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HOUSE BILL NO. 1048

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 9, 2006)

(Patron Prior to Substitute—Delegate Reid)

A BILL to amend and reenact § 40.1-11.1 of the Code of Virginia, relating to document verification for employment of illegal immigrants; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-11.1 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-11.1. Employment of illegal immigrants; penalty.

A. It shall be unlawful ~~and constitute a Class 1 misdemeanor~~ for (i) any employer ~~or~~, (ii) any person acting as an agent for an employer, ~~or~~ (iii) any person who, for a fee, refers an alien who cannot provide documents indicating that he or she is legally eligible for employment in the United States for employment to an employer, or (iv) an officer, agent or representative of a labor organization to knowingly employ

1. Employ, continue to employ, or refer for employment any alien who cannot provide documents employment eligibility verification documentation as specified in Department of Homeland Security Employment Eligibility Verification Form I-9 indicating that he or she is legally eligible for employment in the United States and

2. Fail to obtain documentation of employment eligibility verification as specified in Department of Homeland Security Form I-9 from prospective employees that they are legally eligible for employment in the United States.

B. It shall be unlawful for any employer to fail to retain and have available for inspection by the Department of Labor and Industry, for the period that the employer is required to retain Form I-9 employment eligibility verification documentation under applicable federal law, the aforementioned I-9 documentation obtained pursuant to subdivision A 1 that its employees are legally eligible for employment in the United States.

C. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor and, if the violation involves an employer's employment of a person not legally eligible for employment in the United States, shall be subject to a fine of not more than \$10,000 for each violation.

D. In addition to the penalties herein provided, any employer who is convicted of employing an alien who is not legally eligible for employment in the United States in violation of this section shall be ineligible to participate as an employer in any foreign labor certification program administered by the U.S. Department of Labor for a period of three years following such conviction.

E. The Department of Labor and Industry shall provide employers with access to the federal Electronic Work Verification Program in order to assist employers in determining whether prospective employees are legally eligible for employment in the United States.

F. Permits issued by the United States Department of Justice authorizing an alien to work in the United States shall constitute proof of eligibility for employment.

G. All employment application forms used by State and local governments and privately owned businesses operating in the Commonwealth on and after January 1, 1978, shall ask prospective employees if they are legally eligible for employment in the United States.

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