SECOND REGULAR SESSION

HOUSE BILL NO. 1515

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MURPHY.

3754H.01I

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DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 67.307, 285.530, 285.535, and 650.475, RSMo, and to enact in lieu thereof six new sections relating to employment practices, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 67.307, 285.530, 285.535, and 650.475, RSMo, are repealed and

- 2 six new sections enacted in lieu thereof, to be known as sections 67.307, 285.530, 285.535,
- 3 285.545, 290.045, and 650.475, to read as follows:
 - 67.307. 1. As used in this section, the following terms mean:
- 2 (1) "Law enforcement officer", a sheriff or peace officer of a municipality with the 3 duty and power of arrest for violation of the general criminal laws of the state or for violation
- 4 of ordinances of municipalities;
 - (2) "Municipality", any county, city, town, or village;
- 6 (3) "Municipality official", any elected or appointed official or any law enforcement 7 officer serving the municipality;
- 8 (4) "Sanctuary policy", any municipality's order or ordinance, enacted or followed 9 that:
- 10 (a) Limits or prohibits any municipality official or person employed by the 11 municipality from communicating or cooperating with federal agencies or officials to verify 12 or report the immigration status of any alien within such municipality; or
- 13 (b) Grants to illegal aliens the right to lawful presence or status within the 14 municipality in violation of federal law.
- 2. No municipality shall enact or adopt any sanctuary policy. Any municipality that enacts or adopts a sanctuary policy shall be ineligible for any moneys provided through grants

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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administered by any state agency or department until the sanctuary policy is repealed or is no longer in effect. Upon the complaint of any state resident regarding a specific government entity, agency, or political subdivision of this state or prior to the provision of funds or awarding of any grants to a government entity, agency, or political subdivision of this state, any member of the general assembly may request that the attorney general of the state of Missouri issue an opinion stating whether the government entity, agency, or political subdivision has current policies in contravention of this section.

- 3. The governing body, sheriff, or chief of police of each municipality shall provide each law enforcement officer with written notice of their duty to cooperate with state and federal agencies and officials on matters pertaining to enforcement of state and federal laws governing immigration.
 - 4. This section shall become effective on January 1, 2009.
- 5. The provisions of this section shall not apply to qualified immigrant workers registered in the Missouri department of labor and industrial relations database under section 285.545.
- 285.530. 1. No business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.
- 4 2. As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Any entity contracting 11 with the state or any political subdivision of the state shall only be required to provide the affidavits required in this subsection to the state and any political subdivision of the state with 14 which it contracts, on an annual basis. During or immediately after an emergency, the requirements of this subsection that a business entity enroll and participate in a federal work authorization program shall be suspended for fifteen working days. As used in this 16 subsection, "emergency" includes the following natural and manmade disasters: major snow and ice storms, floods, tornadoes, severe weather, earthquakes, hazardous material incidents, 18 19 nuclear power plant accidents, other radiological hazards, and major mechanical failures of a 20 public utility facility.
 - 3. All public employers, **private employers**, and business entities shall enroll and actively participate in a federal work authorization program.

4. (1) Beginning January 1, 2025, an employer [may enroll and participate in a federal work authorization program and] or business entity shall verify the employment eligibility of every employee in the employer's or business entity's hire whose employment commences after the employer or business entity enrolls in a federal work authorization program. The employer or business entity shall retain a copy of the dated verification report received from the federal government. [Any] An employer or business entity [that participates] enrolled and participating in such program shall have an affirmative defense that such business entity has not violated subsection 1 of this section.

- (2) (a) If a private employer or business entity fails to comply with this subsection, the department shall require the private employer or business entity to provide an affidavit to the department stating that the private employer or business entity:
 - a. Will comply with this subsection;
 - b. Has terminated the employment of all unauthorized aliens in this state; and
 - c. Will not knowingly employ an unauthorized alien in this state.
- (b) If the private employer or business entity does not provide the required affidavit and fails to comply with this subsection within fifteen days of the date of the department's notice, the attorney general shall direct the appropriate licensing agency or applicable municipal or county governing body to suspend all applicable licenses, permits, or exemptions of the private employer or business entity until the private employer or business entity provides the department with the required affidavit that demonstrates compliance with this subsection.
- 5. (1) A general contractor or subcontractor of any tier shall not be liable under sections 285.525 to 285.550 when such general contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of this section, if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of subsection 1 of this section and shall not henceforth be in such violation and the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.
- (2) If a general contractor or subcontractor of any tier knows or discovers that the direct subcontractor of such general contractor or subcontractor is in violation of subsection 1 of this section, the general contractor or subcontractor shall report such violation to the department. If the general contractor or subcontractor fails to report such violation upon learning of the violation, the general contractor or subcontractor shall be subject to the same penalty for the violation as the direct subcontractor.

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285.535. 1. The attorney general shall enforce the requirements of sections 285.525 to 285.550.

- 2. An enforcement action shall be initiated by means of a written, signed complaint under penalty of perjury as defined in section 575.040 to the attorney general submitted by any state official, business entity, or state resident. A valid complaint shall include an allegation which describes the alleged violator as well as the actions constituting the violation, and the date and location where such actions occurred. A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced.
- 3. Upon receipt of a valid complaint, the attorney general shall, within fifteen business days, request identity information from the business entity regarding any persons alleged to be unauthorized aliens. Such request shall be made by certified mail. The attorney general shall direct the applicable municipal or county governing body to suspend any applicable license, permit, or exemptions of any business entity which fails, within fifteen business days after receipt of the request, to provide such information.
- 4. The attorney general, after receiving the requested identity information from the business entity, shall submit identity data required by the federal government to verify, under 17 8 U.S.C. 1373, the immigration status of such persons, and shall provide the business entity with written notice of the results of the verification request:
 - (1) If the federal government notifies the attorney general that an employee is authorized to work in the United States, the attorney general shall take no further action on the complaint;
 - (2) If the federal government notifies the attorney general that an employee is not authorized to work in the United States, the attorney general shall proceed on the complaint as provided in subsection 5 of this section;
 - (3) If the federal government notifies the attorney general that it is unable to verify whether an employee is authorized to work in the United States, the attorney general shall take no further action on the complaint until a verification from the federal government concerning the status of the individual is received. At no point shall any state official attempt to make an independent determination of any alien's legal status without verification from the federal government.
 - 5. (1) If the federal government notifies the attorney general that an employee is not authorized to work in the United States, and the employer of the unauthorized alien participates in a federal work authorization program, there shall be a rebuttable presumption that the employer has met the requirements for an affirmative defense under subsection 4 of section 285.530, and the employer shall comply with subsection 6 of this section.

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- (2) If the federal government notifies the attorney general that an employee is not authorized to work in the United States, the attorney general shall bring a civil action in Cole County if the attorney general reasonably believes the business entity knowingly violated 40 subsection 1 of section 285.530:
 - (a) If the court finds that a business entity did not knowingly violate subsection 1 of section 285.530, the employer shall have fifteen business days to comply with subdivision (1) and paragraph (a) of subdivision (2) of subsection 6 of this section. If the entity fails to do so, the court shall direct the applicable municipal or county governing body to suspend the business permit, if such exists, and any applicable licenses or exemptions of the entity until the entity complies with subsection 6 of this section;
 - (b) If the court finds that a business entity knowingly violated subsection 1 of section 285.530, the court shall direct the applicable municipal or county governing body to suspend the business permit, if such exists, and any applicable licenses or exemptions of such business entity for [fourteen] one hundred twenty days. Permits, licenses, and exemptions shall be reinstated for entities who comply with subsection 6 of this section at the end of the [fourteenday one-hundred-twenty-day period.
 - 6. The correction of a violation with respect to the employment of an unauthorized alien shall include the following actions:
 - (1) (a) The business entity terminates the unauthorized alien's employment. If the business entity attempts to terminate the unauthorized alien's employment and such termination is challenged in a court of the state of Missouri, the fifteen-business-day period for providing information to the attorney general referenced in subsection 3 of this section shall be tolled while the business entity pursues the termination of the unauthorized alien's employment in such forum; or
 - (b) The business entity, after acquiring additional information from the employee, requests a secondary or additional verification by the federal government of the employee's authorization, under the procedures of a federal work authorization program. While this verification is pending, the fifteen-business-day period for providing information to the attorney general referenced in subsection 3 of this section shall be tolled; and
 - (2) A legal representative of the business entity submits, at an office designated by the attorney general, the following:
 - (a) A sworn affidavit stating that the violation has ended that shall include a description of the specific measures and actions taken by the business entity to end the violation, and the name, address, and other adequate identifying information for any unauthorized aliens related to the complaint; and
 - (b) Documentation acceptable to the attorney general which confirms that the business entity has enrolled in and is participating in a federal work authorization program.

- 7. The suspension of a business license or licenses under subsection 5 of this section shall terminate one business day after a legal representative of the business entity submits the affidavit and other documentation required under subsection 6 of this section following any period of restriction required under subsection 5 of this section.
- 8. For an entity that violates subsection 1 of section 285.530 for a second time, the court shall direct the applicable municipal or county governing body to suspend, for one year, the business permit, if such exists, and any applicable license or exemptions of the business entity. For a subsequent violation, the court shall direct the applicable municipal or county governing body to forever suspend the business permit, if such exists, and any applicable license or exemptions of the business entity. A second or subsequent violation of subsection 1 of section 285.530 by any business entity shall be deemed a class D felony.
 - 9. In addition to the penalties in subsections 5 and 8 of this section:
- (1) Upon the first violation of subsection 1 of section 285.530 by any business entity awarded a state contract or grant or receiving a state-administered tax credit, tax abatement, or loan from the state, the business entity shall be deemed in breach of contract and the state may terminate the contract and suspend or debar the business entity from doing business with the state for a period of three years. Upon such termination, the state may withhold up to twenty-five percent of the total amount due to the business entity;
- (2) Upon a second or subsequent violation of subsection 1 of section 285.530 by any business entity awarded a state contract or grant or receiving a state-administered tax credit, tax abatement, or loan from the state, the business entity shall be deemed in breach of contract and the state may terminate the contract and permanently suspend or debar the business entity from doing business with the state. Upon such termination, the state may withhold up to twenty-five percent of the total amount due to the business entity. A second or subsequent violation of subsection 1 of section 285.530 by any business entity shall be deemed a class D felony.
- 10. Sections 285.525 to 285.550 shall not be construed to deny any procedural mechanisms or legal defenses included in a federal work authorization program.
- 11. Any business entity subject to a complaint and subsequent enforcement under sections 285.525 to 285.540, or any employee of such a business entity, may challenge the enforcement of this section with respect to such entity or employee in the courts of the state of Missouri.
- 12. If the court finds that any complaint is frivolous in nature or finds no probable cause to believe that there has been a violation, the court shall dismiss the case. For purposes of this subsection, "frivolous" shall mean a complaint not shown by clear and convincing evidence to be valid. Any person who submits a frivolous complaint shall be liable for actual, compensatory, and punitive damages to the alleged violator for holding the alleged violator

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before the public in a false light. If the court finds that a complaint is frivolous or that there is not probable cause to believe there has been a violation, the attorney general shall issue a public report to the complainant and the alleged violator stating with particularity its reasons for dismissal of the complaint. Upon such issuance, the complaint and all materials relating to the complaint shall be a public record as defined in chapter 610.

- 13. The determination of whether a worker is an unauthorized alien shall be made by the federal government. A determination of such status of an individual by the federal government shall create a rebuttable presumption as to that individual's status in any judicial proceedings brought under this section or section 285.530. The court may take judicial notice of any verification of an individual's status previously provided by the federal government and may request the federal government to provide automated or testimonial verification.
- 122 14. Compensation, whether in money or in kind or in services, knowingly provided to 123 any unauthorized alien shall not be allowed as a business expense deduction from any income 124 or business taxes of this state.
 - 15. Any business entity which terminates an employee in accordance with this section shall not be liable for any claims made against the business entity under chapter 213 for the termination.
 - 285.545. 1. The provisions of this section shall be known and may be cited as the "Immigrant Employment Registration and Taxation Protection Act".
 - 2. As used in this section, the following terms mean:
 - 4 (1) "Alien", any person not a citizen or national of the United States, as defined 5 in 8 U.S.C. 1101(a)(3);
 - (2) "Qualified immigrant worker", a person who:
 - (a) Is an alien, but not an unauthorized alien, as defined under this section, who is legally authorized under federal law to accept employment;
 - (b) Has obtained a valid work permit; and
 - (c) Is a new hire or employed in the state of Missouri;
 - (3) "Unauthorized alien", the same definition as defined under section 285.525.
 - 3. The Missouri department of labor and industrial relations shall maintain a database or registry of qualified immigrant workers. The department shall establish any forms and procedures necessary to process and maintain such a database or registry, mechanisms by which employers shall verify registration of any qualified immigrant workers, and any other necessary information required to verify the identity and employment of qualified immigrant workers, but not more or different documents than are required by federal law for the federal government to verify employment.

4. A qualified immigrant worker shall be required to sign an affidavit of understanding, on a form developed by the department, that includes, but is not limited to, the following:

- (1) That the registration qualifies the qualified immigrant worker for employment only until legal immigration status is determined by the courts;
- (2) That nothing in this section shall make the qualified immigrant worker eligible for any other services provided by the state; and
- (3) That if at any time the qualified immigrant worker is convicted of a felony crime in the federal or state courts system, the work privileges will be immediately revoked.
- 5. Notwithstanding any other law to the contrary and subject to all applicable federal laws, a qualified immigrant worker, as defined under this section, shall be registered by the worker's employer with the department, and such employer shall provide the department with all necessary documentation in compliance with this section.
- 6. The department shall provide a written confirmation to the employer upon the registration of the qualified immigrant worker in compliance with this section.
- 7. The provisions relating to verification eligibility of a qualified immigrant worker shall not apply to an employer who receives and provides the necessary documentation relating to the qualified immigrant worker to the department in compliance with this section. The verification eligibility of a qualified immigrant worker shall be included in the database or registry maintained by the department for future eligibility determinations.
- 8. The Missouri attorney general shall be authorized with the enforcement of the provisions of this section, subject to the applicable requirements of sections 285.525 to 285.550.
- 9. The department may establish memorandums of understanding between the attorney general's office and the Missouri state highway patrol to share such information under this section in furtherance of the purposes of this section.
- 10. The department shall issue a written noncompliance notice to any employer who fails to register a qualified immigrant worker within thirty days of hire. If the employer fails to register the worker within the fifteen days after receipt of such notice, the department shall notify the attorney general of the employer's noncompliance and the attorney general shall direct the appropriate licensing agency or applicable municipal or county governing body to suspend all applicable licenses, permits, or exemptions of the employer until the employer complies with this section.

11. (1) After the employer notifies, in writing, the qualified immigrant worker or an individual seeking employment that the failure to submit the requested documentation is a violation of the law and subject to punishment, any qualified immigrant worker or an individual seeking employment who fails to provide the employer-requested documentation that is required to verify work authorization status with the employer, federal authorities, and the department for the purposes of this registry, within thirty days of the date of the request, shall be guilty of a class D felony.

- (2) The attorney general shall investigate alleged or suspected violations of this subsection and shall have the authority to prosecute alleged violations.
- (3) An enforcement action shall be initiated by means of a signed, written complaint, under penalty of perjury, as defined in section 575.040, to the attorney general submitted by any state official, business entity, or state resident. A valid complaint shall include an allegation that describes the alleged violator as well as the actions constituting the violation and the date and location where such actions occurred. A complaint that alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced.
- (4) Upon receipt of a valid complaint, the attorney general shall, within fifteen business days, request information from the employer or employee alleged to be in violation regarding the alleged violation of this subsection. Such request shall be made by certified mail.
- (5) The attorney general, after receiving the requested information from the employer or employee alleged to be in violation, shall submit any data required by the federal government to verify, under 8 U.S.C. 1373, the immigration status of such employee and shall provide the employer with written notice of the results of the verification request.
- (a) If the federal government notifies the attorney general that an employee is authorized to work in the United States, the attorney general shall take no further action on the complaint.
- (b) If the federal government notifies the attorney general that an employee is not authorized to work in the United States, the attorney general shall notify the employer and the employer shall terminate the unauthorized alien's employment and follow the procedures related to the hiring of unauthorized aliens under sections 285.530 and 285.535.
- (c) If the federal government notifies the attorney general that it is unable to verify whether an employee is authorized to work in the United States, the attorney general shall take no further action on the complaint until verification from the federal government concerning the status of the individual is received.

Unless required by federal law, at no point shall any state official attempt to make an independent determination of any alien's legal status without verification from the federal government.

- (6) During the investigation, if the attorney general discovers evidence of unpaid income tax, failure to file tax returns, tax evasion, or other violations of chapter 143, the attorney general is authorized to inform and cooperate with the department of revenue for the investigation and enforcement of any additional criminal liabilities under chapter 143.
- (7) Any employee subject to a complaint and subsequent enforcement under this subsection may challenge the enforcement of this section with respect to such employee in the courts of the state of Missouri.
- (8) The determination of whether a worker is an unauthorized alien shall be made by the federal government. A determination of such status of an individual by the federal government shall create a rebuttable presumption as to that individual's status in any judicial proceedings brought under this section. The court may take judicial notice of any verification of an individual's status previously provided by the federal government and may request the federal government to provide automated or testimonial verification.
- 12. Nothing in this section shall be construed by the immigration courts to imply that the state of Missouri is an advocate for a legal immigration status relating to a qualified immigrant worker or worker.
- 13. The department may promulgate all necessary rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.
 - 14. The provisions of this section shall take effect January 1, 2025.
- 290.045. 1. A person who is sixteen years of age or older but under eighteen years of age, enrolled in secondary school as a full-time student, and employed for wages or other remuneration shall not be permitted, forced, or compelled to work after 10:00 p.m. on an evening before a school day when school is in session for the regular school year. The provisions of this section may be waived by the director, on an individualized

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6 basis, depending upon the nature of the employment. Such waiver shall be provided in writing to the employer by the director. As used in this section, "director" means the director of the department of labor and industrial relations or his or her authorized 9 representative.

- 2. The provisions of subsection 1 of this section shall not include the following:
- 11 (a) Any person employed by or working under the direct control of the person's 12 parent or legal guardian;
 - (b) A student who attends a home school as that term is defined under section 167.031; or
- (c) A full-time student who is eligible to receive credit for work that is performed 16 during the school year based upon criteria established by the secondary school system.
- 650.475. 1. Notwithstanding any other provision of law, no government entity, political subdivision, or government official within the state of Missouri shall prohibit, or in any way restrict, any government entity or official from communicating or cooperating with 4 the United States Bureau of Immigration and Customs Enforcement regarding the citizenship 5 or immigration status, lawful or unlawful, of any individual.
 - 2. Municipalities and political subdivisions may collect and share the identity of persons by the same means the Federal Bureau of Investigation or its successor agency uses in its Integrated Automated Fingerprint Identification System or its successor program.
- 9 3. Notwithstanding any other provision of law, no person or agency within the state of Missouri shall prohibit, or in any way restrict, a public employee from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of 11 any individual: 12
 - (1) Sending such information to, or requesting or receiving such information from, the United States Bureau of Immigration and Customs Enforcement;
 - (2) Maintaining such information; or
- (3) Exchanging such information with any other federal, state, or local government 16 17 entity.
- 18 4. Upon the complaint of any state resident regarding a specific government entity, agency, or political subdivision of this state or prior to the provision of funds or awarding of any grants to a government entity, agency, or political subdivision of this state, any member 20 21 of the general assembly may request that the attorney general of the state of Missouri issue an 22 opinion stating whether the government entity, agency, or political subdivision has current policies in contravention of subsections 1 and 3 of this section. 23
- 24 5. No state agency or department shall provide any funding or award any monetary grants to any government entity, agency, or political subdivision determined under subsection 25

- 4 of this section to have a policy in contravention of subsections 1 and 3 of this section until the policy is repealed or no longer in effect.
- 6. The provisions of subsections 1 and 3 of this section shall not apply to any state or local agency administering one or more federal public benefit programs as such term is defined in 8 U.S.C. Section 1612, or any qualified immigrant worker registered in the department of labor and industrial relations database established under section 285.545.

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