

As Amended by House Committee

Session of 2004

HOUSE BILL No. 2479

By Representative Dillmore

12-5

10 AN ACT concerning employment of illegal aliens.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. As used in this act:

14 (a) "Employer" means any person, including any partnership, firm,  
15 subcontractor, vendor, corporation or association, or agent thereof, who  
16 engages or utilizes the personal services of one or more individuals for a  
17 salary or wage;

18 (b) "illegal alien" means any person not a citizen of the United States  
19 who has entered the United States in violation of the federal immigration  
20 and naturalization act or regulations issued thereunder, who has legally  
21 entered but without the right to be employed in the country, or who has  
22 legally entered subject to a time limit but has remained illegally after the  
23 expiration of such time limit, **except that the term "illegal alien" shall**  
24 **not mean any person who currently has the legal right to remain**  
25 **in the United States and to be employed in the United States even**  
26 **though such person originally entered the United States in viola-**  
27 **tion of the federal immigration and naturalization act or regula-**  
28 **tions issued thereunder and is not a citizen of the United States;**

29 (c) "secretary" means the secretary of human resources;

30 (d) "state agency" means any state office or officer, department,  
31 board, commission, institution, bureau or any agency, division or unit  
32 within any office, department, board, commission or other state authority  
33 **of this state** or any person requesting a state appropriation;

34 (e) "state benefit" means any state-administered or subsidized tax  
35 credit, tax abatement, tax exemption, loan or loan guarantee; and

36 (f) "unit of government" means any school board, city or county coun-  
37 cil or commission **of this state**, including, but not limited to, any gov-  
38 ernmental entity which is wholly or partially taxpayer funded or any entity  
39 which is the beneficiary of any state benefit.

40 ~~Sec. 2. The legislature finds that employers of the state have the~~  
41 ~~responsibility to investigate the residence status of prospective employees~~  
42 ~~and are precluded from hiring illegal aliens and can be penalized for doing~~  
43 ~~so. Additionally, employers owe a duty to the legal residents of the state~~

1 to uphold the intent and integrity of the general workforce due to the  
2 potential loss of revenue to the state through loss of taxes, unemployment  
3 premiums and workers' compensation premiums.

4 **Sec. 2. (a) A person or entity is considered to have complied**  
5 **with a requirement of this act, notwithstanding a technical or pro-**  
6 **cedural failure to meet such requirement, if there was a good faith**  
7 **attempt to comply with the federal requirements found in title 8**  
8 **of the United States code, section 1324a.**

9 **(b) A person or entity which establishes that it has complied in**  
10 **good faith with respect to the hiring, recruiting or referral for**  
11 **employment of an alien in the United States has established an**  
12 **affirmative defense under this act.**

13 Sec. 3. (a) No state agency or unit of government shall award a public  
14 works or purchase contract to a bidder, contractor or employer, nor shall  
15 a bidder, contractor or employer be eligible to bid for or receive a public  
16 works contract, who has, in the preceding five years: (1) Been convicted  
17 of violating a **law of this** state or federal law respecting the employment  
18 of illegal aliens, or (2) been a party to a state agency proceeding **in this**  
19 **state** in which a penalty or sanction was ordered, either by hearing or  
20 final order, or through stipulation and agreement, for violation of a **law**  
21 **of this** state or federal law respecting the employment of illegal aliens.

22 (b) Any employer found to be in violation of this section shall, in  
23 addition to all available administrative penalties and sanctions, forfeit and  
24 be liable for an amount equal to the total value of the state benefit such  
25 employer has received or been the beneficiary of for the period of five  
26 years leading up to the date of the finding of guilt, ~~final order or stipu-~~  
27 ~~lation~~ **not to exceed the federally prescribed civil penalty in title 8**  
28 **of the United States code, section 1324a.**

29 Sec. 4. The secretary of the department of human resources shall be  
30 responsible for administering the provisions of this act.

31 Sec. 5. The provisions of the Kansas administrative procedure act,  
32 K.S.A. 77-501 *et seq.*, and amendments thereto, shall govern all proceed-  
33 ings initiated under this act.

34 Sec. 6. This act shall take effect and be in force from and after its  
35 publication in the statute book.