

PROPOSITION ____
I-12-2008; STOP ILLEGAL HIRING ACT

ANALYSIS BY LEGISLATIVE COUNCIL

Proposition ____ makes various changes to the state laws prohibiting an employer from intentionally or knowingly employing an alien who is not authorized under federal law to work in the United States. Under Proposition ____, the definition of "knowingly employ an unauthorized alien" would be amended to require actual knowledge by an owner or officer of the employer.

Proposition ____ would provide that a state, county or local official, in attempting to verify with the federal government if a person is authorized to work in the United States, shall rely solely upon the processes and procedures set forth in federal law. Additionally it allows the court to take judicial notice of the federal government's determination of legal work eligibility and provides the court may request the federal government to provide automated or testimonial verification pursuant to federal law.

Proposition ____ allows any person to file a written and signed complaint with the attorney general or county attorney that an employer in this state was either intentionally or knowingly employing an unauthorized alien in this state. If a person files a false or frivolous complaint, the person would be guilty of a class 3 misdemeanor. If the complaint is found to be valid, the appropriate federal and local officials would be notified by the attorney general or the county attorney. The county attorney would be authorized to bring an action against an employer only for violations that occur beginning January 1, 2009.

For the first knowing violation in a three-year period, the court shall:

- Confirm that the employer has terminated or will terminate the employment of all unauthorized aliens in this state.
- Order the employer to be subject to a three-year probationary period and file quarterly reports with the county attorney of each new employee hired at the location where the unauthorized alien performed work.
- Order the employer to sign an affidavit stating that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not knowingly or intentionally employ any unauthorized aliens in this state. If the affidavit is not signed, all licenses held by the employer that are necessary for the employer to operate the employer's business at the business location where the unauthorized alien performed work would be suspended until the affidavit is signed. If there are no licenses held by the employer specific to that business location, the court would be required to order the suspension of all licenses held by the employer at the employer's primary place of business in this state. The court would be authorized to order that the business licenses of the employer be suspended for no more than ten days if certain factors are present.

For a first intentional violation in a five-year period, the court shall:

- Confirm that the employer has terminated or will terminate the employment of all unauthorized aliens in this state.

- Order the employer to be subject to a five-year probationary period and file quarterly reports with the county attorney of each new employee hired at the location where the unauthorized alien performed work.
- Order the employer to sign an affidavit stating that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not knowingly or intentionally employ any unauthorized aliens in this state. If the affidavit is not signed, all licenses held by the employer that are necessary for the employer to operate the employer's business at the business location where the unauthorized alien performed work would be suspended until the affidavit is signed. If there are no licenses held by the employer specific to that business location, the court would be required to order the suspension of all licenses held by the employer at the employer's primary place of business in this state.
- Order the appropriate agencies to suspend all of the employer's business licenses as described above for a minimum of 10 days.

For a second knowing or intentional violation during a probationary period, Proposition ____ would require the court to order the permanent revocation of all licenses held by the employer that are necessary for the employer to operate the employer's business at the business location where the unauthorized alien performed work. If there are no licenses held by the employer specific to that business location, the court would be required to order the permanent revocation of all licenses held by the employer at the employer's primary place of business in this state.

Proposition ____ creates a non-rebuttable presumption of innocence if an employer verifies work eligibility through the E-verify system or other method as provided under federal law. Additionally, it creates an affirmative defense of innocence if an employer establishes that it complied in good faith with the requirements of 8 United States Code section 1324a or 1324b.

Under Proposition ____, an employer would not be required to take any action that would violate federal or state law.

Beginning January 1, 2009, Proposition ____ would require every employer, after hiring an employee, to verify the employment eligibility of the employee through the federal employment electronic verification (E-Verify) program or through other documentation procedures authorized by federal law.

Proposition ____ would authorize the attorney general to bring an action against an employer if the employer has more than four employees, pays hourly wages or salary in cash and fails to do any of the following:

1. Withhold required taxes from the employee's compensation.
2. Report the hiring of an employee to the state.
3. Make the required contributions for unemployment compensation benefits.
4. Provide employees coverage for workers compensation.

If the employer is found guilty of any of these actions, the court would be required to enter a judgment against the employer for triple the amount of money that the employer failed to pay or \$5,000 per employee for which a violation was committed, whichever is greater. All sums paid by the employer would be remitted to the Arizona department of education and the Arizona department of health services for distribution to school districts and emergency room providers to use to offset the costs of illegal immigration.

Proposition ____ would expand the crime of identity theft to include a person who knowingly takes or uses personal identifying information of another person or entity without the consent of that other person or entity with the intent to obtain or continue employment. The crime of identity theft would also be expanded to include a person who knowingly accepts any personal identifying information of another person from an individual knowing that they are not the identified person and uses the information for work authorization under federal law. Identity theft is a class 4 felony.

Proposition ____ would expand the crime of aggravated identity theft to include the theft of two or more identities or an identity theft that causes at least \$1,000 in economic loss. Aggravated identity theft is a class 3 felony.

Proposition ____ would expand the crime of trafficking in the identity of another person or entity to include a person who sells personal identifying information of another person or entity with the intent of allowing another person to obtain or continue employment. Trafficking is a class 2 felony.