

§871. Illegal employment of aliens

1. Prohibition. No employer shall knowingly employ any alien in this State who has not been lawfully admitted to the United States for permanent residence, unless the employment of the alien is authorized by the United States Immigration and Naturalization Service.

[PL 1977, c. 116 (NEW).]

1-A. Violation. Upon conviction of a violation of subsection 1, an employer may not employ aliens granted permission to work temporarily under 8 United States Code, Section 1101(a)(15)(H)(ii)(a) in this State for 2 years.

[PL 2009, c. 637, §1 (NEW).]

2. Penalty. Violation of subsection 1 or 1-A is a Class E crime. It is an affirmative defense to prosecution under subsection 1 that the employer, before employing or referring a person for employment, made a good faith inquiry as to whether that person was a United States citizen or an alien, and if the inquiry reasonably indicated that the person was an alien, the employer made a further good faith inquiry that reasonably indicated that the alien was lawfully admitted to the United States for permanent residence or that the United States Immigration and Naturalization Service had authorized the alien to accept employment in the United States.

A. A good faith inquiry under this subsection must be in writing. An employment application form that requests citizenship data, or an alien registration number if the applicant is an alien, meets the requirement of a good faith inquiry in writing. [PL 2009, c. 637, §2 (AMD).]

B. A social security account number card is not considered evidence of the United States Immigration and Naturalization Service's authorization for an alien to accept employment in the United States. [PL 2009, c. 637, §2 (AMD).]

[PL 2009, c. 637, §2 (AMD).]

3. Regulations. The Commissioner of Labor shall promulgate regulations specifying the procedure to be followed by each employer to ensure compliance with subsection 1. These regulations shall include provisions for reporting violations of subsection 1 to the Attorney General and the United States Immigration and Naturalization Service.

[PL 1977, c. 116 (NEW); PL 1981, c. 168, §25 (AMD).]

SECTION HISTORY

PL 1977, c. 116 (NEW). PL 1981, c. 168, §25 (AMD). PL 2009, c. 637, §§1, 2 (AMD).

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