

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 756

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ILLEGAL IMMIGRATION; AMENDING THE IDAHO CODE, BY THE ADDITION OF
2 A NEW TITLE 24, IDAHO CODE, RELATING TO ALIENS; AMENDING THE IDAHO CODE,
3 BY THE ADDITION OF A NEW CHAPTER 1, TITLE 24, IDAHO CODE, TO ESTABLISH
4 PROVISIONS REGARDING ILLEGAL IMMIGRATION, TO DEFINE TERMS, TO PROVIDE
5 A RESTRICTION OF FUNDS FOR CERTAIN IDENTIFICATION DOCUMENTS, TO ES-
6 TABLISH RESTRICTIONS REGARDING AN ILLEGAL IMMIGRANT DRIVER'S LICENSE,
7 TO ESTABLISH A PROHIBITION ON ILLEGAL IMMIGRANT HIRING, AND TO RE-
8 QUIRE CERTAIN MEDICAL FACILITIES TO COLLECT AND REPORT DATA ON PATIENT
9 CITIZENSHIP STATUS; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF
10 A NEW CHAPTER 3, TITLE 44, IDAHO CODE, TO DEFINE TERMS, TO ESTABLISH
11 PROVISIONS REQUIRING THE USE OF E-VERIFY BY EMPLOYERS, TO ESTABLISH
12 PROVISIONS REGARDING PUBLIC AGENCY CONTRACTS WITH CONTRACTORS AND SUB-
13 CONTRACTORS, AND TO PROVIDE FOR COMPLIANCE, VIOLATIONS, AND PENALTIES;
14 AMENDING TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 89, TITLE
15 18, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE CRIME OF HUMAN
16 SMUGGLING; AND PROVIDING AN EFFECTIVE DATE.
17

18 Be It Enacted by the Legislature of the State of Idaho:

19 SECTION 1. That the Idaho Code, be, and the same is hereby amended by the
20 addition thereto of a NEW TITLE, to be known and designated as Title 24, Idaho
21 Code, and to read as follows:

22 TITLE 24
23 ALIENS

24 CHAPTER 1
25 ILLEGAL IMMIGRATION

26 24-101. DEFINITIONS. As used in this chapter:

27 (1) "Illegal immigrant" means any individual in the United States who
28 is a foreign-born non-citizen without status to reside, work, or visit the
29 United States. This includes but is not limited to such terms as undocu-
30 mented immigrant, undocumented noncitizen, undocumented individual, or
31 unauthorized immigrant.

32 (2) "Law enforcement agency" means any state or local agency given
33 law enforcement powers or that has authority to investigate, enforce,
34 prosecute, or punish violations of state or federal criminal statutes, ordi-
35 nances, or regulations.

36 (3) "Private agency" means an individual, corporation, limited liabil-
37 ity company, partnership, or other legally recognized entity that transacts
38 business in this state, has a permit or license issued by an agency in this
39 state, and employs one (1) or more individuals.

1 (4) "Public agency" means any state, county, city, school district,
2 municipal corporation, independent public body corporate and politic,
3 district, public health district, political subdivision, or any agency
4 thereof, or any committee of a local agency, or any combination thereof.

5 24-102. RESTRICTION OF FUNDS FOR IDENTIFICATION DOCUMENTS. No public
6 agency shall provide funds to any person, entity, or organization for the
7 purpose of issuing an identification card or document to an individual who
8 does not provide proof of lawful presence in the United States.

9 24-103. ILLEGAL IMMIGRANT DRIVER'S LICENSE. (1) Any out-of-state
10 driver's licenses or other permits authorizing the holder to operate a motor
11 vehicle on public roadways and issued exclusively to illegal immigrants who
12 are unable to provide proof of lawful presence in the United States upon is-
13 sue shall be invalid in the state of Idaho and shall not be an authorization
14 to lawfully operate a motor vehicle on public roadways.

15 (2) A law enforcement agency who stops a person driving with an invalid
16 license as described in subsection (1) of this section may issue a citation
17 to the driver for driving without a license in accordance with the provisions
18 of section 49-301, Idaho Code.

19 (3) The division of motor vehicles shall publish on its website a list
20 of out-of-state driver's licenses that are invalid in the state of Idaho.

21 24-104. PROHIBITION ON ILLEGAL IMMIGRANT HIRING. (1) No public or
22 private agency, on behalf of itself or on behalf of another, shall knowingly
23 employ, hire, recruit, or refer for public or private employment within the
24 state of Idaho an immigrant who is not duly authorized to work by the immigra-
25 tion laws of the United States, the attorney general of the United States,
26 the United States secretary of homeland security, or the United States citi-
27 zenship and immigration services.

28 (2) For a violation of this section, the Idaho department of labor shall
29 act in accordance with section 44-304, Idaho Code.

30 24-105. MEDICAL FACILITIES DATA COLLECTION. (1) Every medical facil-
31 ity that accepts medicaid must include a provision on its patient admission
32 or registration forms for the patient or the patient's representative to in-
33 dicate whether the patient is a United States citizen, is lawfully present in
34 the United States, or is not lawfully present in the United States. The form
35 shall include a statement that the responses given shall not affect patient
36 care or result in reporting the individual patient's immigration status to
37 authorities.

38 (2) Every medical facility described in subsection (1) of this section
39 shall submit a quarterly report to the department of health and welfare and
40 the medicaid fraud control unit of the office of the attorney general within
41 thirty (30) days after the end of each calendar quarter. Such report shall
42 include the number of admissions or emergency department visits within the
43 previous quarter that were made by a patient self-reporting as a citizen of
44 the United States, as being lawfully present in the United States, as being
45 not lawfully present in the United States, or as declining to answer.

1 (3) The department of health and welfare shall submit a report to the
 2 governor, the president pro tempore of the senate, and the speaker of the
 3 house of representatives no later than January 30 of each year. The report
 4 shall include the total number of hospital admissions and emergency depart-
 5 ment visits for the previous calendar year, broken down by the four (4) cat-
 6 egories described in subsection (2) of this section, the costs of uncompen-
 7 sated care for illegal immigrants, the impact of uncompensated care on the
 8 cost or ability of medical facilities to provide services to the public, on
 9 hospital funding needs, and other necessary costs.

10 (4) The department of health and welfare shall promulgate rules pur-
 11 suant to chapter 52, title 67, Idaho Code, subject to legislative approval,
 12 to prescribe the format and information to be contained in quarterly reports
 13 and the acceptable formats for medical facilities to use in requesting in-
 14 formation regarding a patient's residency status on admission or registra-
 15 tion forms.

16 SECTION 2. That Title 44, Idaho Code, be, and the same is hereby amended
 17 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
 18 ter 3, Title 44, Idaho Code, and to read as follows:

19 CHAPTER 3

20 E-VERIFY REQUIRED FOR EMPLOYMENT

21 44-301. DEFINITIONS. As used in this chapter:

22 (1) "E-verify" means the internet-based system operated by the United
 23 States department of homeland security that allows participating employers
 24 to electronically verify the employment eligibility of new employees.

25 (2) "Employee" means any individual who performs services or labor for
 26 a public or private agency for wages or other remuneration. For the pur-
 27 pose of this chapter, "employee" does not mean an individual performing ca-
 28 sual domestic labor in or around a person's personal abode. For the purpose
 29 of this chapter, an employer-employee relationship does not exist between a
 30 contractor and the employees of a subcontractor.

31 (3) "Illegal immigrant" means any individual in the United States who
 32 is a foreign-born non-citizen without status to reside, work, or visit the
 33 United States. This includes but is not limited to such terms as undocu-
 34 mented immigrant, undocumented noncitizen, undocumented individual, or
 35 unauthorized immigrant.

36 (4) "Law enforcement agency" means any state or local agency given
 37 law enforcement powers or that has authority to investigate, enforce,
 38 prosecute, or punish violations of state or federal criminal statutes, ordi-
 39 nances, or regulations.

40 (5) "Private agency" means an individual, corporation, limited liabil-
 41 ity company, partnership, or other legally recognized entity that transacts
 42 business in this state, that has a permit or license issued by an agency in
 43 this state, and that employs one (1) or more individuals.

44 (6) "Public agency" means any state, county, city, school district,
 45 municipal corporation, independent public body corporate and politic,
 46 district, public health district, political subdivision, or any agency
 47 thereof, or any committee of a local agency, or any combination thereof.

1 44-302. E-VERIFY REQUIREMENT. (1) Employers shall verify each new
2 employee's employment eligibility within three (3) business days after the
3 first day that the new employee begins working, as provided in this chapter.

4 (2) Every public agency, as defined in section 44-301, Idaho Code,
5 shall use the e-verify system to verify a new employee's employment eligi-
6 bility.

7 (3) A private employer with twenty (20) or more employees shall use the
8 e-verify system to verify a new employee's employment eligibility.

9 (4) Each employer required to use the e-verify system pursuant to this
10 section must certify on its first return each calendar year to the Idaho
11 department of labor that it is in compliance with the provisions of this
12 section when making contributions to or reimbursing the employment security
13 fund established pursuant to section 72-1346, Idaho Code.

14 (5) If the e-verify system is unavailable for three (3) business days
15 after the first day that the new employee begins working for pay and an em-
16 ployer cannot access the system to verify a new employee's employment eligi-
17 bility, the employer must verify employment eligibility using form I-9, the
18 employment eligibility verification form from United States citizenship and
19 immigration services. The employer must document the unavailability of the
20 e-verify system by reasonable means for each day the employer is unable to
21 access the system.

22 (6) The employer must maintain a copy of the documentation provided and
23 any official verification generated pursuant to this section, if applica-
24 ble, for three (3) years.

25 (7) No employer shall continue to employ an illegal immigrant after ob-
26 taining knowledge that the person is or has become an illegal immigrant.

27 (8) An employer shall provide any documentation relied upon by the em-
28 ployer for the verification of a new employee's employment eligibility if
29 requested by a law enforcement agency, the Idaho attorney general, the Idaho
30 department of labor, the Idaho state department of agriculture, or the Idaho
31 department of health and welfare.

32 44-303. PUBLIC AGENCY CONTRACTS. (1) In any contract with a contrac-
33 tor, a public agency shall require the contractor and any subcontractor to
34 register with and use the e-verify system to verify the work authorization
35 status of all new employees of the contractor or subcontractor. No public
36 agency may enter into a contract unless each party to the contract registers
37 with and uses the e-verify system.

38 (2) If a contractor enters into a contract with a subcontractor, the
39 subcontractor must provide the contractor with an affidavit stating that the
40 subcontractor does not employ, contract with, or subcontract with an illegal
41 immigrant. The contractor shall maintain a copy of such affidavit for the
42 duration of the contract.

43 (3) A public agency, contractor, or subcontractor who has a reasonable
44 belief that a person or entity with which it is contracting has knowingly
45 violated the provisions of section 44-302, Idaho Code, shall terminate the
46 contract.

47 (4) A public agency that reasonably believes that a subcontractor know-
48 ingly violated the provisions of this section, but the contractor otherwise
49 complied with the provisions of this section, shall notify the contractor

1 and order the contractor to immediately terminate the contract with the sub-
2 contractor.

3 (5) Any contract terminated pursuant to this section shall not be ad-
4 judged a breach of contract. If a public agency terminates a contract with
5 a contractor pursuant to the provisions of this section, the contractor may
6 not be awarded a public contract for at least one (1) year after the date on
7 which the contract was terminated. A contractor shall be liable for any ad-
8 ditional costs incurred by a public agency because of the termination of a
9 contract as well as reimbursement of funds already paid by the state for ser-
10 vices.

11 44-304. COMPLIANCE -- VIOLATIONS -- PENALTIES. (1) If the Idaho de-
12 partment of labor determines that an employer has failed to use the e-ver-
13 ify system in accordance with the provisions of this chapter, the depart-
14 ment must notify the employer of the determination of noncompliance and pro-
15 vide the employer with thirty (30) days to become compliant. If the employer
16 does not comply within thirty (30) days, then a fine of one thousand dollars
17 (\$1,000) shall be imposed per day until the employer provides sufficient in-
18 formation that the employer is now in compliance.

19 (2) An employer who fails to comply with the provisions of this chapter
20 within six (6) months of the notification by the Idaho department of labor
21 shall be guilty of a misdemeanor.

22 (3) Two (2) violations of the provisions of this chapter by an employer
23 within two (2) years shall constitute grounds for the suspension or revoca-
24 tion of all licenses issued by a licensing agency to the employer.

25 (4) An employer who violates the provisions of this chapter three (3) or
26 more times shall be guilty of a misdemeanor.

27 (5) An employer who violates the provisions of this chapter four (4) or
28 more times shall be guilty of a felony.

29 (6) Any fines collected pursuant to this section shall be deposited
30 into the state general fund.

31 SECTION 3. That Title 18, Idaho Code, be, and the same is hereby amended
32 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
33 ter 89, Title 18, Idaho Code, and to read as follows:

34 CHAPTER 89
35 HUMAN SMUGGLING

36 18-8901. HUMAN SMUGGLING. (1) A person who knowingly and willfully
37 transports into this state an individual whom the person knows, or reason-
38 ably should know, has entered the United States in violation of law and has
39 not been authorized by the United States to lawfully enter the United States
40 from another country shall be guilty of a felony.

41 (2) A person commits a separate offense for each individual transported
42 into this state in violation of the provisions of this section.

43 SECTION 4. This act shall be in full force and effect on and after Jan-
44 uary 1, 2025.