



Published: 02.21.2007

Illegal hires could cost employers fines, jail

Bill in Ariz. House would fund county investigations

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CAPITOL MEDIA SERVICES

PHOENIX — A House panel voted Tuesday to punish companies that hire undocumented workers, but only if prosecutors can show the employers knew they were breaking the law.

A bill approved on a party-line vote by the Republican-controlled House Government Committee would allow fines of up to \$50,000 for a first violation, and up to \$150,000 for a third, along with loss of business license and time in a federal prison.

But the proposed law simply requires employers to sign an affidavit swearing they do not hire undocumented workers, and that they have done what federal law already requires them to do: review documents presented by applicants and fill out a federal form.

Rep. Russell Pearce, R-Mesa, said HB 2279 will deter companies from hiring undocumented workers. He noted it provides \$2.5 million to county attorneys to investigate complaints that companies are knowingly hiring undocumented workers, something Pearce said is not being done very much by the federal government.

But any investigation would center around the I-9 form federal law now requires employers to fill out. That form spells out what documents an employer can accept as proof of legal presence in the country.

The law requires only that employers attest on the I-9 form that the applicant "is eligible to work in the United States," and, if documents have been presented, that they have been examined and "appear to be genuine and relate to the individual."

Rep. Lena Saradnik, D-Tucson, questioned whether any firm ever would be prosecuted under the proposed state law, as it would be difficult, if not impossible, to prove that an employer "knowingly" hired an undocumented worker.

Pearce said there is no intent to have the government "sneak up on" companies that are trying to comply with employment law. But he said the threat of stiff fines and potentially being put out of business and sent to prison should be enough to ensure that employers take extra care to not break the law.

Tuesday's vote came after the committee rejected another bill, this one sponsored by Democrats, to require companies to use a federal database to check the legal status of applicants. Failure to do those checks through what is known as the Basic Pilot Program would have left companies subject to punishment.

But House Speaker Jim Weiers said HB 2699 actually was weaker than the GOP version because it would have exempted companies with fewer than 40 employees from having to comply — an exemption some lawmakers said leaves out 90 percent of all companies.

House Minority Leader Phil Lopes, D-Tucson, said the aim was to try to minimize business disruption. Weiers, however, said that would be like saying small companies need not comply with other laws, like a minimum wage.

"It's only disruptive because they're more than likely breaking the law," Weiers said.

The Democratic measure also had something else unacceptable to the GOP majority. It would have barred local police and sheriff's deputies from detaining people here illegally unless the law enforcement agency had an agreement with the federal government, an agreement that would require that the local officers be specially trained.

However, another measure approved Tuesday by the House Government Committee — HB 2751— would require local police agencies to cooperate in enforcing federal immigration laws.

Business lobbyists did not like either of the employer-sanction measures.

Jessica Pacheco of the Arizona Chamber of Commerce and Industry, said the only real solution is "comprehensive immigration reform," something she said can be done only by Congress. And business interests want reform to include new methods for companies to be able to get foreign workers into this country legally.

Gov. Janet Napolitano vetoed a Republican-approved bill last year that would have sanctioned companies that hire undocumented workers. She criticized provisions that would have let companies escape prosecution by firing those investigators found to be illegal, something she labeled "amnesty."

That provision is not in this year's GOP proposal.

Napolitano has not voiced support or opposition for either plan that came before the committee Tuesday. But Pearce, fearing another veto, is ready. The committee also approved a second measure similar to the Republican legislation. But this one would bypass the governor and go directly on the 2008 ballot.

Find more resources regarding immigration and border issues, and look at past Star special reports on smuggling and the border fence at [azstarnet.com/border](http://www.azstarnet.com/border)

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