

SENATE BILL No. 181

By Committee on Federal and State Affairs

2-10

1 AN ACT concerning immigration; relating to verification of work
2 authorization.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. As used in sections 1 and 2, and amendments thereto:

6 (a) (1) "Business entity" means any person or group of persons
7 performing or engaging in any activity, enterprise, profession or
8 occupation for gain, benefit, advantage or livelihood, including, but not
9 limited to, self-employed individuals, partnerships, corporations,
10 contractors and subcontractors.

11 (2) "Business entity" shall not include a self-employed individual
12 with no employees, entities utilizing services of direct sellers or any state
13 agency, department, board, commission, county or municipality.

14 (b) "Direct seller" means services performed as a direct seller who is
15 engaged in the trade or business of the delivering or distribution of
16 newspapers or shopping news, including any services directly related to
17 such trade or business, or services performed as a direct seller who is
18 engaged in the trade or business of selling, or soliciting the sale of,
19 consumer products in the home or otherwise than in, or affiliated with, a
20 permanent, fixed retail establishment, if 80% or more of the
21 remuneration, whether or not paid in cash, for the services performed
22 rather than the number of hours worked is directly related to sales
23 performed pursuant to a written contract between such direct seller and
24 the person for whom the services are performed, and such contract
25 provides that the individual will not be treated as an employee with
26 respect to such services for federal tax purposes.

27 (c) "Employee" means any person performing work or service of
28 any kind or character for hire within the state of Kansas.

29 (d) "Employer" means any person or entity employing any person
30 for hire within the state of Kansas. Where there are two or more putative
31 employers, any person or entity taking a business tax deduction for the
32 employee in question shall be considered an employer of that person for
33 purposes of sections 1 through 5, and amendments thereto.

34 (e) "Employment" means the act of employing or state of being
35 employed, engaged or hired to perform work or service of any kind or
36 character within the state of Kansas.

1 (f) "Federal work authorization program" means any of the
2 electronic verification of work authorization programs operated by the
3 United States department of homeland security or an equivalent federal
4 work authorization program operated by the United States department of
5 homeland security to verify information of newly hired employees under
6 public law 99-603, the immigration reform and control act of 1986.

7 (g) "Municipality" has the same meaning ascribed thereto in K.S.A.
8 75-1117, and amendments thereto.

9 (h) "Work" means any job, task, employment, labor, personal
10 services or any other activity for which compensation is provided,
11 expected or due, including, but not limited to, all activities conducted by
12 business entities.

13 Sec. 2. (a) On and after January 1, 2012, all state agencies,
14 departments, boards and commissions, counties or any municipality who
15 is an employer shall enroll and actively participate in a federal work
16 authorization program with respect to all employees whose employment
17 commences after January 1, 2012.

18 (b) On and after January 1, 2012, no state agency, department,
19 board, commission, county or municipality shall award a public works or
20 purchase contract, which is in excess of \$5,000, to a business entity, nor
21 shall a business entity be eligible to bid for or receive such public works
22 or purchase contract unless such business entity affirms, by sworn
23 affidavit and provision of documentation, that it is enrolled in and
24 actively participating in a federal work authorization program with
25 respect to all employees whose employment commences after January 1,
26 2012. A business entity shall be responsible for ensuring that any
27 subcontractor, which such business entity contracts with for a public
28 works or purchase contract, certifies the employment eligibility of the
29 employees of such subcontractor through a federal work authorization
30 program.

31 (c) Nothing in this section shall be construed to require a
32 business entity to take any action that the business entity believes in good
33 faith would violate federal or state law.

34 Sec. 3. This act shall take effect and be in force from and after its
35 publication in the statute book.
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