

SB 177-FN - AS INTRODUCED

2025 SESSION

25-0336

05/02

SENATE BILL        **177-FN**

AN ACT            relative to requiring New Hampshire employers with over 25 employees use the E-Verify system.

SPONSORS:        Sen. Gannon, Dist 23; Sen. Innis, Dist 7; Sen. McGough, Dist 11; Sen. Pearl, Dist 17; Rep. Khan, Rock. 30; Rep. P. Brown, Rock. 14

COMMITTEE:      Commerce

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ANALYSIS

This bill requires New Hampshire employers with over 25 employees to use the E-Verify system and provides for complaint investigation through the department of labor.

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Explanation:      Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Five*

AN ACT relative to requiring New Hampshire employers with over 25 employees use the E-Verify system.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Subdivision; Verification of Work Authorization. Amend RSA 275-A by inserting after  
2 section 5 the following new subdivision:

3 Verification of Work Authorization

4 275-A:6 Definitions. In this subdivision:

5 I. "Commissioner" means the labor commissioner.

6 II. "Employ" means to hire an employee.

7 III. "Employee" means any individual who provides services or labor for an employer in this  
8 state for wages or other remuneration. The term does not include an individual whose term of  
9 employment is less than 9 months in a calendar year.

10 IV. "Employer" means any person, business entity, or other organization that transacts  
11 business in this state and that employs 25 or more employees in this state. This term does not  
12 include state agencies, counties, municipalities, or other governmental bodies.

13 V. "E-Verify" means the federal E-Verify program operated by the United States  
14 Department of Homeland Security and other federal agencies, or any successor or equivalent  
15 program used to verify the work authorization of newly hired employees pursuant to federal law.

16 VI. "Unauthorized alien" shall have the same meaning as in 8 U.S.C. section 1324a(h)(3).

17 275-A:7 Verification of Employee Work Authorization.

18 I. Each employer, after hiring an employee to work in the United States, shall verify the  
19 work authorization of the employee through E-Verify.

20 II. Each employer shall retain the record of the verification of work authorization required  
21 by this section while the employee is employed and for one year thereafter.

22 275-A:8 Commissioner to Prepare Complaint Form.

23 I. The commissioner shall prescribe a complaint form for a person to allege a violation of  
24 RSA 275-A:7. The form shall clearly state that completed forms may be sent to the commissioner.

25 II. The complainant shall not be required to list the complainant's social security number on  
26 the complaint form or to have the complaint notarized.

27 275-A:9 Reporting of Complaints.

28 I. Any person with a good faith belief that a violation of RSA 275-A:7 has occurred may file a  
29 complaint with the commissioner setting forth the basis for that belief. The complaint may be on a  
30 form prescribed by the commissioner pursuant to RSA 275-A:8 or may be made in any other form

1 that gives the commissioner information that is sufficient to proceed with an investigation. Nothing  
2 in this section shall be construed to prohibit the filing of anonymous complaints that are not  
3 submitted on a prescribed complaint form.

4 II. A person who knowingly files a false or frivolous complaint under this section is guilty of  
5 a class B misdemeanor.

6 275-A:10 Investigation of Complaints.

7 I. Upon receipt of a complaint filed in accordance with RSA 275-A:9, the commissioner shall  
8 investigate whether a violation of RSA 275-A:7 has in fact occurred.

9 II. The commissioner shall not investigate complaints that are based solely on race, religion,  
10 gender, ethnicity, or national origin.

11 III. The commissioner may request that the department of justice assist in investigating a  
12 complaint under this subdivision.

13 IV. The commissioner may issue a subpoena for production of employment records that  
14 relate to the recruitment, hiring, employment, or termination policies, practices, or acts of  
15 employment as part of the investigation of a valid complaint under this subdivision.

16 275-A:11 Actions to be Taken; Hearing. If, after an investigation, the commissioner determines  
17 that the complaint is not false or frivolous:

18 I. The commissioner shall hold a hearing to determine if a violation of RSA 275-A:7 has  
19 occurred and, if appropriate, impose civil penalties in accordance with the provisions of this chapter.

20 II. If, during the course of the hearing under paragraph I, the commissioner concludes that  
21 there is a reasonable likelihood that an employee is an unauthorized alien, the commissioner shall  
22 notify the following entities of the possible presence of an unauthorized alien:

23 (a) United States Immigration and Customs Enforcement.

24 (b) Local law enforcement agencies.

25 275-A:12 Penalties for Violation.

26 I.(a) For a first violation of RSA 275-A:7, the commissioner shall order the employer to file a  
27 signed sworn affidavit with the commissioner within 3 business days after the order issued pursuant  
28 to this subdivision is issued. The affidavit shall state with specificity that the employer has, after  
29 consultation with the employee, requested a verification of work authorization through E-Verify.

30 (b) If an employer fails to timely file an affidavit required by subparagraph (a), the  
31 commissioner shall order the employer to pay a civil penalty of \$10,000.

32 II. For a violation of RSA 275-A:7 that occurs after an order has been issued pursuant to  
33 paragraph I, the commissioner shall order the measures required by subparagraph I(a) and shall  
34 also order the employer to pay a civil penalty of \$1,000, regardless of the number of required  
35 employee verifications the employer failed to make.

36 III. For a violation of RSA 275-A:7 that occurs after an order has been issued pursuant to  
37 paragraph II, the commissioner shall order the measures required by subparagraph I(a), and shall

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1 also order the employer to pay a civil penalty of \$2,000 for each required employee verification the  
2 employer failed to make.

3 275-A:13 Commissioner to Maintain Copies of Orders. The commissioner shall maintain copies  
4 of orders issued pursuant to RSA 275-A:12 and shall maintain a database of the employers and  
5 business locations that have a violation of RSA 275-A:7 and make the orders available on the  
6 department of labor website.

7 275-A:14 Work Authorization Verification Through the Federal Government. When  
8 investigating a complaint under this subdivision, the commissioner shall verify the work  
9 authorization of the alleged unauthorized alien with the federal government pursuant to 8 U.S.C.  
10 section 1373(c). The commissioner shall not attempt to independently make a final determination of  
11 whether an alien is authorized to work in the United States.

12 275-A:15 Appeal. Any party may appeal the commissioner's finding or civil penalty under RSA  
13 541.

14 275-A:16 Rules. The commissioner may adopt rules under RSA 541-A relative to  
15 implementation of this subdivision.

16 275-A:17 Construction. This subdivision shall not be construed to require an employer to take  
17 any action that the employer believes in good faith would violate federal or state law.

18 2 Effective Date. This act shall take effect January 1, 2026.

**SB 177-FN- FISCAL NOTE  
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**FISCAL IMPACT:**

<b>Estimated State Impact</b>				
	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
<b>Revenue</b>	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
<b>Expenditures*</b>	Indeterminable			
<i>Funding Source</i>	General Fund			
<b>Appropriations*</b>	\$0	\$0	\$0	\$0
<i>Funding Source</i>	None			

\*Expenditure = Cost of bill      \*Appropriation = Authorized funding to cover cost of bill

<b>Estimated Political Subdivision Impact</b>				
	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
<b>County Revenue</b>	\$0	\$0	\$0	\$0
<b>County Expenditures</b>	Indeterminable			
<b>Local Revenue</b>	\$0	\$0	\$0	\$0
<b>Local Expenditures</b>	Indeterminable			

**METHODOLOGY:**

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: [https://gencourt.state.nh.us/lba/Budget/Fiscal\\_Notes/JudicialCorrectionalCosts.pdf](https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf)

The Department of Labor states it is unlikely that the proposed legislation will have an impact on revenues or expenditures at the state, county or local level, as the state, counties, and municipalities are not defined employers subject to the stated requirements. Some increase in state revenue might occur as a result of assessed penalties. It is not anticipated that the bill would materially impact the cost associated with administration of Citizens Job Protection from the Department’s perspective. The Department indicates that parties aggrieved by findings or

civil penalties may appeal to the supreme court in accord with the requirements set by RSA 541. To the extent there are such appeals, there may be additional costs to the Judicial Branch, however any such increase cannot be predicted.

**AGENCIES CONTACTED:**

Judicial Branch, Judicial Council, Departments of Justice, Labor and Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association