

1                                   **VERIFICATION OF EMPLOYMENT ELIGIBILITY**

2   2010 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: D. Chris Buttars**

5                                   House Sponsor: Christopher N. Herrod

---

---

7 **LONG TITLE**

8 **General Description:**

9           This bill modifies provisions related to employment to address verification of  
10 employment eligibility.

11 **Highlighted Provisions:**

12           This bill:

13           ▶ enacts the Private Employer Verification Act, including:

- 14                   • defining terms;
- 15                   • addressing private employers' obligations related to verification of federal legal  
16 working status and liability protections;
- 17                   • providing for voluntary registration with the Department of Commerce by a  
18 private employer who participates in employee verification; and
- 19                   • requiring the Department of Commerce to publish a list of registered private  
20 employers participating in employee verification.

21 **Monies Appropriated in this Bill:**

22           None

23 **Other Special Clauses:**

24           None

25 **Utah Code Sections Affected:**

26 ENACTS:

27           **13-47-101**, Utah Code Annotated 1953

28           **13-47-102**, Utah Code Annotated 1953

29           **13-47-103**, Utah Code Annotated 1953

- 30 13-47-201, Utah Code Annotated 1953
- 31 13-47-202, Utah Code Annotated 1953
- 32 13-47-203, Utah Code Annotated 1953
- 33 13-47-204, Utah Code Annotated 1953

34 

---

---

  
35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section 13-47-101 is enacted to read:

37 **CHAPTER 47. PRIVATE EMPLOYER VERIFICATION ACT**

38 **Part 1. General Provisions**

39 **13-47-101. Title.**

40 This chapter is known as the "Private Employer Verification Act."

41 Section 2. Section 13-47-102 is enacted to read:

42 **13-47-102. Definitions.**

43 As used in this chapter:

44 (1) "Department" means the Department of Commerce.

45 (2) "Employee" means an individual:

46 (a) who is hired to perform services in Utah; and

47 (b) to whom a private employer provides a federal form required for federal taxation  
48 purposes to report income paid to the individual for the services performed.

49 (3) (a) Except as provided in Subsection (3)(b), "private employer" means a person  
50 who for federal taxation purposes is required to provide a federal form:

51 (i) to an individual who performs services for the person in Utah; and

52 (ii) to report income paid to the individual who performs the services.

53 (b) "Private employer" does not mean a public employer as defined in Section  
54 63G-11-103.

55 (4) (a) "Status verification system" means an electronic system operated by the federal  
56 government, through which an employer may inquire to verify the federal legal working status  
57 of an individual who is a newly hired employee.

58 (b) "Status verification system" includes:

59 (i) the electronic verification of the work authorization program of the Illegal  
60 Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a;

61 (ii) a federal program equivalent to the program described in Subsection (4)(b)(i) that  
62 is designated by the United States Department of Homeland Security or other federal agency  
63 authorized to verify the employment eligibility status of a newly hired employee pursuant to  
64 the Immigration Reform and Control Act of 1986;

65 (iii) the Social Security Number Verification Service or similar online verification  
66 process implemented by the United States Social Security Administration; or

67 (iv) an independent third-party system with an equal or higher degree of reliability as  
68 the programs, systems, or processes described in Subsection (4)(b)(i), (ii), or (iii).

69 Section 3. Section **13-47-103** is enacted to read:

70 **13-47-103. Scope of chapter.**

71 A private employer shall comply with this chapter, and this chapter shall be enforced  
72 without regard to race, color, national origin, gender, religion, age, disability, familial status,  
73 or source of income.

74 Section 4. Section **13-47-201** is enacted to read:

75 **Part 2. Verification by Private Employer**

76 **13-47-201. Verification required for new hires.**

77 (1) A private employer who employs 15 or more employees as of July 1, 2010, may  
78 not hire a new employee on or after July 1, 2010, unless the private employer:

79 (a) is registered with a status verification system to verify the federal legal working  
80 status of any new employee; and

81 (b) uses the status verification system to verify the federal legal working status of the  
82 new employee in accordance with the requirements of the status verification system.

83 (2) This section does not apply to a private employer of a foreign national if the  
84 foreign national holds a visa issued in response to a petition by the private employer that is  
85 classified as H-2A or H-2B.

86 Section 5. Section **13-47-202** is enacted to read:

87 **13-47-202. Liability protections.**

88 (1) A private employer may not be held civilly liable under state law in a cause of  
89 action for the private employer's unlawful hiring of an unauthorized alien, as defined in 8  
90 U.S.C. Sec. 1324a, if:

91 (a) the private employer complies with Section 13-47-201; and

92 (b) the information obtained in accordance with the status verification system  
93 indicated that the employee's federal legal status allowed the private employer to hire the  
94 employee.

95 (2) A private employer may not be held civilly liable under state law in a cause of  
96 action for the private employer's refusal to hire an individual if:

97 (a) the private employer complies with Section 13-47-201; and

98 (b) the information obtained in accordance with the status system verification  
99 indicated that the individual's federal legal status was that of an unauthorized alien as defined  
100 in 8 U.S.C. Sec. 1324a.

101 Section 6. Section **13-47-203** is enacted to read:

102 **13-47-203. Voluntary registration by private employer certifying participation in**  
103 **verification.**

104 (1) (a) A private employer may register with the department certifying that the private  
105 employer is in compliance with Section 13-47-201.

106 (b) A private employer may register with the department under this section regardless  
107 of whether the private employer is required to comply with Section 13-47-201.

108 (2) To register or renew a registration with the department under this part, a private  
109 employer shall:

110 (a) file a registration statement with the department that certifies compliance with  
111 Section 13-47-201; and

112 (b) pay a fee established by the department in accordance Section 63J-1-504 that  
113 reflects the cost of registering employers under this section and publishing the list described in

114 Section 13-47-204.

115 (3) A registration under this part expires every two years on the anniversary of the day  
116 on which the registration is filed with the department.

117 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
118 the department may make rules to provide for:

119 (a) the form of a registration statement under this section;

120 (b) the process of filing a registration statement under this section; and

121 (c) the process of renewing a registration statement under this section.

122 Section 7. Section **13-47-204** is enacted to read:

123 **13-47-204. Department to publish list of registered private employers.**

124 On and after July 1, 2010, the department shall publish electronically a list of private  
125 employers who register under Section 13-47-203 on a website accessible to the general public  
126 without a charge.