

## HOUSE BILL No. 2008

By Representative Dillmore

12-13

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9 AN ACT concerning employment; relating to the employment of illegal  
10 aliens; amending K.S.A. 21-4409 and K.S.A. 2004 Supp. 21-4503a and  
11 repealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. As used in sections 1 through 5, and amendments  
15 thereto:

16 (a) "Employer" means any person, including any partnership, firm,  
17 subcontractor, vendor, corporation or association, or agent thereof, who  
18 engages or utilizes the personal services of one or more individuals for a  
19 salary or wage;

20 (b) "illegal alien" means any person not a citizen of the United States  
21 who has entered the United States in violation of the federal immigration  
22 and naturalization act or regulations issued thereunder, who has legally  
23 entered but without the right to be employed in the country, or who has  
24 legally entered subject to a time limit but has remained illegally after the  
25 expiration of such time limit, except that the term "illegal alien" shall not  
26 mean any person who currently has the legal right to remain in the United  
27 States and to be employed in the United States even though such person  
28 originally entered the United States in violation of the federal immigration  
29 and naturalization act or regulations issued thereunder and is not a citizen  
30 of the United States;

31 (c) "secretary" means the secretary of labor;

32 (d) "state agency" means any state office or officer, department,  
33 board, commission, institution, bureau or any agency, division or unit  
34 within any office, department, board, commission or other state authority  
35 of this state or any person requesting a state appropriation;

36 (e) "state benefit" means any state-administered or subsidized tax  
37 credit, tax abatement, tax exemption, loan or loan guarantee; and

38 (f) "unit of government" means any school board, city or county coun-  
39 cil or commission of this state, including, but not limited to, any govern-  
40 mental entity which is wholly or partially taxpayer funded or any entity  
41 which is the beneficiary of any state benefit.

42 New Sec. 2. (a) A person or entity is considered to have complied  
43 with a requirement of sections 1 through 5, and amendments thereto,

1 notwithstanding a technical or procedural failure to meet such require-  
2 ment, if there was a good faith attempt to comply with the federal require-  
3 ments found in title 8 of the United States code, section 1324a.

4 (b) A person or entity which establishes that it has complied in good  
5 faith with respect to the hiring, recruiting or referral for employment of  
6 an alien in the United States has established an affirmative defense under  
7 sections 1 through 5, and amendments thereto.

8 New Sec. 3. (a) No state agency or unit of government shall award  
9 a public works or purchase contract to a bidder, contractor or employer,  
10 nor shall a bidder, contractor or employer be eligible to bid for or receive  
11 a public works contract, who has, in the preceding five years: (1) Been  
12 convicted of violating a law of this state or federal law respecting the  
13 employment of illegal aliens, or (2) been a party to a state agency pro-  
14 ceeding in this state in which a penalty or sanction was ordered, either  
15 by hearing or final order, or through stipulation and agreement, for vio-  
16 lation of a law of this state or federal law respecting the employment of  
17 illegal aliens.

18 (b) Any employer found to be in violation of this section shall, in  
19 addition to all available administrative penalties and sanctions, forfeit and  
20 be liable for an amount equal to the total value of the state benefit such  
21 employer has received or been the beneficiary of for the period of five  
22 years leading up to the date of the finding of guilt, not to exceed the  
23 federally prescribed civil penalty in title 8 of the United States code,  
24 section 1324a.

25 New Sec. 4. The secretary of the department of labor shall be re-  
26 sponsible for administering the provisions of sections 1 through 5, and  
27 amendments thereto.

28 New Sec. 5. The provisions of the Kansas administrative procedure  
29 act, K.S.A. 77-501 et seq., and amendments thereto, shall govern all pro-  
30 ceedings initiated under sections 1 through 5, and amendments thereto.

31 New Sec. 6. (a) Subject to the provisions of appropriation acts, the  
32 attorney general shall establish a toll free number to receive telephone  
33 calls concerning information on persons and business entities employing  
34 illegal aliens in violation of K.S.A. 21-4409, and amendments thereto.

35 (b) Upon receipt of such information, the attorney general shall for-  
36 ward such information to the local law enforcement agency for  
37 investigation.

38 (c) The attorney general may apply for, receive and accept moneys  
39 from any source for the purposes of establishing the hotline.

40 (d) The attorney general shall publicize, distribute and disseminate  
41 information on the availability of the hotline to employment agencies, law  
42 enforcement agencies and other interested parties.

43 (e) The attorney general is hereby authorized to adopt rules and reg-

1     ulations concerning the implementation of this section.

2     Section 7. K.S.A. 21-4409 is hereby amended to read as follows: 21-  
3 4409. (a) Knowingly employing an alien illegally within the territory of  
4 the United States is the employment of such alien within the state of  
5 Kansas by an employer who knows such person to be illegally within the  
6 territory of the United States. The provisions of this section shall not apply  
7 to aliens who have entered the United States illegally and thereafter are  
8 permitted to remain within the United States, temporarily or perma-  
9 nently, pursuant to federal law.

10     (b) Knowingly employing an alien illegally within the territory of the  
11 United States is a class C nonperson misdemeanor. *On the second or*  
12 *subsequent conviction of a violation of this section, in addition to any*  
13 *other sentence imposed, a person shall be fined \$10,000.*

14     (c) *As used in this section, "employment" shall include subcontractors'*  
15 *employees if the employer of the subcontractor has knowledge that the*  
16 *subcontractor is employing persons or subcontracting with persons who*  
17 *are illegally within the territory of the United States.*

18     Sec. 8. K.S.A. 2004 Supp. 21-4503a is hereby amended to read as  
19 follows: 21-4503a. (a) A person who has been convicted of a felony may,  
20 in addition to the sentence authorized by law, be ordered to pay a fine  
21 which shall be fixed by the court as follows:

22     (1) For any off-grid felony crime or any felony ranked in severity level  
23 1 of the drug grid as provided in K.S.A. 21-4705 and amendments thereto,  
24 a sum not exceeding \$500,000.

25     (2) For any felony ranked in severity levels 1 through 5 of the nondrug  
26 grid as provided in K.S.A. 21-4704 and amendments thereto or in severity  
27 levels 2 or 3 of the drug grid as provided in K.S.A. 21-4705 and amend-  
28 ments thereto, a sum not exceeding \$300,000.

29     (3) For any felony ranked in severity levels 6 through 10 of the non-  
30 drug grid as provided in K.S.A. 21-4704 and amendments thereto or in  
31 severity level 4 of the drug grid as provided in K.S.A. 21-4705 and amend-  
32 ments thereto, a sum not exceeding \$100,000.

33     (b) *Except as otherwise provided in statute*, a person who has been  
34 convicted of a misdemeanor, in addition to or instead of the imprisonment  
35 authorized by law, may be sentenced to pay a fine which shall be fixed  
36 by the court as follows:

37     (1) For a class A misdemeanor, a sum not exceeding \$2,500.

38     (2) For a class B misdemeanor, a sum not exceeding \$1,000.

39     (3) For a class C misdemeanor, a sum not exceeding \$500.

40     (4) For an unclassified misdemeanor, any sum authorized by the stat-  
41 ute that defines the crime. If no penalty is provided in such law, the fine  
42 shall not exceed the fine provided herein for a class C misdemeanor.

43     (c) As an alternative to any of the above fines, the fine imposed may

1 be fixed at any greater sum not exceeding double the pecuniary gain  
2 derived from the crime by the offender.

3 (d) A person who has been convicted of a traffic infraction may be  
4 sentenced to pay a fine which shall be fixed by the court, not exceeding  
5 \$500.

6 (e) A person who has been convicted of a cigarette or tobacco in-  
7 fraction shall be sentenced to pay a fine of \$25.

8 (f) The provisions of this section shall apply to crimes committed on  
9 or after July 1, 1993.

10 Sec. 9. K.S.A. 21-4409 and K.S.A. 2004 Supp. 21-4503a are hereby  
11 repealed.

12 Sec. 10. This act shall take effect and be in force from and after its  
13 publication in the statute book.