

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5424

By Delegate Dillon

[Introduced February 10, 2026; referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §21-1B-2, §21-1B-3, §21-1B-4, §21-1B-5, §21-1B-6, and §21-1B-7
 2 of the Code of West Virginia, 1931, as amended; and to amend the code by adding five
 3 new sections, designated §21-1B-9, §21-1B-10, §21-1B-11, §21-1B-12, and §21-1B-13,
 4 relating to the creation of the Worker Citizenship Verification Act of 2026; providing for
 5 expanded definitions; requiring employer verification; providing for investigation by the
 6 commissioner; providing for good faith compliance; providing for preemption of local
 7 ordinances; providing civil protections for employers verifying employee status; and
 8 providing for right of entry and inspection by inspectors.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1B. VERIFYING LEGAL EMPLOYMENT STATUS OF WORKERS.

§21-1B-2. Definitions.

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

5 (b) "Commissioner" means the labor commissioner or his or her designated agent.

6 ~~(c) "Unauthorized worker" means a person who does not have the legal right to be~~
 7 ~~employed or is employed in violation of law.~~

8 ~~(d) "Records" means records that may be required by the commissioner of labor for the~~
 9 ~~purposes of compliance with the provisions of this article.~~

10 ~~(e) "Knowingly" means, with respect to conduct or to a circumstance described by a statute~~
 11 ~~defining an offense, that a person is aware by documentation or action that the person's conduct is~~
 12 ~~of that nature or that the circumstance exists. Failure to request or review documentation of an~~
 13 ~~employee's legal status or authorization to work is deemed to be "knowingly".~~

14 ~~(f) "License" means any permit, certificate, approval, registration, charter or similar form of~~
 15 ~~authorization that is required by law and that is issued for the purpose of operating a business in~~

16 ~~this state.~~

17 (a) "Employer" means any individual, person, corporation, department, board, bureau,
18 agency, commission, division, office, company, firm, partnership, council or committee of the state
19 government, public benefit corporation, public authority or political subdivision of the state or other
20 business entity which employs or seeks to employ an individual or individuals.

21 (b) "Commissioner" means the labor commissioner or his or her designated agent.

22 (c) "Unauthorized worker" means a person who is either not a natural born or legally
23 naturalized citizen of the United States, and therefore ineligible to be employed in West Virginia.

24 (d) "Records" means records that may be required by the commissioner of labor for the
25 purposes of compliance with the provisions of this article.

26 (e) "Knowingly" means, with respect to conduct or to a circumstance described by a statute
27 defining an offense, that a person is aware by documentation or action that the person's conduct is
28 of that nature or that the circumstance exists. Failure to request or review documentation of an
29 employee's legal status or authorization to work is deemed to be "knowingly".

30 (f) "License" means any permit, certificate, approval, registration, charter or similar form of
31 authorization that is required by law and that is issued for the purpose of operating a business in
32 this state.

33 (g) "Employment Verification" means the method established in this section of code for the
34 purpose of determining that a potential employee is a legal citizen of the United States.

35 (h) "Employee" means any person directed, allowed, or permitted to perform labor or
36 services of any kind by an employer.

37 (l) "High Risk Industry" means any industry identified and designated by the commissioner
38 and approved by the legislature as having a significantly higher risk of employing unauthorized
39 workers compared to other industries.

§21-1B-3. Unauthorized workers; employment prohibited.

1 (a) It is unlawful for any employer to knowingly employ, hire, recruit or refer, either for him or

2 ~~herself or on behalf of another, for private or public employment within the state, an unauthorized~~
3 ~~worker who is not duly authorized to be employed by law.~~

4 ~~(b) Employers shall be required to verify a prospective employee's legal status or~~
5 ~~authorization to work prior to employing the individual or contracting with the individual for~~
6 ~~employment services.~~

7 ~~(c) For purposes of this article, proof of legal status or authorization to work includes, but is~~
8 ~~not limited to, a valid social security card, a valid immigration or nonimmigration visa, including~~
9 ~~photo identification, a valid birth certificate, a valid passport, a valid photo identification card issued~~
10 ~~by a government agency, a valid work permit or supervision permit authorized by the Division of~~
11 ~~Labor, a valid permit issued by the Department of Justice or other valid document providing~~
12 ~~evidence of legal residence or authorization to work in the United States.~~

13 ~~(d) For purposes of enforcing the provisions of this article, and notwithstanding any other~~
14 ~~provision of this code to the contrary, the commissioner or his or her authorized representative~~
15 ~~may access information maintained by any other state agency, including, but not limited to, the~~
16 ~~Bureau of Employment Programs and the Division of Motor Vehicles, for the limited purpose of~~
17 ~~confirming the validity of a worker's legal status or authorization to work. The commissioner shall~~
18 ~~promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code to~~
19 ~~safeguard against the release of any confidential or identifying information that is not necessary for~~
20 ~~the limited purpose of enforcing the provisions of this article.~~

21 (a) It is unlawful for any employer to knowingly employ, hire, recruit or refer, either for him or
22 herself or on behalf of another, for private or public employment within the state, an unauthorized
23 worker who is not duly authorized to be employed by law.

24 (b) Employers shall be required to verify a prospective employee's legal citizenship status
25 and obtain valid documentation that confirms the legal citizenship status of the prospective
26 employee prior to employing the individual or contracting with the individual for employment
27 services. In cases when document validity is in question, employer shall request assistance in

28 verification of documents from the Secretary of State. Secretary of State may request assistance
29 from appropriate federal agencies to validate any document if authenticity of document is in
30 question.

31 (c) For purposes of this article, proof of legal status or authorization to work includes, but is
32 not limited to, a valid social security card, a valid voter registration card, a valid birth certificate, a
33 valid passport, a valid photo identification card issued by a government agency when such agency
34 requires proof of citizenship must be legally demonstrated to obtain such photo identification card,
35 or other valid document providing evidence of legally verified citizenship of the United States.

36 (d) For purposes of enforcing the provisions of this article, and notwithstanding any other
37 provision of this code to the contrary, the commissioner or his or her authorized representative
38 may access information maintained by any other state agency, including, but not limited to, the
39 Bureau of Employment Programs and the Division of Motor Vehicles, for the limited purpose of
40 confirming the validity of a worker's legal status or authorization to work. The commissioner shall
41 promulgate rules in accordance with the provisions of §29A-3-1 et seq. of this code to safeguard
42 against the release of any confidential or identifying information that is not necessary for the
43 limited purpose of enforcing the provisions of this article.

44 (e)(1) All employers as defined in section two or this article shall obtain proof of worker
45 legal status under this article;

46 (2) After hiring an employee, an employer shall employ provisionally a new employee until
47 the new employee's citizenship has been verified pursuant to this section. An employer shall
48 complete the verification process even if the new employee's employment is terminated less than
49 three business days after becoming employed.

50 (3) If a new employee's citizenship is not verified by presenting appropriate valid
51 documentation as provided in this article, a private employer may not employ, continue to employ,
52 or reemploy the new employee.

53 (4) All employers shall keep a record of the verification for the duration of the employee's

54 employment with the employer or three years, whichever is longer.

55 (f) An employer may not employ any employee who meets the definition of unauthorized
56 worker as defined in section three of this article. Failure to comply with requirements in sections
57 two or three of this article shall be presumed to be violations of this section.

58 (g) For purposes of enforcing the provisions of this article, the Secretary of State shall
59 make available to employers an office, agent, or designee to verify all state documents presented
60 as proof of United States citizenship. The Secretary of State shall ensure that such office, agent, or
61 designee is available during normal office hours, and that contact information is posted on the
62 Secretary of State website and disseminated to employers at least once annually.

63 (i) For purposes of enforcing the provisions of this article, if the Secretary of State is unable
64 to verify the legal status of a potential employee, the office or its agent or designee shall be
65 authorized to contact the appropriate federal agency necessary to verify identity and legal
66 citizenship status of prospective employee in question.

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

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

9 Every employer, firm and corporation shall make such records of the persons he or she
10 employs including records of proof of the legal status or authorization to work of all employees.
11 These records shall be preserved pursuant to the provisions of §21-5C-5 of this code and shall be
12 maintained at the place of employment. Pursuant to §21-3-1 of this code, such the records shall

13 be made available to the commissioner or his or her authorized representative for inspection and
14 investigation as the commissioner deems necessary and appropriate for the purposes of
15 determining whether any employer, firm or corporation has violated any provision of this article
16 which may aid in the enforcement of the provisions of this article.

17 Nothing in this article may be construed as to abrogate an employer's obligation to comply
18 with federal immigration laws, including the completion and maintenance of federal employment
19 eligibility verification forms or documents.

§21-1B-5. Penalties.

1 ~~(a) Any employer who knowingly and willfully fails to maintain records as required by~~
2 ~~section four of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined~~
3 ~~\$100 for each offense. Failure to keep records on each employee constitutes a separate offense.~~

4 ~~(b) Any employer who knowingly violates the provisions of section three of this article by~~
5 ~~employing, hiring, recruiting or referring an unauthorized worker is guilty of a misdemeanor and,~~
6 ~~upon conviction thereof, is subject to the following penalties:~~

7 ~~(1) For a first offense, a fine of not less than \$100 nor more than \$1,000 for each violation;~~

8 ~~(2) For a second offense, a fine of not less than \$500 nor more than \$5,000 for each~~
9 ~~violation;~~

10 ~~(3) For a third or subsequent offense, a fine of not less than \$1,000 nor more than \$10,000,~~
11 ~~or confinement in jail for not less than thirty days nor more than one year, or both.~~

12 ~~(c) Any employer who knowingly and willfully provides false records as to the legal status~~
13 ~~or authorization to work of any employee to the commissioner or his or her authorized~~
14 ~~representative is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not~~
15 ~~more than one year or fined not more than \$2,500, or both.~~

16 ~~(d) Any employer who knowingly and willfully and with fraudulent intent sells, transfers or~~
17 ~~otherwise disposes of substantially all of the employer's assets for the purpose of evading the~~
18 ~~record-keeping requirements of section four of this article is guilty of a misdemeanor and, upon~~

19 conviction thereof, shall be confined in jail not more than one year or fined not more than \$10,000,
20 or both.

21 (a) Any employer who knowingly and willfully fails to maintain records as required by §21-
22 1B-4 of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$100 for
23 each offense. Failure to keep records on each employee constitutes a separate offense.

24 (b) Any employer who knowingly violates the provisions of §21-1B-3 of this code by
25 employing, hiring, recruiting or referring an unauthorized worker is subject to the penalties set forth
26 in §21-1B-7 of this code.

27 (c) Any employer who knowingly and willfully provides false records as to the legal status
28 or authorization to work of any employee to the commissioner or his or her authorized
29 representative is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not
30 more than one year or fined not more than \$2,500, or both.

31 (d) Any employer who knowingly and willfully and with fraudulent intent sells, transfers or
32 otherwise disposes of substantially all of the employer's assets for the purpose of evading the
33 record-keeping requirements of section four of this article is guilty of a misdemeanor and, upon
34 conviction thereof, shall be confined in jail not more than one year or fined not more than \$10,000,
35 or both.

§21-1B-6. Denial of deductible business expense.

1 [Repealed.]

§21-1B-7. Suspension or revocation of license.

1 ~~(a) If, upon examination of the record or records of conviction, the commissioner~~
2 ~~determines that an employer has been convicted of a third or subsequent offense under~~
3 ~~subsection (b), section five of this article or has been convicted of the offenses described in~~
4 ~~subsection (c) or (d) of said section, the commissioner may enter an order imposing the following~~
5 ~~disciplinary actions:~~

6 ~~(1) Permanently revoke or file an action to revoke any license held by the employer; or~~

7 ~~(2) Suspend a license or move for a suspension of any license held by the employer for a~~
8 ~~specified period;~~

9 ~~(b) The order shall contain the reasons for the revocation or suspension and the revocation~~
10 ~~or suspension periods. Further, the order shall give the procedures for requesting a hearing. The~~
11 ~~person shall be advised in the order that because of the receipt of the record of conviction by the~~
12 ~~commissioner a presumption exists that the person named in the record of conviction is the person~~
13 ~~named in the commissioner's order and this constitutes sufficient evidence to support a revocation~~
14 ~~or suspension and that the sole purpose for the hearing held under this section is for the person~~
15 ~~requesting the hearing to present evidence that he or she is not the person named in the record of~~
16 ~~conviction. A copy of the order shall be forwarded to the person by registered or certified mail,~~
17 ~~return receipt requested. No revocation or suspension shall become effective until ten days after~~
18 ~~receipt of a copy of the order.~~

19 (a) If, upon examination of the record or records of conviction, the commissioner
20 determines that an employer has been convicted of the offenses described in §21-1B-5(c) or §21-
21 1B-5(d) of this code, the commissioner may enter an order imposing the following disciplinary
22 actions:

23 (1) Permanently revoke or file an action to revoke any license held by the employer; or

24 (2) Suspend a license or move for a suspension of any license held by the employer for a
25 specified period;

26 (b) The order shall contain the reasons for the revocation or suspension and the revocation
27 or suspension periods. Further, the order shall give the procedures for requesting a hearing. The
28 person shall be advised in the order that because of the receipt of the record of conviction by the
29 commissioner a presumption exists that the person named in the record of conviction is the person
30 named in the commissioner's order and this constitutes sufficient evidence to support a revocation
31 or suspension and that the sole purpose for the hearing held under this section is for the person
32 requesting the hearing to present evidence that he or she is not the person named in the record of

33 conviction. A copy of the order shall be forwarded to the person by registered or certified mail,
34 return receipt requested. No revocation or suspension shall become effective until ten days after
35 receipt of a copy of the order.

36 (c) Upon a knowing and willful first violation of §21-1B-3 of this code by a private employer
37 the commissioner shall, after providing notice and an opportunity to be heard pursuant to §29A-5-1
38 et seq. of this code, issue a formal warning to the employer. Any employer who is not in
39 compliance with the provisions of this article within 14 days of the commissioner's final order is
40 subject to the sanctions set forth in §21-1B-7(d) of this section.

41 (d) Upon a knowing and willful second violation of §21-1B-3 of this code by a private
42 employer the commissioner shall, after providing notice and an opportunity to be heard pursuant to
43 §29A-5-1 et seq. of this code, post on the division's website that the employer has violated the
44 provisions of this article and bring a civil action in a court of competent jurisdiction to obtain an
45 order prohibiting the employer from bidding for or entering into any contract with the state or any of
46 its subdivisions for one year next after the date of the court's order. Any employer who is not in
47 compliance with the provisions of this article within 14 days of the order is subject to the sanctions
48 set forth in §21-1B-7(e) of this section.

49 (e) Upon a knowing and willful third violation of §21-1B-3 of this code by a private employer
50 the commissioner shall, after providing notice and an opportunity to be heard pursuant to §29A-5-1
51 et seq. of this code, bring a civil action in a court of competent jurisdiction to permanently revoke
52 the business license of the employer, and the court shall permanently suspend the business
53 license of the employer upon making specific findings that the employer knowingly and willfully
54 violated the provisions of this article and shall then order that any applicable governing body will
55 permanently suspend the employer's business license.

56 (f) For purposes of this section, a knowing and willful violation of §21-1B-3 of this code shall
57 be considered a first, second, or third violation only by reference to prior violations of §21-1B-3 of
58 this code that:

59 (1) Were finally determined by an order of the commissioner issued pursuant to §29A-5-1
60 et seq. of this code or by a final order of a court of competent jurisdiction; and

61 (2) Occurred within five years immediately preceding the date of the violation at issue, as
62 determined in the applicable final order.

63 (g) An employer that demonstrates that it verified an employee's legal status to work
64 through compliance with this article has established an affirmative defense that the employer has
65 not violated §21-1B-3 of this code with respect to the hiring of that employee.

§21-1B-9. Investigation by the Commissioner.

1 (a) The commissioner shall prescribe a complaint form for an individual to allege a violation
2 of section four of this article. The commissioner may not require the complaint to list personal
3 identifying information on the complaint form or to have the form notarized. A complainant shall
4 submit the complaint to the commissioner. Except as prohibited by law, the commissioner shall
5 investigate any violation alleged in a prescribed form to the commissioner.

6 (1) The commissioner may investigate a complaint form submitted by an anonymous
7 complainant.

8 (2) The commissioner may not investigate any complaint filed that is based on race, color,
9 national origin, or any other discriminatory factor.

10 (b) If the commissioner conducts an investigation under this section and determines that
11 reasonable evidence exists that an employer has violated a provision of this article, the
12 commissioner shall take the following actions:

13 (1) Provide notice of the alleged violation to the employer and provide the employer with an
14 opportunity to comment;

15 (2) If, upon notice, the commissioner determines that this is the employer's first violation
16 and it constitutes only a single unverified or unauthorized worker, the commissioner may, upon the
17 employer presenting proof that the violation has been corrected, issue a formal warning letter to
18 the employer and close the matter.

19 (3) If, upon notice, the commissioner determines that this violation constitutes either a
20 second violation for the employer or constitutes two or more unverified or unauthorized workers,
21 the commissioner shall order the employer to pay a fine of \$2,500 for each violation.

22 (4) If, upon notice, the commissioner determines that this violation constitutes a third or
23 subsequent violation for the employer the commissioner shall order the employer to pay a fine of
24 \$5,000 for each violation and shall institute proceedings before a court of competent jurisdiction to
25 suspend or revoke the employer's license to transact business in this State.

26 (c) An employer who is assessed fines under this paragraph, may appeal that
27 determination to a court of competent jurisdiction but is required to pay an appeal bond equal to
28 the amount of the fine. If the court finds for the employer, the bond will be released, and the
29 violation will not count as a previous violation for purposes of a subsequent investigation.

30 (e) The commissioner shall bring proper action against an employer who does not comply
31 with the order to pay the fine and who does not appeal the assessment. If the court determines that
32 the employer is liable, the court may assess double the fine of what was ordered by the
33 commissioner.

34 (f) The commissioner, in consultation with the state departments responsible for business
35 licenses and for contracts, shall maintain a list of every employer assessed a fine under this
36 section. An employer shall remain on the list for a period not to exceed one year, and during that
37 period, the employer may not be eligible to bid for or participate in any state contract. Following
38 the year period, the employer shall be eligible to bid for and participate in state contracts if the
39 employer files a sworn affidavit with the commissioner that one year or more has elapsed since the
40 order described in this section and that the employer has not violated any provision of this bill
41 during that period.

42 (g) The commissioner shall compile a list of High Risk Industries for illegal workers and
43 inspect such workplaces on a more frequent basis than general employers.

§21-1B-10.

Good

faith

compliance.

1 For purposes of this article, an employer who, in good faith, verifies the immigration status
2 of a new employee pursuant to the provisions of this chapter shall be presumed to have complied
3 with all of the provisions of this article.

§21-1B-11. Preemption of local ordinances.

1 A political subdivision of the state may not enact an ordinance or policy, whether written or
2 oral, that limits or otherwise acts in contravention of the commissioner's ability to enforce the
3 provisions of this article.

§21-1B-12. Civil protections for employers verifying employee status.

1 An employer who terminates an employee in order to comply with the provisions of this
2 article may not be subject to a civil action for wrongful termination of the employee as provided by
3 law.

§21-1B-13. Right of entry, inspection, and inspection plan.

1 The commissioner shall review federal and state data to identify industries statistically
2 more likely to harbor unauthorized workers as defined under this article, and propose, subject to
3 legislative approval, that those industries should be designated as "High Risk Industries."
4 Industries meeting these criteria shall be known in this article as "High Risk Industries."
5 Subsequent to legislative approval of the categories of High Risk Industries, the commissioner
6 shall create a list of business locations within such industries and designate inspectors to make
7 randomly selected, unannounced inspections of such business locations on a routine basis.
8 Business locations not considered High Risk Industries shall also be subject to inspection, but at a
9 lower frequency of inspection than High Risk Industries. Commissioner shall promulgate a plan for
10 inspections including staffing, budgeting, and projected number of businesses to be subject to
11 inspection. Such plan shall be subject to legislative approval. Subsequent to creation of plan,
12 commissioner shall present annually to the Legislative Oversight Commission on Workforce
13 Development and Labor Issues.

14 The commissioner, inspectors, agents, or designees, upon proper presentation of

- 15 credentials to the owner, manager, or agent of the employer, may enter at reasonable times and
16 have the right to question either publicly or privately any employer, owner, manager, or agent and
17 the employees of the private employer and inspect, investigate, reproduce, or photograph original
18 business records relevant to determining compliance with the provisions of this article.

NOTE: The purpose of this bill is create the Worker Citizenship Verification Act of 2026.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.