

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

466T0281

## SENATE BILL NO. 155

Introduced by: Senators Tieszen, Kraus, and Rampelberg and Representatives Hoffman, Elliott, Haggar, Kopp, Liss, Magstadt, Nelson (Stace), Olson (Betty), Schaefer, Van Gerpen, and Verchio

1 FOR AN ACT ENTITLED, An Act to prohibit the employment of unauthorized aliens and to  
2 provide penalties therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That Title 22 be amended by adding thereto a NEW SECTION IN A NEW  
5 CHAPTER to read as follows:

6 No person, employer, or business entity may knowingly and intentionally employ, hire for  
7 employment, or continue to employ an unauthorized alien to perform work within the state of  
8 South Dakota.

9 Section 2. That Title 22 be amended by adding thereto a NEW SECTION IN A NEW  
10 CHAPTER to read as follows:

11 For the purposes of this Act, an unauthorized alien is any person:

12 (1) Who does not have the legal right or authorization under federal law to work in the  
13 United States; and

14 (2) Who does not have in his or her physical possession at the time of his or her hiring



1 a document issued by a federal agency which authorizes him or her to work.

2 Section 3. That Title 22 be amended by adding thereto a NEW SECTION IN A NEW  
3 CHAPTER to read as follows:

4 It is an affirmative defense to a violation of section 1 of this Act that the person, employer,  
5 or business entity confirmed the legal work status of the applicant, hireling, or employee through  
6 the E-verify program and has retained documentation substantiating that fact.

7 Section 4. That Title 22 be amended by adding thereto a NEW SECTION IN A NEW  
8 CHAPTER to read as follows:

9 No general contractor is in violation of section 1 of this Act solely because a subcontractor  
10 or independent contractor violates section 1 of this Act.

11 Section 5. That Title 22 be amended by adding thereto a NEW SECTION IN A NEW  
12 CHAPTER to read as follows:

13 The first violation of section 1 of this Act is a Class 2 misdemeanor, but, upon conviction,  
14 is punishable by a fine of not more than one thousand dollars rather than a jail sentence,  
15 regardless of the number of unauthorized aliens with respect to whom the violation occurred.  
16 Any person who has been previously convicted for a violation of section 1 of this Act and who  
17 thereafter violates section 1 of this Act, is guilty of a Class 1 misdemeanor. Any such  
18 subsequent violation constitutes a separate offense with respect to each unauthorized alien.