

DUTIES REGARDING NEW IMMIGRATION LEGISLATION

ENTITY/AFFECTED PARTY	S.C. CODE SECTION	APPROVED AMMENDMENT	EFFECTIVE DATE
Public Employers	§ 8-14-20	<p>(A) On or after January 1, 2009, every public employer shall register and participate in the federal work authorization program to verify the employment authorization of all new employees.</p> <p>(B) A public employer may not enter into a services contract with a contractor for the physical performance of services within this State unless the contractor agrees:</p> <p style="padding-left: 40px;">(1) to register and participate in the federal work authorization program to verify the employment authorization of all new employees; and require agreement from its subcontractors, and through the subcontractors, the sub-subcontractors, to register and participate in the federal verification of the employment authorization of all new employees; or</p> <p style="padding-left: 40px;">(2) to employ only workers who:</p> <p style="padding-left: 80px;">(a) possess a valid S.C. driver's license or identification card issued by the S.C. Department of Motor Vehicles;</p> <p style="padding-left: 80px;">(b) are eligible to obtain a S.C. driver's license or identification card in that they meet the requirements set forth in §§ 56-1-40 through 56-1-90; or</p> <p style="padding-left: 80px;">(c) possess a valid driver's license or identification card from another state where the license requirements are at least as strict as those in S.C., as determined by the Executive Director of the S.C. Department of Motor Vehicles, or his designee. The Executive Director of the S.C. Department of Motor Vehicles, or his designee, shall publish on its website a list of states where the license requirements are at least as strict as those in S.C..</p> <p>(C) A public employer and contractor must not divide work or duties that would otherwise constitute a single service contract into separate contracts for the purpose of avoiding the requirements of this chapter.</p>	January 1, 2009
	§ 8-14-40	A public employer complies with this chapter if it obtains a written statement from the contractor certifying that the contractor will comply with the requirements of this chapter and agrees to provide to the public employer any documentation required to establish either: (a) the applicability of this chapter to the contractor, subcontractor, and sub-subcontractor; or (b) the compliance with this chapter by the contractor and any subcontractor or sub-subcontractor. A public employer need not audit or independently verify a contractor's compliance with this chapter.	January 1, 2009
	§ 8-14-50	A contractor or public employer who in good faith complies with the requirements of this chapter may not be sanctioned or subjected to any civil or administrative action for employing an individual not authorized for employment in the U.S..	January 1, 2009
	§ 41-1-30	<p>(A) There is a civil right of action for wrongful termination against an employer who discharges an employee authorized to work in the U.S. for the purpose of replacing that employee with a person the employer knows or should reasonably know is an unauthorized alien.</p> <p>(C) This section does not create an employment contract for either a public or private employer.</p> <p>(D) An employee who brings a civil suit pursuant to this section is limited to the following recovery:</p> <p style="padding-left: 40px;">(1) reinstatement to his former position;</p> <p style="padding-left: 40px;">(2) actual damages; and</p> <p style="padding-left: 40px;">(3) lost wages.</p>	September 2, 2008

(E) A cause of action does not arise against an employer who submits the necessary identifying information for all employees through the Systematic Alien Verification of Entitlement (SAVE) program, the E-Verify Program or a successor program used for verification of work authorization and operated by the U.S. Department of Homeland Security.

(F) Any cause of action arising pursuant to this section is equitable in nature and must be brought within one year of the date of the alleged violation.

(G) For any action brought pursuant to this section, the court may award attorney fees to the prevailing party.

(H) The provisions of this section do not apply to a private employer who terminates an employee to comply with the provisions of Chapter 8 of Title 41.

(I) This section takes effect ninety days after the effective date of the act.