

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 SENATE BILL 454

By: Leftwich

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5
6 AS INTRODUCED

7 An Act relating to state government; creating the
8 Oklahoma Security and Immigration Compliance Act;
9 providing short title and directions for construction
10 of act; authorizing certain memorandum of
11 understanding; authorizing employment and training of
12 certain officers contingent on receipt of federal
13 funding; authorizing enforcement of certain laws;
14 providing definitions; setting forth requirements for
15 public employers and certain contractors; providing
16 deadlines for compliance with certain requirements;
17 prohibiting discrimination in enforcement of certain
18 requirements; authorizing promulgation of rules;
19 providing for publication of rules; requiring
20 verification of lawful presence as prerequisite for
21 provision of certain benefits; setting forth
22 exceptions to requirement for verification; providing
23 penalty for engaging in certain prohibited behavior;
24 authorizing variances from requirements; prohibiting
benefits in violation of act; requiring report;
defining terms; defining criminal offenses; providing
penalties; authorizing certain prosecution authority;
limiting certain prosecutions; requiring effort to
determine nationality of arrestee; requiring
verification and notification in certain
circumstances; requiring preparation and issuance of
certain guidelines and procedures; creating the
Registration of Immigration Assistance Act; providing
short title; providing purpose of act; defining
terms; limiting services which may be offered;
exempting certain persons from operation of the act;
limiting effect of act; requiring posting of certain
information; requiring certain communications to be
made; prohibiting certain communications; providing
penalties; prohibiting certain actions; defining
certain conduct to be a misdemeanor; defining terms;

1 limiting tax treatment of certain expenses; providing
2 exceptions; authorizing promulgation of certain
3 rules; requiring certain withholding; imposing
4 liability for failure to comply with required
5 withholding; providing for codification; providing
6 for noncodification; and providing an effective date.

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

8 SECTION 1. NEW LAW A new section of law not to be
9 codified in the Oklahoma Statutes reads as follows:

10 This act shall be known and may be cited as the "Oklahoma
11 Security and Immigration Compliance Act". All requirements of this
12 act concerning immigration or the classification of immigration
13 status shall be construed in conformity with federal immigration
14 law.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 51.4 of Title 74, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The Oklahoma Homeland Security Director is authorized and
19 directed to negotiate the terms of a memorandum of understanding
20 between the State of Oklahoma and the United States Department of
21 Justice or Department of Homeland Security concerning the
22 enforcement of federal immigration and custom laws, detention and
23 removals, and investigations in the State of Oklahoma.

24 B. The memorandum of understanding negotiated pursuant to
subsection A of this section shall be signed on behalf of the state

1 by the Oklahoma Homeland Security Director and the Governor or as
2 otherwise required by the appropriate federal agency.

3 C. The Director may employ law enforcement officers to be
4 trained pursuant to the memorandum of understanding provided for in
5 subsections A and B of this section when federal funding for such
6 employment and training is secured. Such employment and training
7 shall be funded pursuant to the United States Department of Homeland
8 Security Appropriations Act, 2006, Public Law 109-90, or any
9 subsequent source of federal funding. The provisions of this
10 subsection shall become effective upon receipt of such funding.

11 D. Any law enforcement officer certified as trained in
12 accordance with the memorandum of understanding as provided in this
13 section is authorized to enforce federal immigration and customs
14 laws while performing within the scope of his or her authorized
15 duties.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 52 of Title 74, unless there is
18 created a duplication in numbering, reads as follows:

19 As used in this section and Section 4 of this act, the term:

20 1. "Federal work authorization program" means any of the
21 electronic verification of work authorization programs operated by
22 the United States Department of Homeland Security or any equivalent
23 federal work authorization program operated by the United States
24 Department of Homeland Security to verify information of newly hired

1 employees, pursuant to the Immigration Reform and Control Act of
2 1986 (IRCA);

3 2. "Public employer" means every department, agency, or
4 instrumentality of the state or a political subdivision of the
5 state; and

6 3. "Subcontractor" includes a subcontractor, contract employee,
7 staffing agency, or any contractor regardless of its tier.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 52.1 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 A. On or after July 1, 2008, every public employer shall
12 register and participate in the federal work authorization program
13 to verify information of all new employees.

14 B. 1. No public employer shall enter into a contract for the
15 physical performance of services within this state unless the
16 contractor registers and participates in the federal work
17 authorization program to verify information of all new employees.

18 2. No contractor or subcontractor who enters into a contract
19 with a public employer shall enter into such a contract or
20 subcontract in connection with the physical performance of services
21 within this state unless the contractor or subcontractor registers
22 and participates in the federal work authorization program to verify
23 information of all new employees.

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1 3. Paragraphs 1 and 2 of this subsection shall apply as
2 follows:

3 a. on or after July 1, 2008, with respect to public
4 employers, contractors, or subcontractors of five
5 hundred (500) or more employees;

6 b. on or after July 1, 2009, with respect to public
7 employers, contractors, or subcontractors of one
8 hundred (100) or more employees; and

9 c. on or after July 1, 2010, with respect to all public
10 employers, contractors, or subcontractors.

11 C. This section shall be enforced without regard to race,
12 religion, gender, ethnicity, or national origin.

13 D. Except as provided in subsection E of this section, the
14 Director of the Department of Central Services shall prescribe forms
15 and promulgate rules deemed necessary in order to administer and
16 effectuate this section and publish such rules on the website of the
17 Department of Central Services. Such rules shall be promulgated in
18 compliance with the provisions of the Administrative Procedures Act.

19 E. The Director of the Department of Transportation shall
20 prescribe all forms and promulgate rules deemed necessary for the
21 application of this section to any contract or agreement relating to
22 public transportation and shall publish such rules on the website of
23 the Department of Transportation. Such rules shall be promulgated
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1 in compliance with the provisions of the Administrative Procedures
2 Act.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 52.2 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Except as provided in subsection C of this section or where
7 exempted by federal law, on or after July 1, 2008, every agency or a
8 political subdivision of this state shall verify the lawful presence
9 in the United States of any natural person eighteen (18) years of
10 age or older who has applied for state or local public benefits, as
11 defined in 8 U.S.C., Section 1621, or for federal public benefits,
12 as defined in 8 U.S.C., Section 1611, that is administered by an
13 agency or a political subdivision of this state.

14 B. This section shall be enforced without regard to race,
15 religion, gender, ethnicity, or national origin.

16 C. Verification of lawful presence under this section shall not
17 be required:

18 1. For any purpose for which lawful presence in the United
19 States is not required by law, ordinance, or regulation;

20 2. For assistance for health care items and services that are
21 necessary for the treatment of an emergency medical condition, as
22 defined in 42 U.S.C., Section 1396b(v)(3), of the alien involved and
23 are not related to an organ transplant procedure;

24 3. For short-term, noncash, in-kind emergency disaster relief;

1 4. For public health assistance for immunizations with respect
2 to immunizable diseases and for testing and treatment of symptoms of
3 communicable diseases whether or not such symptoms are caused by a
4 communicable disease;

5 5. For programs, services, or assistance such as soup kitchens,
6 crisis counseling and intervention, and short-term shelter specified
7 by the United States Attorney General, in the sole and unreviewable
8 discretion of the United States Attorney General after consultation
9 with appropriate federal agencies and departments, which:

10 a. deliver in-kind services at the community level,
11 including through public or private nonprofit
12 agencies,

13 b. do not condition the provision of assistance, the
14 amount of assistance provided, or the cost of
15 assistance provided on the individual recipient's
16 income or resources, and

17 c. are necessary for the protection of life or safety;

18 6. For prenatal care; or

19 7. For postsecondary education, whereby the Oklahoma State
20 Regents for Higher Education shall set forth, or cause to be set
21 forth, policies regarding postsecondary benefits that comply with
22 all federal law, including, but not limited to, public benefits as
23 described in 8 U.S.C., Section 1611, 1621, or 1623.

1 D. Verification of lawful presence in the United States by the
2 agency or political subdivision required to make such verification
3 shall occur as follows:

4 1. The applicant must execute an affidavit that he or she is a
5 United States citizen or legal permanent resident 18 years of age or
6 older; or

7 2. The applicant must execute an affidavit that he or she is a
8 qualified alien or nonimmigrant under the federal Immigration and
9 Nationality Act and is eighteen (18) years of age or older lawfully
10 present in the United States.

11 E. For any applicant who has executed an affidavit that he or
12 she is an alien lawfully present in the United States, eligibility
13 for benefits shall be made through the Systematic Alien Verification
14 for Entitlements (SAVE) Program operated by the United States
15 Department of Homeland Security or a successor program designated by
16 the United States Department of Homeland Security. Until such
17 eligibility verification is made, the affidavit may be presumed to
18 be proof of lawful presence for the purposes of this section.

19 F. Any person who knowingly and willfully makes a false,
20 fictitious, or fraudulent statement of representation in an
21 affidavit executed pursuant to subsection D of this section shall be
22 guilty of a misdemeanor.

23 G. Agencies or political subdivisions of this state may adopt
24 variations to the requirements of this section to improve efficiency

1 or reduce delay in the verification process or to provide for
2 adjudication of unique individual circumstances where the
3 verification procedures in this section would impose unusual
4 hardship on a legal resident of this state.

5 H. It shall be unlawful for any agency or a political
6 subdivision of this state to provide any state, local, or federal
7 benefit, as defined in 8 U.S.C., Section 1621 or 1611, in violation
8 of this section. Each state agency or department which administers
9 any program of state or local public benefits shall provide an
10 annual report with respect to its compliance with this section.

11 I. Any and all errors and significant delays by SAVE shall be
12 reported to the United States Department of Homeland Security and to
13 the United States Secretary of State which will monitor SAVE and its
14 verification application errors and significant delays and report
15 yearly on such errors and significant delays to ensure that the
16 application of SAVE is not wrongfully denying benefits to legal
17 residents of the state.

18 J. Notwithstanding subsection F of this section, any applicant
19 for federal benefits, as defined in 8 U.S.C., Section 1611, or state
20 or local benefits, as defined in 8 U.S.C., Section 1621, shall not
21 be guilty of any crime for executing an affidavit attesting to
22 lawful presence in the United States that contains a false statement
23 if the affidavit is not required by this section.

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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 748 of Title 21, unless there is
3 created a duplication in numbering, reads as follows:

4 As used in this section and Section 7 of this act:

5 1. "Coercion" means:

- 6 a. causing or threatening to cause bodily harm to any
7 person, physically restraining or confining any
8 person, or threatening to physically restrain or
9 confine any person,
- 10 b. exposing or threatening to expose any fact or
11 information that if revealed would tend to subject a
12 person to criminal or immigration proceedings, hatred,
13 contempt, or ridicule,
- 14 c. destroying, concealing, removing, confiscating, or
15 possessing any actual or purported passport or other
16 immigration document, or any other actual or purported
17 government identification document, of any person, or
- 18 d. providing to such person a controlled dangerous
19 substance as defined pursuant to paragraph 8 of
20 Section 2-101 of Title 63 of the Oklahoma Statutes;

21 2. "Deception" means:

- 22 a. creating or confirming the impression of another of an
23 existing fact or past event which is false and which
24 the accused knows or believes to be false,

1 b. maintaining the status or condition of a person
2 arising from a pledge by that person of his or her
3 personal services as security for a debt, if the value
4 of those services as reasonably assessed is not
5 applied toward the liquidation of the debt or the
6 length and nature of those services are not
7 respectively limited and defined, or preventing a
8 person from acquiring information pertinent to the
9 disposition of such debt, or

10 c. promising benefits or the performance of services
11 which the accused does not intend to deliver or
12 perform or knows will not be delivered or performed.
13 Evidence of failure to deliver benefits or perform
14 services standing alone shall not be sufficient to
15 authorize a conviction under this section;

16 3. "Labor servitude" means work or service of economic or
17 financial value which is performed or provided by another person and
18 is induced or obtained by coercion or deception; and

19 4. "Sexual servitude" means sexually explicit conduct, actual
20 or simulated:

21 a. sexual intercourse, including genital-genital, oral
22 genital, anal-genital, or oral-anal, whether between
23 persons of the same or opposite sex,

24 b. bestiality,

- 1 c. masturbation,
- 2 d. lewd exhibition of the genitals or pubic area of any
- 3 person,
- 4 e. flagellation or torture by or upon a person who is
- 5 nude,
- 6 f. condition of being fettered, bound, or otherwise
- 7 physically restrained on the part of a person who is
- 8 nude,
- 9 g. physical contact in an act or apparent sexual
- 10 stimulation or gratification with any person's
- 11 unclothed genitals, pubic area, or buttocks or with a
- 12 female's nude breasts,
- 13 h. defecation or urination for the purpose of sexual
- 14 stimulation of the viewer, or
- 15 i. penetration of the vagina or rectum by any object
- 16 except when done as part of a recognized medical
- 17 procedure,

18 for which anything of value is directly or indirectly given,

19 promised to, or received by any person, which conduct is induced or

20 obtained by coercion or deception or which conduct is induced or

21 obtained from a person under the age of eighteen (18) years.

22 SECTION 7. NEW LAW A new section of law to be codified

23 in the Oklahoma Statutes as Section 748.1 of Title 21, unless there

24 is created a duplication in numbering, reads as follows:

1 A. A person commits the offense of trafficking a person for
2 labor servitude when that person knowingly subjects or maintains
3 another in labor servitude or knowingly recruits, entices, harbors,
4 transports, provides, or obtains by any means another person for the
5 purpose of labor servitude.

6 B. A person commits the offense of trafficking a person for
7 sexual servitude when that person knowingly subjects or maintains
8 another in labor servitude or knowingly recruits, entices, harbors,
9 transports, provides, or obtains by any means another person for the
10 purpose of sexual servitude.

11 C. Any person who commits the offense of trafficking a person
12 for labor or sexual servitude shall be guilty of a felony, and upon
13 conviction thereof, shall be punished by imprisonment for not less
14 than one (1) year nor more than twenty (20) years. Any person who
15 commits the offense of trafficking a person for labor or sexual
16 servitude against a person who is under the age of eighteen (18)
17 years shall be guilty of a felony, and upon conviction thereof,
18 shall be punished by imprisonment for not less than ten (10) years
19 nor more than twenty (20) years.

20 D. District attorneys and the Office of the Attorney General
21 shall have concurrent authority to prosecute any criminal cases
22 arising under the provisions of this section.

23 E. Each violation of this section shall constitute a separate
24 offense and shall not merge with any other offense.

1 F. A corporation or other business entity may be prosecuted
2 under this section for an act or omission constituting a crime under
3 this section only if an agent of the corporation performs the
4 conduct which is an element of the crime while acting within the
5 scope of his or her employment on behalf of the corporation and the
6 commission of the crime was either authorized, requested, commanded,
7 performed, or within the scope of his or her employment on behalf of
8 the corporation or other business entity or constituted a pattern of
9 illegal activity that an agent of the company knew or should have
10 known was occurring.

11 SECTION 8. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 16b of Title 57, unless there is
13 created a duplication in numbering, reads as follows:

14 A. When any person charged with a felony or driving under the
15 influence is confined for any period, in a county or municipal jail,
16 a reasonable effort shall be made to determine the nationality of
17 the person so confined.

18 B. If the prisoner is a foreign national, the jailer or keeper
19 of the jail or other officer shall make a reasonable effort to
20 verify that the prisoner has been lawfully admitted to the United
21 States and if lawfully admitted that such lawful status has not
22 expired. If verification of lawful status cannot be made from
23 documents in the possession of the prisoner, verification shall be
24 made within forty-eight (48) hours through a query to the Law

1 Enforcement Support Center (LESC) of the United States Department of
2 Homeland Security. If the prisoner is determined not to be lawfully
3 admitted to the Unites States, the jailer or keeper of the jail or
4 other officer shall notify the United States Department of Homeland
5 Security.

6 C. Nothing in this section shall be construed to deny a person
7 bond or from being released from confinement when such person is
8 otherwise eligible for release.

9 D. The Attorney General shall prepare and issue guidelines and
10 procedures used to comply with the provisions of this section.

11 SECTION 9. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1345 of Title 59, unless there
13 is created a duplication in numbering, reads as follows:

14 Sections 9 through 12 of this act shall be known and may be
15 cited as the "Registration of Immigration Assistance Act".

16 SECTION 10. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1345.1 of Title 59, unless there
18 is created a duplication in numbering, reads as follows:

19 The purpose of the Registration of Immigration Assistance Act is
20 to establish and enforce standards of ethics in the profession of
21 immigration assistance by private individuals who are not licensed
22 attorneys.

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1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1345.2 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Registration of Immigration Assistance Act:

5 1. "Compensation" means money, property, services, promise of
6 payment, or anything else of value;

7 2. "Employed by" means that a person is on the payroll of the
8 employer and the employer deducts social security and withholding
9 taxes from that person's paycheck or that a person receives
10 compensation from the employer on a commission basis or as an
11 independent contractor;

12 3. "Immigration assistance service" means any information or
13 action provided or offered to customers or prospective customers
14 related to immigration matters, excluding legal advice, recommending
15 a specific course of legal action or providing any other assistance
16 that requires legal analysis, legal judgment or interpretation of
17 the law; and

18 4. "Immigration matter" means any proceeding, filing, or action
19 affecting the nonimmigrant, immigrant, or citizenship status of any
20 person that arises under:

21 a. immigration and naturalization law, executive order,
22 or presidential proclamation of the United States or
23 any foreign country, or

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1 b. action of the United States Department of Labor, the
2 United States Department of State, the United States
3 Department of Homeland Security, or the United States
4 Department of Justice.

5 SECTION 12. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1345.3 of Title 59, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Any person who provides or offers to provide immigration
9 assistance service may perform only the following services:

10 1. Completing a government agency form requested by the
11 customer and appropriate to the customer's need only if the
12 completion of that form does not involve a legal judgment for that
13 particular matter;

14 2. Transcribing responses to a government agency form which is
15 related to an immigration matter but not advising a customer as to
16 his or her answers on those forms;

17 3. Translating information of forms to a customer and
18 translating the customer's answers to questions posed on the forms;

19 4. Securing for the customer supporting documents currently in
20 existence, such as birth and marriage certificates, which may be
21 required for submission with government agency forms;

22 5. Translating documents from a foreign language into English;

1 6. Notarizing signatures on government agency forms, if the
2 person performing the service is a notary public commissioned in
3 this state and is lawfully present in the United States;

4 7. Making referrals, without fee, to attorneys who could
5 undertake legal representation for a person in an immigration
6 matter;

7 8. Preparing or arranging for the preparation of photographs
8 and fingerprints;

9 9. Arranging for the performance of medical tests, including x-
10 rays and AIDS tests, and the obtaining of reports of such test
11 results;

12 10. Conducting English language and civics courses; and

13 11. Performing such other services that the Office of the
14 Secretary of State determines by rule may be appropriately performed
15 by such persons.

16 B. The following persons are exempt from the Registration of
17 Immigration Assistance Act:

18 1. An attorney licensed to practice law in this state or an
19 attorney licensed to practice law in any other state or territory of
20 the United States or in any foreign country upon approval of the
21 court;

22 2. A not-for-profit organization recognized by the Board of
23 Immigration Appeals under 8 C.F.R. 292.2(a) and employees of those
24 organizations accredited under 8 C.F.R. 292.2(d); and

1 3. Any organization employing or desiring to employ an alien or
2 nonimmigrant alien where the organization, its employees, or its
3 agents provide advice or assistance in immigration matters to alien
4 or nonimmigrant alien employees or potential employees without
5 compensation from the individuals to whom such advice or assistance
6 is provided.

7 C. Nothing in this chapter shall regulate any business to the
8 extent that such regulation is prohibited or preempted by federal
9 law.

10 D. Any person who provides or offers immigration assistance
11 service and is not exempted pursuant to subsection B of this section
12 shall post in a conspicuous place at his or her place of business
13 signs setting forth information in English and in every other
14 language in which the person provides or offers to provide
15 immigration assistance service. Each language shall be on a
16 separate sign. Each sign shall be at least twelve (12) inches by
17 seventeen (17) inches and shall contain the following statement:

18 "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE
19 LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

20 E. Every person engaged in immigration assistance service who
21 is not an attorney who advertises immigration assistance service in
22 a language other than English, whether by radio, television, signs,
23 pamphlets, newspapers, or other written communication, with the
24 exception of a single desk plaque, shall include in the document,

1 advertisement, stationary, letterhead, business card, or other
2 comparable written material of a conspicuous size the following
3 notice in English and the language in which the written
4 communication appears:

5 "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE
6 LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

7 If such advertisement is by radio or television, the statement
8 shall include substantially the same message.

9 F. Any person who provides or offers immigration assistance
10 service and is not exempted pursuant to subsection B of this section
11 shall not in any document, advertisement, stationary, letterhead,
12 business card, or other comparable written material literally
13 translate from English into another language terms or titles
14 including, but not limited to, notary public, notary, licensed,
15 attorney, lawyer, or any other term that implies the person is an
16 attorney.

17 G. Violation of this section may result in a fine of up to One
18 Thousand Dollars (\$1,000.00) per violation. A fine charged pursuant
19 to this subsection shall not preempt or preclude additional
20 appropriate civil or criminal penalties.

21 H. Any person engaged in providing immigration services who is
22 not exempt pursuant to subsection B of this section shall not:
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1 1. Accept payment in exchange for providing legal advice or any
2 other assistance that requires legal analysis, legal judgment, or
3 interpretation of the law;

4 2. Notwithstanding a fee dispute between the immigration
5 assistance and the customer, refuse to return documents supplied by,
6 prepared on behalf of, or paid for by the customer upon the request
7 of the customer;

8 3. Represent or advertise, in connection with the provision
9 assistance in immigration matter, other titles or credentials,
10 including, but not limited to, notary public or immigration
11 consultant, that could cause a customer to believe that the person
12 possesses special professional skills or is authorized to provide
13 advice on an immigration matter. A certified notary public may use
14 the term "notary public" if the use is accompanied by the statement
15 that the person is not an attorney; provided, however, the term
16 "notary public" shall not be translated into another language;

17 4. Provide legal advice, recommend a specific course of legal
18 action, or provide any other assistance that requires legal
19 analysis, legal judgment, or interpretation of the law; or

20 5. Make any misrepresentation or false statement, directly or
21 indirectly, to influence, persuade, or induce patronage.

22 I. Any person who violates any provision of this section shall
23 be guilty of a misdemeanor.

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1 J. The Secretary of State shall promulgate rules necessary to
2 implement the Registration of Immigration Assistance Act.

3 SECTION 13. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2358.8 of Title 68, unless there
5 is created a duplication in numbering, reads as follows:

6 A. As used in this section:

7 1. "Authorized employee" means any individual authorized for
8 employment in the United States as defined in 8 U.S.C., Section
9 1324a; and

10 2. "Labor services" means the physical performance of services
11 in this state.

12 B. On or after January 1, 2009, no wages or remuneration for
13 labor services to an individual of Six Hundred Dollars (\$600.00) or
14 more per annum may be claimed and allowed as a deductible business
15 expense for state income tax purposes by a taxpayer unless such
16 individual is an authorized employee. The provisions of this
17 subsection shall apply whether or not an Internal Revenue Service
18 Form 1099 is issued in conjunction with the wages or remuneration.

19 C. This section shall not apply to any business domiciled in
20 this state which is exempt from compliance with federal employment
21 verification procedures under federal law which makes the employment
22 of unauthorized aliens unlawful.

23 D. This section shall not apply to any individual hired by the
24 taxpayer prior to January 1, 2009.

1 E. This section shall not apply to any taxpayer if the
2 individual being paid is not directly compensated or employed by the
3 taxpayer.

4 F. This section shall not apply to wages or remuneration paid
5 for labor services to any individual who holds and presents to the
6 taxpayer a valid driver license or identification card issued by the
7 Department of Public Safety.

8 G. The Oklahoma Tax Commission is authorized to prescribe forms
9 and promulgate rules deemed necessary in order to administer and
10 effectuate the provisions of this section.

11 SECTION 14. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2385.32 of Title 68, unless
13 there is created a duplication in numbering, reads as follows:

14 A. An employer shall be required to withhold state income tax
15 at the rate of six percent (6%) of the amount of compensation paid
16 to an individual which compensation is reported on Internal Revenue
17 Service Form 1099 and with respect to which the individual has:

- 18 1. Failed to provide a taxpayer identification number;
- 19 2. Failed to provide a correct taxpayer identification number;

20 or

- 21 3. Provided an Internal Revenue Service-issued taxpayer
22 identification number issued for nonresident aliens.

23 B. Any employer who fails to comply with the withholding
24 requirements of this section shall be liable for the taxes required

1 to have been withheld unless such employer is exempt from federal
2 withholding with respect to such individual pursuant to a properly
3 filed Internal Revenue Service Form 8233 and has provided a copy of
4 such form to the Oklahoma Tax Commission.

5 SECTION 15. This act shall become effective November 1, 2007.

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