WEST VIRGINIA LEGISLATURE
Regular Session, 2002

ENROLLED

SENATE BILL NO. 560

(By Senator Mitchell, et al.)

PASSED March 9, 2002

In Effect ninety days from Passage
AN ACT to amend and reenact article one-b, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to reporting of alien workers employed in West Virginia; findings; definitions; record-keeping; and penalties.

Be it enacted by the Legislature of West Virginia:

That article one-b, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1B. REPORTING OF EMPLOYMENT OF ALIEN WORKERS.

§21-1B-1. Findings; policy.

1 The Legislature finds that employers have the responsibility to check the residence status of their prospective employees and are precluded from hiring illegal aliens and can be penalized for doing so. Additionally, employers
owe a duty to the legal residents of the state to uphold the intent and integrity of the general workforce due to the potential loss of revenue to the state by loss of taxes, unemployment premiums and workers' compensation premiums.

§21-1B-2. Definitions.

(a) "Employer" means any individual, person, corporation, department, board, bureau, agency, commission, division, office, company, firm, partnership, council or committee of the state government, public benefit corporation, public authority or political subdivision of the state, or other business entity which employs or seeks to employ an individual or individuals;

(b) "Commissioner" means the labor commissioner or his or her designated agent;

(c) "Alien" means any individual who is not a natural born or naturalized citizen of the United States; and

(d) "Records" means those records as may be required by the commissioner of labor for the purposes of compliance with the provisions of this article.

§21-1B-3. Unauthorized aliens; employment prohibited.

(a) It is unlawful for any employer to employ, hire, recruit, or refer, either for him or herself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the attorney general of the United States.

(b) Employers shall be required to verify a prospective employee's legal status or authorization to work prior to employing the individual or contracting with the individual for employment services.

(c) For purposes of this article, proof of legal status or authorization to work includes, but is not limited to, a valid social security card, a valid immigration visa, a valid
birth certificate, a valid passport, a valid photo identification card issued by a government agency, valid permits issued by the department of justice or other valid document providing evidence of legal residence or authorization to work in the United States: Provided, That for an alien, such identification must include some form of photo identification.

§21-1B-4. Record-keeping requirements; employer compliance.

Every employer, firm and corporation shall make such records of the persons he or she employs including records of proof of the legal status or authorization to work of all employees. Such records shall be preserved pursuant to the provisions of section five, article five-c of this chapter and shall be maintained at the place of employment. Pursuant to section three, article one of this chapter, such records shall be made available to the commissioner or his or her authorized representative for inspection and investigation as the commissioner deems necessary and appropriate for the purposes of determining whether any employer, firm or corporation has violated any provision of this article which may aid in the enforcement of the provisions of this article.

§21-1B-5. Penalties.

(a) The first violation of the provisions of this article is a misdemeanor and, upon conviction thereof, a employer shall be fined not less than one hundred dollars nor more than one thousand dollars for each violation.

(b) Any employer who has previously been convicted of a violation of this article and who thereafter violates the provisions of this article shall be deemed to have knowingly violated the provisions of this article and shall be guilty of a misdemeanor and shall be fined not less than five hundred or more than five thousand dollars for each violation.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, Senate Committee

Chairman, House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd Day of April, 2002.

Governor