

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature recognizes that while a  
2 majority of contractors and developers in our State conduct  
3 business in a legal, ethical, safe and conscientious manner,  
4 unfortunately, there are some in our community who flaunt local  
5 rules and hiring practices and violate our laws and island  
6 values. These unscrupulous contractors engage in illegal hiring  
7 practices, fail to adhere to safety codes, and play fast and  
8 loose in other ways to increase their profits at the expense of  
9 Hawaii's skilled workers and consumers. As a consequence they  
10 also gain an unfair competitive advantage over reputable,  
11 law-abiding companies and are contributing to an underpaid,  
12 under-trained workforce. Recent reports regarding the arrest  
13 and prosecution of unauthorized aliens working in the State of  
14 Hawaii in the agricultural and service industries indicate that  
15 the problem may be growing.

16           The legislature finds that Hawaii needs to preserve fair  
17 labor practices and quality construction standards in Hawaii by



1 holding those who engage in illegal hiring practices  
2 accountable.

3 The purpose of this Act is to create the criminal offenses  
4 of:

- 5 (1) Accepting false identification documents for  
6 employment purposes; and  
7 (2) Trafficking in personal identifying information for  
8 employment purposes.

9 SECTION 2. Chapter 707, Hawaii Revised Statutes, is  
10 amended by adding two new sections to part IV to be  
11 appropriately designated and to read as follows:

12 **"§707- Accepting false identification documents for**  
13 **employment purposes.** (1) An employer commits the offense of  
14 accepting false identification documents for employment purposes  
15 if, for the purpose of validating whether the person presenting  
16 the personal identifying information has the legal right or  
17 authorization under federal law to work in the United States, the  
18 employer accepts any personal identifying information from the  
19 person seeking to obtain or continue employment with the  
20 employer, with actual knowledge that the person submitting the  
21 personal identifying information is not the person identified by  
22 the information submitted.



1        (2) Accepting false identification documents for  
2 employment purposes is a class C felony.

3        (3) For purposes of this section:

4        "Employer" means a person who engages the services of an  
5 employee, and includes any person acting on behalf of an  
6 employer, but shall not include the State or any political  
7 subdivision thereof, or any labor organization or anyone acting  
8 in behalf of the labor organization other than when it is acting  
9 as an employer in fact. The term "employer" includes, but is  
10 not limited to, construction contractors and employers engaged  
11 in agriculture.

12        "Employment" means any rendering of service for  
13 compensation.

14        "Personal identifying information" means a drivers'  
15 license, state identification card, or social security card.

16        **§707- Trafficking in personal identifying information**

17 **for employment purposes.** (1) A person commits the offense of  
18 trafficking in personal identifying information for employment  
19 purposes if that person knowingly sells, transfers, or transmits  
20 personal identifying information of another person, including a  
21 real or fictitious person, for the purpose of obtaining or  
22 continuing the employment of a third person.



1       (2) Trafficking in personal identifying information for  
2 employment purposes is a class C felony.

3       (3) For purposes of this section:

4       "Employment" means any rendering of service for  
5 compensation.

6       "Personal identifying information" means a drivers'  
7 license, state identification card, or social security card."

8       SECTION 3. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun, before its effective date.

11       SECTION 4. If any provision of this Act, or the  
12 application thereof to any person or circumstance is held  
13 invalid, the invalidity does not affect other provisions or  
14 applications of the Act, which can be given effect without the  
15 invalid provision or application, and to this end the provisions  
16 of this Act are severable.

17       SECTION 5. New statutory material is underscored.

18       SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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**Report Title:**

Unauthorized Aliens; Employment

**Description:**

Creates a criminal offense of accepting false identification documents for employment purposes. Creates a criminal offense of trafficking in personal identifying information for employment purposes.

