

Regular Session, 2006

SENATE BILL NO. 753 (Substitute of Senate Bill No. 650 by Senator Cravins)

BY SENATOR CRAVINS

EMPLOYMENT. Authorizes the state attorney general or local district attorney to issue a cease and desist order after discovering an employer has hired undocumented aliens. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 23:992 and to enact R.S. 23:996, relative to employment of  
3 certain aliens; to prohibit the hiring of an alien who is not entitled to lawfully reside  
4 or work in the United States; to require the filing of an affidavit with a licensing  
5 agency; to provide with respect to an agency, department, board or commission of  
6 state or a parish agency to notify the attorney general or local district attorney when  
7 an employer who operates a business in the state knowingly employs an alien who  
8 is not lawfully entitled to reside or work in the United States; to provide for the  
9 attorney general or local district attorney to issue a cease and desist order; to provide  
10 for penalties; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 23:992 is hereby amended and reenacted and R.S. 23:996 is hereby  
13 enacted to read as follows:

14 §992. Employment of certain aliens; prohibition

15 A. \* \* \*

16 **B. Upon the employer's annual license renewal with their respective**  
17 **boards or commissions, the employer must file an affidavit affirming that the**

1       employer will have in its files an employment eligibility verification form  
2       required by the Immigration Reform and Control Act of 1986 (8 U.S.C. 1324a)  
3       for each individual paid a salary or compensation for hours worked.

4                                   \*       \*       \*

5       §996. Cease and desist order; injunctive relief

6               A. An agency, department, board or commission of the state or any  
7       political subdivision may notify the attorney general or the district attorney that  
8       the agency has determined, after an investigation initiated by the agency or by  
9       a private party's written complaint to the agency, that an employer who  
10       operates a Louisiana business or enterprise is knowingly employing an  
11       undocumented alien in violation of this Chapter.

12               B. The attorney general or district attorney in the parish in which the  
13       employer is domiciled or in the parish in which the violation occurred is  
14       empowered to issue an order to the employer engaged in the activity  
15       constituting the violation of the provision of this Chapter directing such  
16       employer to cease and desist from such activity and to discharge from  
17       employment, for cause, the undocumented workers. Such order shall be issued  
18       in the name of the state of Louisiana under the official seal of the attorney  
19       general or the official seal of district attorney and shall be served where the  
20       employer is domiciled in the state of Louisiana or the employer's registered  
21       agent in the state of Louisiana.

22               C. If the employer to whom the attorney general or district attorney  
23       directs a cease and desist order does not cease and desist the proscribed activity  
24       within ten days from service of such cease and desist order by certified mail, the  
25       attorney general or local district attorney may cause to issue a writ of injunction  
26       enjoining such employer from engaging in any activity proscribed by this  
27       Chapter. Such proceeding shall be brought in the district court having civil  
28       jurisdiction in any parish in which such employer has as its principal place of  
29       business or the parish where the violation has occurred. If the employer in

1 violation of this Chapter is a nonresident entity, such proceeding may be  
 2 brought in the Nineteenth Judicial District Court for the parish of East Baton  
 3 Rouge. All other provisions of law relative to injunctive relief apply.  
 4 Exhaustion of administrative remedies is not a prerequisite to judicial review.

5 D. Any employer who is found by the court to have violated a cease and  
 6 desist order of the attorney general or district attorney after it has become final  
 7 and while such order is in effect, shall forfeit and pay to the state of Louisiana  
 8 a sum of up to ten thousand dollars, unless the employer shows good cause to  
 9 the satisfaction of the issuer that the determination was issued in error.

10 E. Once an employer is found by the court to have violated a cease and  
 11 desist order of the attorney general or district attorney, the attorney general or  
 12 district attorney may file a complaint with the appropriate licensing board or  
 13 boards to have any employer's business license suspended or revoked.

14 \* \* \*

15 Section 2. This Act shall become effective upon signature by the governor or, if not  
 16 signed by the governor, upon expiration of the time for bills to become law without signature  
 17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 18 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 19 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Cheryl Cooper.

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#### DIGEST

Cravins (SB 753)

Present law prohibits the employ, hire or recruitment for private or public employment, an alien who is not entitled to lawfully reside or work in the United States.

Proposed law retains present law and adds a requirement for the employer to file an affidavit with their respective annual license renewal agency that the employer has in its files a federal employment eligibility verification form for each employee.

Proposed law permits an agency, department, board or commission of the state or any political subdivision to notify the attorney general or district attorney when an employer who operates a La. business knowingly employs an undocumented alien.

Proposed law empowers the attorney general or district attorney to file a cease and desist order to the employer who is in violation of the prohibition against hiring undocumented

aliens.

Proposed law gives the employer against whom a cease and desist order has been issued, 10 days to comply with such order. After 10 days, the attorney general or district attorney may seek an injunction enjoining such employer from engaging in the employment of undocumented aliens.

Proposed law provides a penalty of up to \$10,000 on the employer in violation of a cease and desist order.

Proposed law permits the attorney general or district attorney to file a complaint with the appropriate licensing board of the employer in violation of a cease and desist order to have the employer's business license suspended or revoked.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 23:992, adds R.S. 23:996)