

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, HEFFLEY AND MALONEY,
FEBRUARY 4, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 14, 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 TO PERFORM A FUNCTION FOR OR IN
12 CONNECTION WITH:

13 (1) THE PROFESSION THAT THE LICENSEE IS LICENSED TO
14 PRACTICE; OR

15 (2) A BUSINESS ACTIVITY:

16 (I) IN WHICH THE LICENSEE ENGAGES; AND

17 (II) WHICH IS RELATED TO THE PROFESSION THAT THE
18 LICENSEE IS LICENSED TO PRACTICE IN TERMS OF SERVICES
19 PROVIDED.

20 Section 4. Sanction.

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

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

28 (c) A licensing board or licensing commission shall verify
29 the work authorization of an alleged unauthorized alien with the
30 Federal Government pursuant to section 642(c) of the Illegal

1 Immigration Reform and Immigrant Responsibility Act of 1996
2 (Public Law 104-208, 8 U.S.C. § 1373(c)). A licensing board or
3 licensing commission shall not attempt to independently make a
4 final determination on whether an alien is authorized to work in
5 the United States. An alien's immigration status or work
6 authorization status shall be verified with the Federal
7 Government pursuant to SECTION 642(c) of the Illegal Immigration
8 Reform and Immigrant Responsibility Act of 1996.

9 Section 5. Affirmative defense.

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

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

16 (2) required a contractor of the licensee to certify
17 compliance with section 274A of the Immigration and
18 Nationality Act with respect to hiring, recruiting or
19 referring an individual for employment in the United States,
20 and has notified the appropriate Federal authority if the
21 licensee knew that the contractor employed an unauthorized
22 alien.

23 Section 6. Effective date.

24 This act shall take effect in 60 days.