

House Bill 1346 (the Oklahoma-styled bill)

Sponsor/Co-Sponsors: Representatives Portwood, Bruns, Schaaf, Cox, Ervin and Brown (30)

Official Link: <http://www.house.mo.gov/bills081/bills/hb1346.htm>

Detailed Summary:

1. **Creates administrative process for “discriminatory” discharge of U.S. citizen or permanent resident** (Section 577.730.3 – effective Aug. 28, 2008).
 - It would be a *discriminatory* practice if an employer discharges a U.S. citizen or U.S. permanent resident employee **working in Missouri** (*regardless of the reason for discharge*), if it retains an employee it knows *or reasonably should have known* another employee in the same job category lacks work authorization.
 - The Department of Labor and Industrial Relations is charged with establishing rules and processes for claims of discriminatory discharge.
 - An employer’s use of E-Verify/Basic Pilot for new hires in Missouri at the time of discharge will exempt it from liability or investigation.
 - Of note, **the bill does not cover the full range of workers protected under federal law from “citizenship discrimination,” nor does it protect other legal immigrants who are authorized to work in the U.S.**

2. **For state tax withholding purposes, every individual independent contractor in the state is presumed to lack work authorization.** Section 577.734.
 - Each affected contractor must provide I-9 documentation to the contracting party (a gross misinterpretation of relevant federal law, 8 U.S.C. Section 1324(a)(4)).
 - Parties who do not follow the state’s mandate to I-9 independent contractors must withhold taxes from any payments to the contractor.

4. **Requirements applicable to state contractors** (Section 577.730.2, effective Aug. 28, 2008):
 - As a condition for receipt of a contract or subcontract for performance of services in the state, the employer must register for E-Verify/Basic Pilot
 - Employer must use E-Verify/Basic Pilot for **all** new employees (potentially includes employees outside of Missouri).

3. **Requirement applicable to “public employers”** to enroll and actively participate in E-Verify/Basic Pilot to include any state-level government employer and any employer of a “political subdivision of the state.” Sections 577.730.1 and 577.728(2).
4. **Creates state-level crime of transporting/harboring a person knowing or in reckless disregard of the individual’s “illegal presence” or violation of immigration law.** Section 577.722. Felony penalties of one year in prison, \$1,000 fine, or both apply.
5. **Certain employers will be subjected to a “back door” I-9 requirement by tying issuance of identification documents to immigration status queries.** Section 577.724.1
 - i. Affected employers: *federal*, state and local government agencies, and any public or private educational institution. Sections 577.724.1(3) and (4). and 577.724.2.
 - ii. Requirements:
 - (a) query employee about immigration status
 - (b) if a U.S. citizen, national or permanent resident, employer is able to issue identity documents without restrictions on use or period of validity
 - (c) if employee is not in one of these categories, he or she must provide documentary evidence of his or her immigration status in order for employer to issue identity documents valid only for a limited period of time. Sections 577.724.2 and .3.
 - iii. Educational institutions can avoid the immigration inquiry requirement by issuing identification documents (to employees and students) valid for “on-campus or facility” use only. Section 577.724.4.