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HOUSE BILL 318
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Short Title: Protect North Carolina Workers Act.

(Public)

Sponsors:

Referred to:

March 23, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE E-VERIFY COMPLIANCE IN CERTAIN GOVERNMENTAL
3 CONTRACTS, TO PROVIDE THAT CERTAIN CONSULATE OR EMBASSY
4 DOCUMENTS MAY NOT BE USED TO DETERMINE A PERSON'S
5 IDENTIFICATION OR RESIDENCE FOR GOVERNMENTAL AND LAW
6 ENFORCEMENT PURPOSES, TO PROHIBIT ADOPTION OF SANCTUARY CITY
7 ORDINANCES, AND TO PROHIBIT THE DEPARTMENT OF HEALTH AND
8 HUMAN SERVICES FROM SEEKING CERTAIN WAIVERS.

9 The General Assembly of North Carolina enacts:

10 SECTION 1.(a) Article 8 of Chapter 143 of the General Statutes is amended by
11 adding a new section to read:

12 "§ 143-133.3. E-verify compliance.

13 (a) No board or governing body of the State, or of any institution of the State
14 government, or of any political subdivision of the State, may enter into a contract unless the
15 contractor, and the contractor's subcontractors under the contract, comply with the requirements
16 of Article 2 of Chapter 64 of the General Statutes.

17 (b) A board or governing body of the State, or of any institution of the State
18 government, or of any political subdivision of the State, shall be deemed in compliance with
19 this section if the contract includes a term requiring the contractor, and the contractor's
20 subcontractors, to comply with the requirements of Article 2 of Chapter 64 of the General
21 Statutes.

22 (c) This section shall not apply to any of the following:

23 (1) Expenses related to travel, including transportation and lodging, for
24 employees, officers, agents, or members of State or local boards,
25 commissions, committees, or councils.

26 (2) Contracts solely for the purchase of goods, apparatus, supplies, materials, or
27 equipment.

28 (3) Contracts let under G.S. 143-129(e)(1), (9), or (9a).

29 (4) Contracts let under G.S. 143-129(g)."

30 SECTION 1.(b) G.S. 160A-20.1(b) is repealed.

31 SECTION 1.(c) G.S. 153A-449(b) is repealed.

32 SECTION 2. G.S. 159-28(e) reads as rewritten:



1 "(e) Penalties. – If an officer or employee of a local government or public authority
2 incurs an obligation or pays out or causes to be paid out any funds in violation of this section,
3 he and the sureties on his official bond are liable for any sums so committed or disbursed. If the
4 finance officer or any properly designated deputy finance officer gives a false certificate to any
5 contract, agreement, purchase order, check, draft, or other document, he and the sureties on his
6 official bond are liable for any sums illegally committed or disbursed thereby. Inclusion of the
7 contract term in accordance with G.S. 143-133.3(b) shall be deemed in compliance with
8 G.S. 143-133.3(a)."

9 **SECTION 3.** G.S. 64-27 reads as rewritten:

10 "**§ 64-27. Commissioner of Labor to prepare complaint form.**

11 (a) Preparation of Form. – The Commissioner shall prescribe a complaint form for a
12 person to allege a violation of ~~G.S. 64-26.~~ G.S. 64-26 or G.S. 143-133.3. The form shall clearly
13 state that completed forms may be sent to the Commissioner.

14 (b) Certain Information Not Required. – The complainant shall not be required to list
15 the complainant's social security number on the complaint form or to have the complaint
16 notarized."

17 **SECTION 4.** G.S. 64-28 reads as rewritten:

18 "**§ 64-28. Reporting of complaints.**

19 (a) Filing of Complaint. – Any person with a good faith belief that ~~an employer is~~
20 ~~violating or has violated~~ a violation of G.S. 64-26 or G.S. 143-133.3 has occurred may file a
21 complaint with the Commissioner setting forth the basis for that belief. The complaint may be
22 on a form prescribed by the Commissioner pursuant to G.S. 64-27 or may be made in any other
23 form that gives the Commissioner information that is sufficient to proceed with an investigation
24 pursuant to G.S. 64-29. Nothing in this section shall be construed to prohibit the filing of
25 anonymous complaints that are not submitted on a prescribed complaint form.

26 (b) False Statements a Misdemeanor. – A person who knowingly files a false ~~and~~ or
27 frivolous complaint under this section is guilty of a Class 2 misdemeanor."

28 **SECTION 5.** G.S. 64-29 reads as rewritten:

29 "**§ 64-29. Investigation of complaints.**

30 (a) Investigation. – Upon receipt of a complaint ~~pursuant to G.S. 64-28 that an~~
31 ~~employer is allegedly violating or has allegedly violated~~ G.S. 64-26, filed in accordance with
32 G.S. 64-28, the Commissioner shall investigate whether ~~the employer has in fact violated~~
33 ~~G.S. 64-26.~~ a violation of G.S. 64-26 or G.S. 143-133.3 has in fact occurred.

34 (b) Certain Complaints Shall Not Be Investigated. – The Commissioner shall not
35 investigate complaints that are based solely on race, religion, gender, ethnicity, or national
36 origin.

37 (c) Assistance by Law Enforcement. – The Commissioner may request that the State
38 Bureau of Investigation assist in investigating a complaint under this section.

39 (d) Subpoena for Production of Documents. – The Commissioner may issue a subpoena
40 for production of employment records that relate to the recruitment, hiring, employment, or
41 termination policies, practices, or acts of employment as part of the investigation of a valid
42 complaint under this section."

43 **SECTION 6.** G.S. 64-30 reads as rewritten:

44 "**§ 64-30. Actions to be taken; hearing.**

45 If, after an investigation, the Commissioner determines that the complaint is not false ~~and~~ or
46 frivolous:

47 (1) If the alleged violation is of G.S. 64-26:

48 (H)a. The Commissioner shall hold a hearing to determine if a violation of
49 G.S. 64-26 has occurred and, if appropriate, impose civil penalties in
50 accordance with the provisions of this Article.

- 1 (2)b. If, during the course of the hearing required by ~~subdivision (1)~~
2 sub-subdivision a. of this subdivision of this section, the
3 Commissioner concludes that there is a reasonable likelihood that an
4 employee is an unauthorized alien, the Commissioner shall notify the
5 following entities of the possible presence of an unauthorized alien:
6 a-1. United States Immigration and Customs Enforcement.
7 b-2. Local law enforcement agencies.

- 8 (2) If the alleged violation is of G.S. 143-133.3, the Commissioner shall hold a
9 hearing to determine if a violation of the applicable statute has occurred and,
10 if appropriate, shall take action under G.S. 64-33.1."

11 SECTION 7. The catch line for G.S. 64-31 reads as rewritten:

12 **"§ 64-31. Consequences of first ~~violation~~ violation of G.S. 64-26."**

13 SECTION 8. The catch line for G.S. 64-32 reads as rewritten:

14 **"§ 64-32. Consequences of second ~~violation~~ violation of G.S. 64-26."**

15 SECTION 9. The catch line for G.S. 64-33 reads as rewritten:

16 **"§ 64-33. Consequences of third or subsequent ~~violation~~ violation of G.S. 64-26."**

17 SECTION 10. Article 2 of Chapter 64 of the General Statutes is amended by
18 adding a new section to read:

19 **"§ 64-33.1. Consequences of violation of G.S. 143-133.3.**

20 For violation of G.S. 143-133.3, the Commissioner shall notify the board or governing body
21 of the State, or of any institution of the State government, or of any political subdivision of the
22 State, found to have committed the violation that the board or governing body of the State, or
23 of any institution of the State government, or of any political subdivision of the State, is in
24 violation of the applicable statute. The Department of Labor shall maintain a list of any boards
25 or governing bodies of the State, or of any institutions of the State government, or of any
26 political subdivisions of the State, issued notices pursuant to this section and shall make that list
27 available on its Web site."

28 SECTION 11. Chapter 15A of the General Statutes is amended by adding a new
29 Article to read:

30 "Article 18.

31 "Identification Documents.

32 **"§ 15A-306. Consulate documents not acceptable as identification.**

33 (a) The following documents are not acceptable for use in determining a person's actual
34 identity or residency by a justice, judge, clerk, magistrate, law enforcement officer, or other
35 government official:

- 36 (1) A matricula consular or other similar document, other than a valid passport,
37 issued by a consulate or embassy of another country.
38 (2) An identity document issued or created by any person, organization, county,
39 city, or other local authority, except where expressly authorized to be used
40 for this purpose by the General Assembly.

41 (b) No local government or law enforcement agency may establish, by policy or
42 ordinance, the acceptability of any of the documents described in subsection (a) of this section
43 as a form of identification to be used to determine the identity or residency of any person. Any
44 local government policy or ordinance that contradicts this section is hereby repealed."

45 SECTION 11A. G.S. 15A-306, as enacted by Section 11 of this act, shall not apply
46 to verification of the information provided by an applicant pursuant to G.S. 58-2-164 until
47 Section 13 of this act becomes effective, at which point it shall apply only with respect to
48 insurance policies entered into on or after that date.

49 SECTION 12. G.S. 20-7(b4) reads as rewritten:

50 "(b4) Examples of documents that are reasonably reliable indicators of residency include,
51 but are not limited to, any of the following:

- 1 (1) A pay stub with the payee's address.
- 2 (2) A utility bill showing the address of the applicant-payor.
- 3 (3) A contract for an apartment, house, modular unit, or manufactured home
- 4 with a North Carolina address signed by the applicant.
- 5 (4) A receipt for personal property taxes paid.
- 6 (5) A receipt for real property taxes paid to a North Carolina locality.
- 7 (6) A current automobile insurance policy issued to the applicant and showing
- 8 the applicant's address.
- 9 (7) A monthly or quarterly financial statement from a North Carolina regulated
- 10 financial institution.
- 11 ~~(8) A matricula consular or substantially similar document issued by the~~
- 12 ~~Mexican Consulate for North Carolina.~~
- 13 ~~(9) A document similar to that described in subsection (8) of this section, issued~~
- 14 ~~by the consulate or embassy of another country. This subdivision only~~
- 15 ~~applies if the Division has consulted with the United State Department of~~
- 16 ~~State and is satisfied with the reliability of such document."~~

17 **SECTION 13.** G.S. 58-2-164(c) reads as rewritten:

18 "(c) The insurer and its agent shall also take reasonable steps to verify that the
19 information provided by an applicant regarding the applicant's address and the place the motor
20 vehicle is garaged is correct. The insurer may take its own reasonable steps to verify residency
21 or eligible risk status or may rely upon the agent verification of residency or eligible risk status
22 to meet the insurer's verification obligations under this section. The agent shall retain copies of
23 any items obtained under this section as required under the record retention rules adopted by
24 the Commissioner and in accordance with G.S. 58-2-185. The agent may satisfy the
25 requirements of this section by obtaining reliable proof of North Carolina residency from the
26 applicant or the applicant's status as an eligible risk. Reliable proof of residency or eligible risk
27 includes but is not limited to:

- 28 (1) A pay stub with the payee's address.
- 29 (2) A utility bill showing the address of the applicant-payor.
- 30 (3) A lease for an apartment, house, modular unit, or manufactured home with a
- 31 North Carolina address signed by the applicant.
- 32 (4) A receipt for personal property taxes paid.
- 33 (5) A receipt for real property taxes paid to a North Carolina locality.
- 34 (6) A monthly or quarterly financial statement from a North Carolina regulated
- 35 financial institution.
- 36 (7) A valid unexpired North Carolina driver's license.
- 37 ~~(8) A matricula consular or substantially similar document issued by the~~
- 38 ~~Mexican Consulate for North Carolina.~~
- 39 ~~(9) A document similar to that described in subdivision (8) of this section,~~
- 40 ~~issued by the consulate or embassy of another country that would be~~
- 41 ~~accepted by the North Carolina Division of Motor Vehicles as set forth in~~
- 42 ~~G.S. 20-7(b4)(9).~~
- 43 (10) A valid North Carolina vehicle registration.
- 44 (11) A valid military ID.
- 45 (12) A valid student ID for a North Carolina school or university."

46 **SECTION 14.** G.S. 108A-55.3(b) reads as rewritten:

47 "(b) An applicant may meet the requirements of subsection (a) of this section by
48 providing at least two of the following documents:

- 49 (1) A valid North Carolina drivers license or other identification card issued by
- 50 the North Carolina Division of Motor Vehicles.

- 1 (2) A current North Carolina rent or mortgage payment receipt, or current utility
2 bill in the name of the applicant or the applicant's legal spouse showing a
3 North Carolina address.
- 4 (3) A valid North Carolina motor vehicle registration in the applicant's name
5 and showing the applicant's current address.
- 6 (4) A document showing that the applicant is employed in this State.
- 7 (5) One or more documents proving that the applicant's domicile in the
8 applicant's prior state of domicile has ended, such as closing of a bank
9 account, termination of employment, or sale of a home.
- 10 (6) The tax records of the applicant or the applicant's legal spouse, showing a
11 current North Carolina address.
- 12 (7) A document showing that the applicant has registered with a public or
13 private employment service in this State.
- 14 (8) A document showing that the applicant has enrolled the applicant's children
15 in a public or private school or child care facility located in this State.
- 16 (9) A document showing that the applicant is receiving public assistance or
17 other services requiring proof of domicile, other than medical assistance, in
18 this State.
- 19 (10) Records from a health department or other health care provider located in
20 this State showing the applicant's current North Carolina address.
- 21 (11) A written declaration made under penalty of perjury from a person who has
22 a social, family, or economic relationship with the applicant and who has
23 personal knowledge of the applicant's intent to live in North Carolina
24 permanently or for an indefinite period of time or that the applicant is
25 residing in North Carolina to seek employment or with a job commitment.
- 26 (12) Current North Carolina voter registration card.
- 27 (13) A document from the U.S. Department of Veterans Affairs, U.S. Department
28 of Defense, or the U.S. Department of Homeland Security verifying the
29 applicant's intent to live in North Carolina permanently or for an indefinite
30 period of time or that the applicant is residing in North Carolina to seek
31 employment or with a job commitment.
- 32 (14) Official North Carolina school records, signed by school officials, or
33 diplomas issued by North Carolina schools, including secondary schools,
34 community colleges, colleges, and universities verifying the applicant's
35 intent to live in North Carolina permanently or for an indefinite period of
36 time or that the applicant is residing in North Carolina to seek employment
37 or with a job commitment.
- 38 ~~(15) A document issued by the Mexican consular or other foreign consulate
39 verifying the applicant's intent to live in North Carolina permanently or for
40 an indefinite period of time or that the applicant is residing in North Carolina
41 to seek employment or with a job commitment."~~

42 **SECTION 15.(a)** Article 6 of Chapter 153A of the General Statutes is amended by
43 adding a new section to read:

44 **"§ 153A-145.5. Adoption of sanctuary ordinance prohibited.**

45 (a) No county may have in effect any policy, ordinance, or procedure that limits or
46 restricts the enforcement of federal immigration laws to less than the full extent permitted by
47 federal law.

48 (b) No county shall do any of the following related to information regarding the
49 citizenship or immigration status, lawful or unlawful, of any individual:

- 50 (1) Prohibit law enforcement officials or agencies from gathering such
51 information.

1 (2) Direct law enforcement officials or agencies not to gather such information.

2 (3) Prohibit the communication of such information to federal law enforcement
3 agencies."

4 **SECTION 15.(b)** Article 8 of Chapter 160A of the General Statutes is amended by
5 adding a new section to read:

6 "**§ 160A-499.4. Adoption of sanctuary ordinances prohibited.**

7 (a) No city may have in effect any policy, ordinance, or procedure that limits or restricts
8 the enforcement of federal immigration laws to less than the full extent permitted by federal
9 law.

10 (b) No city shall do any of the following related to information regarding the citizenship
11 or immigration status, lawful or unlawful, of any individual:

12 (1) Prohibit law enforcement officials or agencies from gathering such
13 information.

14 (2) Direct law enforcement officials or agencies not to gather such information.

15 (3) Prohibit the communication of such information to federal law enforcement
16 agencies."

17 **SECTION 16.(a)** Article 2 of Chapter 108A of the General Statutes is amended by
18 adding a new section to read:

19 "**§ 108A-51.1. Prohibition on certain waivers.**

20 Except for waivers for the Disaster Supplemental Nutrition Assistance Program sought for
21 an area that has received a Presidential disaster declaration of Individual Assistance from the
22 Federal Emergency Management Agency, the Department shall not seek waivers to time limits
23 established by federal law for food and nutrition benefits for able-bodied adults without
24 dependents required to fulfill work requirements to qualify for those benefits."

25 **SECTION 16.(b)** The Department of Health and Human Services shall withdraw
26 any pending request for waivers to time limits established by federal law for food and nutrition
27 benefits for able-bodied adults without dependents required to fulfill work requirements to
28 qualify for those benefits submitted but not granted prior to the effective date of this section. If
29 a pending waiver request is granted prior to the effective date of this section, the Department
30 shall discontinue the waiver as of that effective date. Nothing in this section shall be construed
31 to require termination of a waiver in place as of September 1, 2015.

32 **SECTION 17.** Sections 1 through 12 and Section 14 of this act become effective
33 October 1, 2015, and apply to contracts entered into on or after that date. Section 13 of this act
34 becomes effective January 1, 2016, and applies to insurance policies entered into on or after
35 that date. Section 16 of this act becomes effective October 1, 2015. The remainder of this act is
36 effective when it becomes law.