

By: Senator(s) Hill

To: Judiciary, Division A

SENATE BILL NO. 2015

1 AN ACT TO AMEND SECTION 71-11-3, MISSISSIPPI CODE OF 1972, TO
2 HOLD ACCOUNTABLE ANY EMPLOYERS USING TEMPORARY WORKERS IN ORDER TO
3 SKIRT IMMIGRATION LAWS; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 71-11-3, Mississippi Code of 1972, is
6 amended as follows:

7 71-11-3. (1) This chapter shall be known as the
8 "Mississippi Employment Protection Act."

9 (2) The provisions of this section shall be enforced without
10 regard to race, gender, religion, ethnicity or national origin.

11 (3) For the purpose of this section only, the following
12 words shall have the meanings ascribed herein unless the content
13 clearly states otherwise:

14 (a) "Employer" is any person or business that is
15 required by federal or state law to issue a United States Internal
16 Revenue Service Form W-2 or Form 1099 to report income paid to
17 employed or contracted personnel in Mississippi.



18 (b) "Employee" is any person or entity that is hired to
19 perform work within the State of Mississippi and to whom a United
20 States Internal Revenue Service Form W-2 or Form 1099 must be
21 issued.

22 (c) "Third-party employer" is any person or company
23 that provides workers for another person or company. This
24 includes, but is not limited to, leasing companies and contract
25 employers.

26 (d) "Status verification system" means the electronic
27 verification of work authorization program of the Illegal
28 Immigration Reform and Immigration Responsibility Act of 1996,
29 Public Law 104-208, Division C, Section 403(a); 8 USC, Section
30 1324a, and operated by the United States Department of Homeland
31 Security, known as the E-Verify Program.

32 (e) "Unauthorized alien" means an alien as defined in
33 Section 1324a(h) (3) of Title 8 of the United States Code.

34 (f) "Public employer" means every department, agency or
35 instrumentality of the state or a political subdivision of the
36 state.

37 (g) "Subcontractor" means a subcontractor, contract
38 employee, staffing agency or any contractor regardless of its
39 tier.

40 (4) (a) Employers in the State of Mississippi shall only
41 hire employees who are legal citizens of the United States of
42 America or are legal aliens. For purposes of this section, a



43 legal alien is an individual who was lawfully present in the
44 United States at the time of employment and for the duration of
45 employment, or was permanently residing in the United States under
46 color of law at the time of employment and for the duration of
47 employment.

48 (b) (i) Every employer shall register with and utilize
49 the status verification system to verify the federal employment
50 authorization status of all newly hired employees.

51 (ii) No contractor or subcontractor shall hire any
52 employee unless the contractor or subcontractor registers and
53 participates in the status verification system to verify the work
54 eligibility status of all newly hired employees.

55 (iii) No contractor or subcontractor who enters
56 into a contract with a public employer shall enter into such a
57 contract or subcontract unless the contractor or subcontractor
58 registers and participates in the status verification system to
59 verify information of all newly hired employees.

60 (c) The provisions of this section shall not apply to
61 any contracts entered into on or before July 1, 2008.

62 (d) It shall be a discriminatory practice for an
63 employer to discharge an employee working in Mississippi who is a
64 United States citizen or permanent resident alien while retaining
65 an employee who the employing entity knows, or reasonably should
66 have known, is an unauthorized alien hired after July 1, 2008, and
67 who is working in Mississippi in a job category that requires



68 equal skill, effort and responsibility, and which is performed
69 under similar working conditions, as defined by 29 USC, Section
70 206(d)(1), as the job category held by the discharged employee.

71 (e) An employing entity which, on the date of the
72 discharge in question, was enrolled in and used the status
73 verification system to verify the employment eligibility of its
74 employees in Mississippi hired after July 1, 2008, shall be exempt
75 from liability, investigation or suit arising from any action
76 under this section.

77 (f) No cause of action for a violation of this section
78 shall lie under any other Mississippi law but shall arise solely
79 from the provisions of this section.

80 (5) Any employer that complies with the requirements of this
81 section shall be held harmless by the Mississippi Department of
82 Employment Security, provided the employer is not directly
83 involved in the creation of any false documents, * * * if the
84 employer did not knowingly and willfully accept false documents
85 from the employee.

86 (6) (a) All third-party employers that conduct business in
87 Mississippi shall register to do business in Mississippi with the
88 Mississippi Department of Employment Security before placing
89 employees into the workforce in Mississippi.

90 (b) Third-party employers shall provide proof of
91 registration and any participation in the status verification
92 system to any Mississippi employer with whom they do business.



93 (c) A Mississippi employer that utilizes contract
94 workers supplied by a third-party employer which fails to comply
95 with this section shall be held accountable for the failure on the
96 same basis as the third-party employer.

97 (7) (a) State of Mississippi agencies and political
98 subdivisions, public contractors and public subcontractors and
99 private employers with two hundred fifty (250) or more employees
100 shall meet verification requirements not later than July 1, 2008.

101 (b) Employers with at least one hundred (100) but less
102 than two hundred fifty (250) employees shall meet verification
103 requirements not later than July 1, 2009.

104 (c) Employers with at least thirty (30) but less than
105 one hundred (100) employees shall meet verification requirements
106 not later than July 1, 2010.

107 (d) All employers shall meet verification requirements
108 not later than July 1, 2011.

109 (e) (i) Any employer violating the provisions of this
110 section shall be subject to the cancellation of any state or
111 public contract, resulting in ineligibility for any state or
112 public contract for up to three (3) years, the loss of any
113 license, permit, certificate or other document granted to the
114 employer by any agency, department or government entity in the
115 State of Mississippi for the right to do business in Mississippi
116 for up to one (1) year, or both.



(ii) The contractor or employer shall be liable for any additional costs incurred by the agencies and institutions of the State of Mississippi, or any of its political subdivisions, because of the cancellation of the contract or the loss of any license or permit to do business in the state.

(iii) Any person or entity penalized under this section shall have the right to appeal to the appropriate entity bringing charges or to the circuit court of competent jurisdiction.

(f) The Department of Employment Security, * * * Department of Revenue, Secretary of State, Department of Human Services and the Attorney General shall have the authority to seek penalties under this section and to bring charges for noncompliance against any employer or employee.

(8) (a) There shall be no liability under this section in the following circumstances:

(i) An employer who hires an employee through a state or federal work program that requires verification of the employee's social security number and provides for verification of the employee's lawful presence in the United States in an employment-authorized immigration status;

(ii) Any candidate for employment referred by the Mississippi Department of Employment Security, if the Mississippi Department of Employment Security has verified the social security number and provides for verification of the candidate's lawful



142 presence in the United States in an employment-authorized
143 immigration status; or

144 (iii) Individual homeowners who hire workers on
145 their private property for noncommercial purposes, unless required
146 by federal law to do so.

147 (b) (i) Compliance with the sections of this statute
148 shall not exempt the employer from regulations and requirements
149 related to any federal laws or procedures related to employers.

150 (ii) This section shall not be construed as an
151 attempt to preempt federal law.

152 (c) (i) It shall be a felony for any person to accept
153 or perform employment for compensation knowing or in reckless
154 disregard that the person is an unauthorized alien with respect to
155 employment during the period in which the unauthorized employment
156 occurred. Upon conviction, a violator shall be subject to
157 imprisonment in the custody of the Department of Corrections for
158 not less than one (1) year nor more than five (5) years, a fine of
159 not less than One Thousand Dollars (\$1,000.00) nor more than Ten
160 Thousand Dollars (\$10,000.00), or both.

161 (ii) For purposes of determining bail for persons
162 who are charged under this section, it shall be a rebuttable
163 presumption that a defendant who has entered and remains in the
164 United States unlawfully is deemed at risk of flight for purposes
165 of bail determination.



166 **SECTION 2.** This act shall take effect and be in force from
167 and after July 1, 2019.

