Secretary to the Governor

Approved this 2 day of

July

at 2⁰⁰ o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 2 day of July, 2007

at 2:43 o'clock P. M.

[Signature]
Secretary of State