~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE AMENDMENT ADOPTED

June 2, 2010

**S. 1257**

Introduced by Senator Rose

S. Printed 6/2/10--S.

Read the first time March 4, 2010.

**A** **BILL**

TO AMEND CHAPTER 5, TITLE 43 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE DIRECTORY OF NEW HIRES AND NEW HIRE REPORTING PROGRAM, SO AS TO REPEAL SECTION 43‑5‑598; TO AMEND SECTION 63‑17‑1210, RELATING TO THE STATE DIRECTORY OF NEW HIRES AND THE NEW HIRE REPORTING PROGRAM, SO AS TO DEFINE CERTAIN TERMS, TO REQUIRE THAT BY JULY 1, 2010, THE CHILD SUPPORT ENFORCEMENT DIVISION OF THE DEPARTMENT OF SOCIAL SERVICES CREATE AN EMPLOYER NEW HIRE REPORTING PROGRAM AND A STATE DIRECTORY OF NEW HIRES, TO REQUIRE EMPLOYERS TO REPORT THE EMPLOYMENT OF ALL NEW HIRES WHO RESIDE OR WORK IN SOUTH CAROLINA TO THE STATE DIRECTORY WITHIN TWENTY CALENDAR DAYS OF HIRING, TO REQUIRE THAT THE REPORT MUST CONTAIN THE EMPLOYER’S NAME, ADDRESS, AND FEDERAL IDENTIFICATION NUMBER, AND THE NEW HIRES NAME, ADDRESS, AND SOCIAL SECURITY NUMBER, TO EXEMPT EMPLOYERS FROM HAVING TO FILE REPORTS ON EMPLOYEES OF FEDERAL OR STATE AGENCIES WHO PERFORM INTELLIGENCE OR COUNTERINTELLIGENCE FUNCTIONS, TO PERMIT AN EMPLOYER WITH EMPLOYEES IN MORE THAN ONE STATE TO SELECT A SINGLE STATE FROM WHICH TO TRANSMIT NEW HIRE REPORTS, TO REQUIRE THAT NEW HIRE REPORTS BE MADE ON W‑4 FORMS OR AN EQUIVALENT FORM, TO REQUIRE THAT EMPLOYERS WHO FAIL TO FILE REPORTS ARE SUBJECT TO A TWENTY‑FIVE DOLLAR FINE FOR THE SECOND AND SUBSEQUENT OFFENSE, AND A FIVE HUNDRED DOLLAR FINE FOR EVERY OFFENSE WHERE THE EMPLOYER CONSPIRED WITH THE NEW HIRE NOT TO REPORT THE HIRING OF THE NEW EMPLOYEE, TO PROVIDE THAT THE DEPARTMENT OF SOCIAL SERVICES ENTER THE NEW HIRE REPORTS FILED BY EMPLOYERS INTO STATE DIRECTORY OF NEW HIRES WITHIN FIVE BUSINESS DAYS OF RECEIPT FROM THE EMPLOYER, TO REQUIRE THAT BY OCTOBER 1, 2010, THE DEPARTMENT OF SOCIAL SERVICES MUST CONDUCT AUTOMATED COMPARISONS OF SOCIAL SECURITY NUMBERS REPORTED BY EMPLOYERS WITH SOCIAL SECURITY NUMBERS IN THE RECORDS OF THE STATE CASE REGISTRY, TO REQUIRE THAT WHEN THE COMPARISON REVEALS A MATCH, THE DEPARTMENT OF SOCIAL SERVICES MUST, WITHIN TWO DAYS, NOTIFY THE EMPLOYER OF THE MATCH AND DIRECT THE EMPLOYER TO WITHHOLD FROM THE INCOME OF THE NEW HIRE AN AMOUNT EQUAL TO THE MONTHLY, OR OTHER PERIODIC CHILD SUPPORT OBLIGATION, INCLUDING PAST DUE CHILD SUPPORT OBLIGATIONS, TO PROVIDE THAT WITHIN THREE DAYS OF THE DATA BEING ENTERED INTO THE STATE DIRECTORY OF NEW HIRES THAT THE STATE DIRECTORY MUST FORWARD THE INFORMATION TO THE NATIONAL DIRECTORY OF NEW HIRES, TO PROVIDE THAT THE STATE DIRECTORY OF NEW HIRES MUST INCLUDE REPORTS RECEIVED FROM THE EMPLOYMENT SECURITY COMMISSION AND OTHER DEPARTMENTS, TO PROVIDE THAT THE INFORMATION MAINTAINED IN THE DIRECTORY OF NEW HIRES SHALL BE USED BY THE DEPARTMENT OF SOCIAL SERVICES TO LOCATE INDIVIDUALS FOR PURPOSES OF ESTABLISHING PATERNITY AND ESTABLISHING CHILD SUPPORT OBLIGATIONS AND IT MAY BE DISCLOSED TO A PUBLIC OR PRIVATE AGENCY THAT IS UNDER CONTRACT WITH THE DEPARTMENT OF SOCIAL SERVICES, TO PROVIDE THAT THE DEPARTMENT OF SOCIAL SERVICES SHALL HAVE ACCESS TO THE INFORMATION FOR THE PURPOSE OF VERIFYING ELIGIBILITY FOR CERTAIN STATE ADMINISTERED PROGRAMS, TO PROVIDE THAT THE EMPLOYMENT SECURITY COMMISSION SHALL HAVE ACCESS TO THE INFORMATION REPORTED BY EMPLOYERS FOR PURPOSES OF ADMINISTERING THE EMPLOYMENT SECURITY PROGRAM, TO PROVIDE THAT THE WORKERS’ COMPENSATION COMMISSION SHALL HAVE ACCESS TO THE INFORMATION FOR THE PURPOSE OF ADMINISTERING THE WORKERS’ COMPENSATION PROGRAM, TO PROVIDE THAT AN EMPLOYER WHO DISCLOSES THIS INFORMATION TO THE STATE DIRECTORY OF NEW HIRES IN GOOD FAITH SHALL BE EXEMPT FROM CIVIL OR CRIMINAL LIABILITY, TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO PROMULGATE REGULATIONS, AND TO PROVIDE THAT THIS PROVISION SHALL REMAIN IN EFFECT UNTIL THE FEDERAL PROGRAM MANDATING REPORTING NEW HIRES IS REPEALED; TO AMEND SECTION 63‑3‑530(A)(43), RELATING TO THE DEPARTMENT OF SOCIAL SERVICES’ COLLECTION OF FINES, SO AS TO INCLUDE SECTION 63‑17‑1210 IN THE LIST OF FINES TO BE ENFORCED.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63‑17‑1210 of the 1976 Code is amended to read:

“~~(A) By January 1, 1996, the Child Support Enforcement Division of the Department of Social Services shall create and develop an Employer New Hire Reporting program. The Employer New Hire Reporting program shall provide a means for employers to voluntarily assist in the state’s efforts to locate absent parents who owe child support and collect child support from those parents by reporting information concerning newly hired and rehired employees directly to the division.~~

~~(B) The following provisions apply to the Employer New Hire Reporting program:~~

~~(1) An employer doing business in this State may participate in the Employer New Hire Reporting program by reporting to the Child Support Enforcement Division:~~

~~(a) the hiring of a person who resides or works in this State to whom the employer anticipates paying earnings; or~~

~~(b) the rehiring or return to work of an employee who was laid off, furloughed, separated, granted leave without pay, or terminated from employment.~~

~~(2) The Employer New Hire Reporting program applies to a person who is expected to:~~

~~(a) be employed for more than one month’s duration;~~

~~(b) be paid for more than three hundred fifty hours during a continuous six‑month period; or~~

~~(c) have gross earnings of more than three hundred dollars in each month of employment.~~

~~(3) An employer who voluntarily reports under item (1) shall submit monthly reports regarding each hiring, rehiring, or return to work of an employee during the preceding month. The report must contain:~~

~~(a) the employee’s name, address, social security number, date of birth, and salary information; and~~

~~(b) the employer’s name, address, and employer identification number.~~

~~(4) Employers reporting to the Employer New Hire Reporting program shall provide information to the Child Support Enforcement Division by:~~

~~(a) sending a copy of the new employee’s W‑4 form;~~

~~(b) completing a form supplied by the Child Support Enforcement Division; or~~

~~(c) any other means authorized by the Child Support Enforcement Division for conveying the required information, including electronic transmission or magnetic tapes in compatible formats.~~

~~(5) An employer is authorized by this section to disclose the information described in item (3) and is not liable to the employee for the disclosure or subsequent use by the Child Support Enforcement Division of the information.~~

~~(6) Information received by the South Carolina Employment Security Commission from employers which includes information contained in the reports provided for in this section must be transmitted to the Department of Social Services within fifteen working days after the end of each quarter~~. The Employer New Hire Reporting requirements, which are mandatory, are in Section 43‑5‑598.”

SECTION 2. Sections 43‑5‑598 (K), (L), and (M) of the 1976 Code are amended to read:

“(K) Within two business days after the date information regarding a newly hired employee is entered into the state directory of new hires, the department shall transmit a notice to the employer of the employee directing the employer to withhold from the income of the employee an amount equal to the monthly, or other periodic, child support obligation, including any past‑due child support obligation, of the ~~employee~~ new hire, unless the employee’s income is not subject to withholding pursuant to Article 11, Chapter 17, Title 63.

(L) Within three business days after the date information regarding a ~~newly hired employee~~ new hire is entered into the state directory of new hires, the state directory of new hires shall furnish the information to the national directory of new hires.

(M) The state directory of new hires shall include reports received from the Employment Security Commission ~~pursuant to~~ and any other reports received from other departments or agencies as provided for in Section 43‑5‑620. The state directory of new hires shall furnish these reports, on a quarterly basis, to the national directory of new hires by the dates, in the format, and containing the information the Secretary of the United States Department of Health and Human Services specifies in regulations.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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