

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3263

By: McAffrey

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5  
6 AS INTRODUCED

7 An Act relating to labor; creating the Oklahoma Work  
8 Permit Act of 2008; directing Department of Labor to  
9 create, implement, maintain and enforce an Oklahoma  
10 work permit program; listing requirements of work  
11 permit program; providing time limitation for work  
12 permit; making permit void under certain condition;  
13 providing exemption; authorizing issuance of  
14 provisional work permits; limiting amount of work  
15 permits issued by Department of Labor; providing time  
16 limitation for enforcement of work permit program;  
17 requiring issuance of work permits by certain date;  
18 providing penalties for employers; directing  
19 Department of Labor to work with the Oklahoma State  
20 Bureau of Investigation for certain purpose;  
21 directing Department of Labor to establish telephone  
22 hotlines for certain purposes; requiring  
23 establishment of a verification system; requiring  
24 certain notification be made to the Department of  
Labor; requiring compliance with certain laws;  
providing guidelines for maintaining certain  
databases; requiring deposit of fees and fines into  
certain fund; creating the Oklahoma Work Permit  
Revolving Fund; stating source of funding; requiring  
expenditures to be made on warrants; providing for  
expenditure of funds; prohibiting assessment of fees  
from being a substitute for state and federal taxes;  
providing for codification; and providing an  
effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 651 of Title 40, unless there is  
3 created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Oklahoma Work  
5 Permit Act of 2008".

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 652 of Title 40, unless there is  
8 created a duplication in numbering, reads as follows:

9 A. The Department of Labor shall be responsible for the  
10 creation, implementation, maintenance, and enforcement of all of the  
11 following requirements:

12 1. All persons who are not United States citizens and who are  
13 currently working or wish to work in the State of Oklahoma shall  
14 possess an Oklahoma Work Permit;

15 2. Applicants shall be charged a nonrefundable fee of One  
16 Hundred Dollars (\$100.00) to apply for an Oklahoma Work Permit and  
17 shall be fingerprinted and photographed by the Department for  
18 identification and security purposes;

19 3. The application fee shall be adjusted consistent with the  
20 amount needed to cover the cost of registration, enforcement, and  
21 implementation activities contemplated in this section;

22 4. Applications must be processed within thirty (30) days of  
23 receipt by the Department;

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1       5. Approved applicants shall be issued an Oklahoma Work Permit  
2 and a corresponding work identification number. If an applicant is  
3 denied, the applicant may not reapply;

4       6. Applicants shall be subject to a preliminary statewide  
5 criminal history background check. Any applicant who is found  
6 ineligible for an Oklahoma Work Permit due to a criminal record  
7 either prior to or after approval of their application shall have  
8 their application or permit voided immediately and permanently; and

9       7. Application approval shall be subject to any other  
10 conditions deemed necessary by the Commissioner of Labor to conform  
11 to the purposes of this section.

12       B. Oklahoma Work Permits are valid for two (2) years from the  
13 date of issuance. If the worker has not filed paperwork leading to  
14 United States citizenship by the expiration date of the permit, his  
15 or her Oklahoma Work Permit is permanently void, making him or her  
16 ineligible to work in Oklahoma under the provisions of this section.

17       C. Employees with federal work visas, green cards, or any valid  
18 documentation from any other federally authorized employment program  
19 are exempt from the two-year limitation pursuant to subsection B of  
20 this section. The applicable timeline of the federal program for  
21 the eligibility of the person to work shall govern.

22       D. If an applicant produces a federal work visa, Permanent  
23 Resident Card, or any valid documentation authorizing the applicant  
24 to participate in a federal program during the application process,

1 the applicant shall be issued a provisional Oklahoma Work Permit so  
2 long as all other requirements are satisfied. The Oklahoma Work  
3 Permit shall remain provisional until the Department verifies the  
4 validity of the presented documentation.

5 SECTION 3. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 653 of Title 40, unless there is  
7 created a duplication in numbering, reads as follows:

8 A. The number of Oklahoma Work Permits issued in Oklahoma by  
9 the Department of Labor shall be capped annually at a predetermined  
10 number, which shall be determined by the Department under a formula  
11 that takes into account state unemployment levels and estimated  
12 workforce needs.

13 B. No part of the Oklahoma Work Permit program shall be  
14 construed to preempt any provision of the federal immigration law,  
15 including the legal status of a person in the country.

16 C. Enforcement of this act shall begin on April 1, 2009.

17 D. The Department shall begin issuing Oklahoma Work Permits by  
18 January 1, 2009.

19 SECTION 4. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 654 of Title 40, unless there is  
21 created a duplication in numbering, reads as follows:

22 A. Oklahoma employers found to be in violation of any of the  
23 provisions of this act shall be assessed a fine of Ten Thousand  
24 Dollars (\$10,000.00) per employee working without an Oklahoma Work

1 Permit on the first violation. The fine shall be increased to  
2 Twenty Thousand Dollars (\$20,000.00) per employee working without an  
3 Oklahoma Work Permit upon subsequent violations. All fines shall be  
4 assessed and collected by the Department of Labor. An employer may  
5 also be punished by imprisonment in the county jail for not more  
6 than one (1) year upon subsequent violations. The Attorney General,  
7 upon the request of the Department of Labor, shall prosecute  
8 violations of this provision.

9 B. The Department shall work in conjunction with the Oklahoma  
10 State Bureau of Investigation in conducting criminal history  
11 background checks on Oklahoma Work Permit applicants. No fee shall  
12 be charged to the Department of Labor for criminal history  
13 background checks conducted pursuant to this section.

14 C. The Department shall establish a telephone hotline for  
15 employers to call to verify the Oklahoma Work Permit numbers of  
16 potential employee applicants. The Department shall also establish  
17 a telephone hotline for whistleblowers who suspect employers of  
18 hiring workers without an Oklahoma Work Permit.

19 SECTION 5. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 655 of Title 40, unless there is  
21 created a duplication in numbering, reads as follows:

22 A. The Department of Labor shall establish a system whereby  
23 employers calling to verify an Oklahoma Work Permit of a person will  
24 receive a confirmation number to confirm that the permit of the

1 person is valid. The confirmation number shall be entered into the  
2 employment record of the employee for enforcement purposes.

3 B. Employers shall notify the Department when they have hired  
4 an employee with an Oklahoma Work Permit.

5 C. Workers possessing an Oklahoma Work Permit shall comply with  
6 all employment hours and standards as defined by state and federal  
7 law.

8 D. The employment status of each worker possessing an Oklahoma  
9 Work Permit must be accurately reflected in the database maintained  
10 by the Department. At a minimum, employee records shall include the  
11 name of the holder of the Oklahoma Work Permit, fingerprints,  
12 photographs, employment history, confirmation numbers, and all  
13 additional information deemed necessary by the Commissioner of  
14 Labor.

15 E. The fingerprints, photographs and identification database  
16 controlled by the Department shall be maintained in perpetuity in  
17 order to ensure that the employment and Oklahoma Work Permit status  
18 of each worker is accurately reflected, or until superseded by  
19 federal law or repealed by subsequent state action.

20 SECTION 6. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 656 of Title 40, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. All Oklahoma Work Permit application fees and fines  
24 collected under this act shall be deposited into the Oklahoma Work

1 Permit Revolving Fund, created in subsection B of this section,  
2 under the Department of Labor, to be used for costs associated with  
3 administration, enforcement, and implementation of this act.

4 B. There is hereby created in the State Treasury a revolving  
5 fund for the Department of Labor to be designated the "Oklahoma Work  
6 Permit Revolving Fund". The fund shall be a continuing fund, not  
7 subject to fiscal year limitations, and shall consist of all monies  
8 received from fees, administrative fines, reimbursements, bond  
9 proceeds, and sale of materials, and shall include grants and gifts.  
10 All monies accruing to the credit of the fund are hereby  
11 appropriated and may be budgeted and expended by the Department of  
12 Labor for the purpose of implementing the provisions of the Oklahoma  
13 Work Permit Act. Expenditures from the fund shall be made upon  
14 warrants issued by the State Treasurer against claims filed, as  
15 prescribed by law, with the Director of State Finance for approval  
16 and payment.

17 SECTION 7. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 657 of Title 40, unless there is  
19 created a duplication in numbering, reads as follows:

20 Fees collected pursuant to the provisions of this act do not  
21 relieve a person from any obligation to pay all applicable state and  
22 federal taxes. Fees collected pursuant to the provisions of this  
23 act may not serve as a substitute or payment in lieu of obligated  
24 state and federal taxes.

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SECTION 8. This act shall become effective November 1, 2008.

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