

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 439 Session of
2011

INTRODUCED BY MUSTIO, METCALFE, BARRAR, CLYMER, DENLINGER,
EVERETT, GABLER, GEIST, KAUFFMAN, LONGIETTI, METZGAR,
MILLARD, MILLER, MURT, O'NEILL, PYLE, READSHAW, SWANGER,
VULAKOVICH, WATSON, GILLEN, MILNE AND HEFFLEY,
FEBRUARY 4, 2011

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 4, 2011

AN ACT

1 Prohibiting certain licensees from knowingly employing illegal
2 aliens; and imposing sanctions.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Professional
7 Licensees Illegal Employment Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Licensee." An individual, corporation, partnership, limited
13 liability company or other legal entity that holds a license
14 issued by a licensing board or licensing commission.

15 "Licensing board." A departmental or administrative board
16 under the Bureau of Professional and Occupational Affairs in the

1 Department of State.

2 "Licensing commission." A departmental or administrative
3 commission under the Bureau of Professional and Occupational
4 Affairs in the Department of State.

5 "Unauthorized alien." An alien who does not have the legal
6 right or authorization under Federal law to work in the United
7 States, as defined under section 274A of the Immigration and
8 Nationality Act (66 Stat. 163, 8 U.S.C. § 1324a(h)(3)).

9 Section 3. Prohibition.

10 No licensee shall knowingly employ or permit the employment
11 of an unauthorized alien.

12 Section 4. Sanction.

13 (a) Revocation.--If a licensing board or licensing
14 commission finds that a licensee has violated section 3, it
15 shall revoke the license of the licensee.

16 (b) Administrative agency law.--This section shall be
17 subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and
18 procedure of Commonwealth agencies) and 7 Subch. A (relating to
19 judicial review of Commonwealth agency action).

20 (C) A LICENSING BOARD OR LICENSING COMMISSION SHALL VERIFY
21 THE WORK AUTHORIZATION OF AN ALLEGED UNAUTHORIZED ALIEN WITH THE
22 FEDERAL GOVERNMENT PURSUANT TO SECTION 642(C) OF THE ILLEGAL
23 IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996
24 (PUBLIC LAW 104-208, 8 U.S.C. § 1373(C)). A LICENSING BOARD OR
25 LICENSING COMMISSION SHALL NOT ATTEMPT TO INDEPENDENTLY MAKE A
26 FINAL DETERMINATION ON WHETHER AN ALIEN IS AUTHORIZED TO WORK IN
27 THE UNITED STATES. AN ALIEN'S IMMIGRATION STATUS OR WORK
28 AUTHORIZATION STATUS SHALL BE VERIFIED WITH THE FEDERAL
29 GOVERNMENT PURSUANT TO SECTION 642(C) OF THE ILLEGAL IMMIGRATION
30 REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.



1 Section 5. Affirmative defense.

2 It shall be an affirmative defense to any proceeding for a
3 violation of this act that a licensee:

4 (1) complied with section 274A of the Immigration and
5 Nationality Act (Public Law 99-603, 8 U.S.C. § 1324a) with
6 respect to hiring, recruiting or referring an individual for
7 employment in the United States; or

8 (2) required a contractor of the licensee to certify
9 compliance with section 274A of the Immigration and
10 Nationality Act with respect to hiring, recruiting or
11 referring an individual for employment in the United States,
12 and has notified the appropriate Federal authority if the
13 licensee knew that the contractor employed an unauthorized
14 alien.

15 Section 6. Effective date.

16 This act shall take effect in 60 days.