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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

*Regular Session, 2002*

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**ENROLLED**

SENATE BILL NO. 560

(By Senator Mitchell, et al)

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PASSED March 9, 2002

In Effect ninety days from Passage

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## ENROLLED

### Senate Bill No. 560

(BY SENATORS MITCHELL, WOOTON, CALDWELL, HUNTER,  
KESSLER, MINARD, REDD, ROWE, SNYDER AND FACEMYER)

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[Passed March 9, 2002; in effect ninety days from passage.]

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AN ACT to amend and reenact article one-b, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to reporting of alien workers employed in West Virginia; findings; definitions; record-keeping; and penalties.

*Be it enacted by the Legislature of West Virginia:*

That article one-b, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

#### **ARTICLE 1B. REPORTING OF EMPLOYMENT OF ALIEN WORKERS.**

##### **§21-1B-1. Findings; policy.**

- 1 The Legislature finds that employers have the responsi-
- 2 bility to check the residence status of their prospective
- 3 employees and are precluded from hiring illegal aliens and
- 4 can be penalized for doing so. Additionally, employers

5 owe a duty to the legal residents of the state to uphold the  
6 intent and integrity of the general workforce due to the  
7 potential loss of revenue to the state by loss of taxes,  
8 unemployment premiums and workers' compensation  
9 premiums.

**§21-1B-2. Definitions.**

1 (a) "Employer" means any individual, person, corpora-  
2 tion, department, board, bureau, agency, commission,  
3 division, office, company, firm, partnership, council or  
4 committee of the state government, public benefit corpora-  
5 tion, public authority or political subdivision of the state,  
6 or other business entity which employs or seeks to employ  
7 an individual or individuals;

8 (b) "Commissioner" means the labor commissioner or his  
9 or her designated agent;

10 (c) "Alien" means any individual who is not a natural  
11 born or naturalized citizen of the United States; and

12 (d) "Records" means those records as may be required by  
13 the commissioner of labor for the purposes of compliance  
14 with the provisions of this article.

**§21-1B-3. Unauthorized aliens; employment prohibited.**

1 (a) It is unlawful for any employer to employ, hire,  
2 recruit, or refer, either for him or herself or on behalf of  
3 another, for private or public employment within the state,  
4 an alien who is not duly authorized to work by the immi-  
5 gration laws or the attorney general of the United States.

6 (b) Employers shall be required to verify a prospective  
7 employee's legal status or authorization to work prior to  
8 employing the individual or contracting with the individ-  
9 ual for employment services.

10 (c) For purposes of this article, proof of legal status or  
11 authorization to work includes, but is not limited to, a  
12 valid social security card, a valid immigration visa, a valid

13 birth certificate, a valid passport, a valid photo identifica-  
14 tion card issued by a government agency, valid permits  
15 issued by the department of justice or other valid docu-  
16 ment providing evidence of legal residence or authoriza-  
17 tion to work in the United States: *Provided*, That for an  
18 alien, such identification must include some form of photo  
19 identification.

**§21-1B-4. Record-keeping requirements; employer compliance.**

1 Every employer, firm and corporation shall make such  
2 records of the persons he or she employs including records  
3 of proof of the legal status or authorization to work of all  
4 employees. Such records shall be preserved pursuant to  
5 the provisions of section five, article five-c of this chapter  
6 and shall be maintained at the place of employment.  
7 Pursuant to section three, article one of this chapter, such  
8 records shall be made available to the commissioner or his  
9 or her authorized representative for inspection and  
10 investigation as the commissioner deems necessary and  
11 appropriate for the purposes of determining whether any  
12 employer, firm or corporation has violated any provision  
13 of this article which may aid in the enforcement of the  
14 provisions of this article.

**§21-1B-5. Penalties.**

1 (a) The first violation of the provisions of this article is  
2 a misdemeanor and, upon conviction thereof, a employer  
3 shall be fined not less than one hundred dollars nor more  
4 than one thousand dollars for each violation.

5 (b) Any employer who has previously been convicted of  
6 a violation of this article and who thereafter violates the  
7 provisions of this article shall be deemed to have know-  
8 ingly violated the provisions of this article and shall be  
9 guilty of a misdemeanor and shall be fined not less than  
10 five hundred or more than five thousand dollars for each  
11 violation.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is* approved this the *2nd*  
Day of *April*, 2002.

*[Signature]*  
.....  
Governor

PROCEEDING

3/26/02  
3.15 p