

150 frequency identification chip.

151 (4) This chapter may not be construed to require an employer to take any action that the
 152 employer believes in good faith violates federal or state law.

153 (5) If any provision of this chapter or the application of this chapter to any person or
 154 circumstance is for any reason held invalid, the remainder of the chapter and the application of
 155 the provision to other persons or circumstances shall be given effect without the invalid
 156 provision or application. The provisions of this chapter are severable.

157 Section 4. Section **34A-12-201** is enacted to read:

158 **Part 2. Employment Practices**

159 **34A-12-201. Employing unauthorized alien.**

160 (1) (a) An employer may not knowingly employ an unauthorized alien.

161 (b) When an employer uses a contract, subcontract, or other independent contractor
 162 agreement to obtain the labor of an alien in this state, the employer may not knowingly contract
 163 with an unauthorized alien or with a person who employs or contracts with an unauthorized
 164 alien to perform the labor.

165 (2) (a) An employer may not intentionally employ an unauthorized alien.

166 (b) When an employer uses a contract, subcontract, or other independent contractor
 167 agreement to obtain the labor of an alien in this state, the employer may not intentionally
 168 contract with an unauthorized alien or with a person who employs or contracts with an
 169 unauthorized alien to perform the labor.

170 Section 5. Section **34A-12-202** is enacted to read:

171 **34A-12-202. Verification of employment eligibility.**

172 (1) On and after July 1, 2011, a private employer employing ~~five~~ **5** ~~or~~
 172a more employees
 173 within the state for each working day in each of 20 calendar weeks or more in the current or
 174 preceding calendar year shall verify the employment eligibility of ~~each~~ **an** ~~new~~ ~~employee~~
 174a through a status
 175 verification system.

176 (2) A private employer shall keep a record of the verification required by Subsection
 177 (1) for the longer of:

178 (a) the duration of the employee's employment; ~~or~~ **or**

179 (b) at least three years from the date of ~~the~~ **verification** employment; or

179a (c) **one year from the date of termination of the employee's employment** ~~or~~ .

180 Section 6. Section **34A-12-203** is enacted to read:

305 34A-12-303. Penalties.306 If a court finds a violation of Section 34A-12-201, the following applies:307 (1) (a) For a first violation, the court shall order:308 (i) the employer to terminate the employment of unauthorized aliens;309 (ii) the employer to file a quarterly report in the form provided in Section 35A-7-104310 with the county attorney for an employee who is hired by the employer at the business location311 where the unauthorized alien performed work during:312 (A) for a violation of Subsection 34A-12-201(1), a three-year probationary period; or313 (B) for a violation of Subsection 34A-12-201(2), a five-year probationary period;314 (iii) the employer to file a signed ~~H→~~, ~~←H~~ sworn affidavit with the county314a attorney within 15315 days after the order is issued that states that the employer:316 (A) has terminated the employment of any unauthorized alien in this state; and317 (B) will not intentionally or knowingly employ an unauthorized alien in this state; and318 (iv) the appropriate agencies to suspend each license described in Subsection (4) held319 by the employer:320 (A) for a violation of Subsection 34A-12-201(1), if the employer fails to320a file a signed ~~H→~~, ~~←H~~321 sworn affidavit with the county attorney within 15 days after the order is issued; or322 (B) for a violation of Subsection ~~H→~~ [34a-12-201] 34A-12-201 ~~←H~~ (2), for a minimum of322a three days.323 (b) For a first violation of Subsection 34A-12-201(1), in addition to the penalties under324 Subsection (1)(a), a court may order the appropriate agencies to suspend each license described325 in Subsection (4) held by the employer for a period not to exceed three days.326 (c) For a second violation, the court shall order an appropriate agency to permanently327 revoke each license described in Subsection (4) held by the employer.328 (d) On receipt of an order under ~~H→~~ [this] ~~←H~~ Subsection (1)(c) and328a notwithstanding any other329 law, an appropriate agency shall immediately revoke a license according to the court's order.330 (2) (a) On receipt of a court's order and notwithstanding any other law, an appropriate331 agency shall suspend a license according to the court's order.332 (b) A license that is suspended under Subsection (1)(a)(iv)(A) shall remain suspended333 until the employer files a signed ~~H→~~, ~~←H~~ sworn affidavit with the county attorney.334 (c) Notwithstanding any other law, for a license suspended under Subsection335 (1)(a)(iv)(A), once an employer files an affidavit as required by Subsection (1)(a)(iii), an

336 appropriate agency shall reinstate a suspended license immediately.

337 (3) For purposes of Subsection (1)(a)(iv)(B) or (1)(b), a court shall base the court's
 338 decision on the length of the suspension under this section on evidence or information
 339 submitted to the court during the action for a violation of Section 34A-12-201, and consider the
 340 following factors, if relevant:

341 (a) the number of unauthorized aliens employed by the employer;

342 (b) prior misconduct by the employer;

343 (c) the degree of harm resulting from the violation;

344 (d) whether the employer made good faith efforts to comply with any applicable
 345 requirements;

346 (e) the duration of the violation;

347 (f) the role of the directors, officers, or principals of the employer in the violation; and

348 (g) any other factor the court considers appropriate.

349 (4) (a) For the purposes of this section, a license that is subject to suspension or
 350 revocation under this section is a license that is:

351 (i) held by an employer; and

352 (ii) specific to the business location where an unauthorized alien performs work.

353 (b) Notwithstanding Subsection (4)(a), if an employer does not hold a license specific
 354 to the business location where an unauthorized alien performs work, but a license is necessary
 355 to operate the employer's business in general, a license that is subject to suspension or
 356 revocation under this section is a license that is held by the employer at the employer's primary
 357 place of business.

358 ~~**H→ [(5) A court shall send a copy of the court's order to the attorney general and the**~~
 359 ~~**attorney general shall maintain the copy pursuant to Subsection (7).]**~~

360 ~~[(6)]~~ **(5) ←H** (a) A violation is considered:

361 (i) a first violation by an employer at a business location if the violation does not occur
 362 during a probationary period ordered by the court under Subsection (1)(a) for that employer's
 363 business location; or

364 (ii) a second violation by an employer at a business location if the violation occurs
 365 during a probationary period ordered by the court under Subsection (1)(a) for that employer's
 366 business location.