

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 656

Representative Patton

A BILL

To enact sections 4177.01, 4177.02, 4177.03, 1
4177.04, 4177.05, 4177.06, 4177.07, 4177.08, and 2
4177.99 of the Revised Code to establish 3
sanctions for an employer that employs an 4
unauthorized alien. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4177.01, 4177.02, 4177.03, 6
4177.04, 4177.05, 4177.06, 4177.07, 4177.08, and 4177.99 of the 7
Revised Code be enacted to read as follows: 8

Sec. 4177.01. As used in this chapter: 9

(A) "Alien" means a person who is not a United States 10
citizen or a United States national. 11

(B) "E-verify" means the employment verification program 12
as jointly administered by the United States department of 13
homeland security and the social security administration under 14
section 101(a)(1) of the federal "Immigration Reform and Control 15
Act of 1986," 8 U.S.C. 1324a, or any of its successor programs. 16

(C) "Peace officer" has the same meaning as in section 17
2935.01 of the Revised Code. 18

(D) "Unauthorized alien" means an alien who is not 19
authorized to be employed as determined in accordance with the 20
federal "Immigration Reform and Control Act of 1986," 8 U.S.C. 21
1324a. 22

Sec. 4177.02. (A) (1) No employer knowingly shall employ an 23
unauthorized alien. 24

(2) No employer purposely shall employ an unauthorized 25
alien. 26

(3) No individual knowingly shall file a false and 27
frivolous complaint under section 4177.03 of the Revised Code. 28

(B) For purposes of division (A) (1) of this section, an 29
employer violates that division if the employer uses a contract, 30
subcontract, or other independent contractor agreement to obtain 31
the labor of an alien in this state and the employer knowingly 32
contracts with an alien who the employer knows is an 33
unauthorized alien or with a person who the employer knows 34
employs or contracts with an unauthorized alien to perform the 35
labor. 36

(C) For purposes of division (A) (2) of this section, an 37
employer violates that division if the employer uses a contract, 38
subcontract, or other independent contractor agreement to obtain 39
the labor of an alien in this state and the employer purposely 40
contracts with an alien who the employer knows is an 41
unauthorized alien or with a person who the employer knows 42
employs or contracts with an unauthorized alien to perform the 43
labor. 44

Sec. 4177.03. The attorney general shall prescribe a 45
complaint form for a person to allege a violation of division 46
(A) (1) or (2) of section 4177.02 of the Revised Code. The 47

attorney general shall not require the complainant to list the 48
complainant's social security number on the complaint form or to 49
have the complaint form notarized. A complainant shall submit 50
the complaint to the attorney general or to the prosecuting 51
attorney of the county in which the alleged unauthorized alien 52
is or was employed by the employer. On receipt of a complaint on 53
a prescribed complaint form that an employer allegedly knowingly 54
or purposely employs an unauthorized alien, the attorney general 55
or prosecuting attorney shall investigate whether the employer 56
has violated division (A) (1) or (2) of section 4177.02 of the 57
Revised Code, as alleged in the complaint. Nothing in this 58
section shall be construed to prohibit an individual from filing 59
an anonymous complaint on a form other than the prescribed 60
complaint form. If the attorney general or a prosecuting 61
attorney receives a complaint that is not submitted on a 62
prescribed complaint form, the attorney general or prosecuting 63
attorney may, but is not required to, investigate whether the 64
employer has violated division (A) (1) or (2) of section 4177.02 65
of the Revised Code, as alleged in the complaint. The attorney 66
general or prosecuting attorney shall not investigate complaints 67
that are based solely on race, color, or national origin. 68

The county sheriff or any other local law enforcement 69
officer may assist in investigating a complaint. When 70
investigating a complaint, the attorney general or prosecuting 71
attorney shall verify the work authorization of the alleged 72
unauthorized alien with the federal government pursuant to the 73
federal "Omnibus Consolidated Appropriations Act, 1997," 8 74
U.S.C. 1373(c). An officer or employee of the state or a 75
political subdivision of the state shall not attempt to 76
independently make a final determination on whether an alien is 77
authorized to work in the United States. 78

Sec. 4177.04. (A) If, after an investigation conducted 79
under section 4177.03 of the Revised Code, the attorney general 80
or prosecuting attorney determines that the complaint is not 81
false and frivolous, the attorney general or prosecuting 82
attorney shall do all of the following, as applicable: 83

(1) Notify the United States department of homeland 84
security or its successor agency regarding the status of the 85
unauthorized alien; 86

(2) Notify the local law enforcement agency regarding the 87
status of the unauthorized alien; 88

(3) If the complaint was originally filed with the 89
attorney general, notify the appropriate prosecuting attorney to 90
allow the prosecuting attorney to bring an action pursuant to 91
division (B) of this section. 92

(B) If a prosecuting attorney of the county where an 93
unauthorized alien allegedly is or was employed by an employer 94
conducts an investigation under section 4177.03 of the Revised 95
Code and determines that reasonable evidence exists that the 96
employer violated division (A) (1) or (2) of section 4177.02 of 97
the Revised Code, or if that prosecuting attorney receives a 98
notice under division (A) (3) of this section, the prosecuting 99
attorney shall bring an action for a violation of division (A) 100
(1) or (2) of section 4177.02 of the Revised Code against the 101
employer in the court of common pleas of the county where the 102
unauthorized alien allegedly is or was employed by the employer. 103
The prosecuting attorney shall not bring an action against any 104
employer for any violation of division (A) (1) or (2) of section 105
4177.02 of the Revised Code that occurred before the effective 106
date of this section. A second violation of this section shall 107
be based only on any additional unauthorized aliens employed by 108

the employer after a previous action has been brought against an 109
employer for a violation of division (A) (1) or (2) of section 110
4177.02 of the Revised Code. 111

(C) For any action brought pursuant to this section, the 112
court shall expedite the action, including assigning the hearing 113
at the earliest practicable date. 114

Sec. 4177.05. (A) In an action brought pursuant to section 115
4177.04 of the Revised Code, for purposes of determining whether 116
an employee is an unauthorized alien, a court shall consider 117
only a determination with respect to that alien's immigration 118
status made by the federal government pursuant to the federal 119
"Omnibus Consolidated Appropriations Act, 1997," 8 U.S.C. 120
1373(c). The federal government's determination creates a 121
rebuttable presumption of the alien's lawful status. The court 122
may take judicial notice of the federal government's 123
determination and may request the federal government to provide 124
automated or testimonial verification pursuant to the federal 125
"Omnibus Consolidated Appropriations Act, 1997," 8 U.S.C. 126
1373(c). 127

(B) For purposes of section 4177.04 of the Revised Code, 128
proof of verifying the employment authorization of an employee 129
through the e-verify program or another status verification 130
system creates a rebuttable presumption that an employer did not 131
knowingly or purposely employ an unauthorized alien. 132

(C) For purposes of section 4177.04 of the Revised Code, 133
an employer who establishes that the employer has complied in 134
good faith with the requirements of the federal "Immigration 135
Reform and Control Act of 1986," 8 U.S.C. 1324a(b), establishes 136
an affirmative defense that the employer did not knowingly or 137
purposely employ an unauthorized alien in violation of division 138

(A) (1) or (2) of section 4177.02 of the Revised Code. An 139
employer is considered to have complied with the requirements of 140
the federal "Immigration Reform and Control Act of 1986," 8 141
U.S.C. 1324a(b), notwithstanding an isolated, sporadic, or 142
accidental technical or procedural failure to meet the 143
requirements, if a good faith attempt was made to comply with 144
the requirements of that act. 145

(D) (1) It is an affirmative defense to a violation of 146
division (A) (1) or (2) of section 4177.02 of the Revised Code 147
that an employer was entrapped. To claim entrapment, the 148
employer shall admit to the substantial elements of the 149
violation through the employer's testimony or by the use of 150
other evidence. An employer who asserts an entrapment defense 151
has the burden of proving all of the following elements by a 152
preponderance of the evidence: 153

(a) The idea of committing the violation started with a 154
peace officer or an agent of the officer rather than with the 155
employer. 156

(b) The peace officer or agent urged and induced the 157
employer to commit the violation. 158

(c) The employer was not predisposed to commit the 159
violation before the peace officer or agent urged and induced 160
the employer to commit the violation. 161

(2) An employer does not establish the defense of 162
entrapment if the employer was predisposed to violate division 163
(A) (1) or (2) of section 4177.02 of the Revised Code and the 164
peace officer or agent merely provided the employer with an 165
opportunity to commit the violation. A peace officer or an agent 166
of the officer has not entrapped an employer if the officer or 167

agent merely used a ruse or concealed the officer's or agent's 168
identity. The conduct of a peace officer or an agent of the 169
officer may be considered in determining if an employer has 170
proven entrapment. 171

Sec. 4177.06. (A) (1) If a court, pursuant to an action 172
brought under section 4177.04 of the Revised Code, determines 173
that an employer has committed a first violation of division (A) 174
(1) of section 4177.02 of the Revised Code, the court shall do 175
all of the following: 176

(a) Order the employer to terminate the employment of all 177
unauthorized aliens; 178

(b) Order the employer to be subject to a three-year 179
probationary period for the business location where the 180
unauthorized alien performed work; 181

(c) Order the employer to file a signed affidavit of the 182
type described in division (A) (4) of this section with the 183
prosecuting attorney of the county where the violation occurred 184
within three business days after the order is issued. 185

(2) If a court pursuant to an action brought under section 186
4177.04 of the Revised Code determines that an employer has 187
committed a first violation of division (A) (1) of section 188
4177.02 of the Revised Code, the court may order the appropriate 189
agencies to suspend all licenses described in division (A) (4) of 190
this section that are held by the employer for a period not to 191
exceed ten business days. The court shall determine whether to 192
suspend an employer's licenses based on any evidence or 193
information submitted to the court during the action and shall 194
consider any of the following factors, as applicable: 195

(a) The number of unauthorized aliens employed by the 196

<u>employer;</u>	197
<u>(b) Any prior misconduct knowingly committed by the</u>	198
<u>employer relating to this chapter of the Revised Code within six</u>	199
<u>years before the violation;</u>	200
<u>(c) The degree of harm resulting from the violation;</u>	201
<u>(d) Whether the employer made good faith efforts to comply</u>	202
<u>with any applicable requirements;</u>	203
<u>(e) The duration of the violation;</u>	204
<u>(f) The role of the directors, officers, or principals of</u>	205
<u>the employer in the violation;</u>	206
<u>(g) Any other factors the court considers appropriate.</u>	207
<u>(3) During the probationary period described in division</u>	208
<u>(A)(1)(b) of this section, the employer shall file quarterly</u>	209
<u>reports in the form provided in section 3121.892 of the Revised</u>	210
<u>Code with the prosecuting attorney of the county where the</u>	211
<u>violation occurred documenting each new employee who is hired by</u>	212
<u>the employer after the date the court determined the employer</u>	213
<u>violated division (A)(1) of section 4177.02 of the Revised Code</u>	214
<u>and who is employed at the business location where the</u>	215
<u>unauthorized alien performed work.</u>	216
<u>(4) The affidavit described in division (A)(1)(c) of this</u>	217
<u>section shall state that the employer has terminated the</u>	218
<u>employment of all unauthorized aliens employed by the employer</u>	219
<u>in this state and that the employer will not knowingly or</u>	220
<u>purposely employ an unauthorized alien in this state. If the</u>	221
<u>employer fails to file the affidavit with the prosecuting</u>	222
<u>attorney within three business days after the date the order is</u>	223
<u>issued, the court shall order the appropriate agencies to</u>	224

suspend all licenses described in this division held by the 225
employer. On receipt of the court's order and notwithstanding 226
any other law to the contrary, the appropriate agencies shall 227
suspend the licenses according to the court's order. The court 228
shall send a copy of the court's order to the attorney general, 229
and the attorney general shall maintain the copy pursuant to 230
section 4177.08 of the Revised Code. 231

For purposes of division (A) (4) of this section, a license 232
subject to suspension is any license held by the employer 233
specific to the business location where the unauthorized alien 234
performed work. If the employer does not hold a license specific 235
to the business location where the unauthorized alien performed 236
work, but a license is necessary to operate the employer's 237
business in general, any license held by the employer at the 238
employer's primary place of business is subject to suspension. 239

A license remains suspended until the employer files the 240
affidavit required under division (A) (1) (c) of this section with 241
the prosecuting attorney. Notwithstanding any other law to the 242
contrary, the appropriate agency shall reinstate the suspended 243
license on the employer's filing of the affidavit with the 244
prosecuting attorney. 245

(B) For a second violation of division (A) (1) of section 246
4177.02 of the Revised Code, the court shall order the 247
appropriate agencies to permanently revoke all licenses that are 248
held by the employer specific to the business location where the 249
unauthorized alien performed work. If the employer does not hold 250
a license specific to the business location where the 251
unauthorized alien performed work, but a license is necessary to 252
operate the employer's business in general, the court shall 253
order the appropriate agencies to permanently revoke all 254

licenses that are held by the employer at the employer's primary 255
place of business. On receipt of the order and notwithstanding 256
any other law, the appropriate agencies immediately shall revoke 257
the licenses. 258

(C) A violation is considered a first violation by an 259
employer at a business location if the violation did not occur 260
during a probationary period ordered by the court under this 261
section or section 4177.07 of the Revised Code for that 262
employer's business location. A violation is considered a second 263
violation by an employer at a business location if the violation 264
occurred during a probationary period ordered by the court under 265
this section or section 4177.07 of the Revised Code for that 266
employer's business location. 267

Sec. 4177.07. (A) (1) If a court, pursuant to an action 268
brought under section 4177.04 of the Revised Code, determines 269
that an employer has committed a first violation of division (A) 270
(2) of section 4177.02 of the Revised Code, the court shall do 271
all of the following: 272

(a) Order the employer to terminate the employment of all 273
unauthorized aliens; 274

(b) Order the employer to be subject to a five-year 275
probationary period for the business location where the 276
unauthorized alien performed work; 277

(c) Order the appropriate agencies to suspend all licenses 278
described in division (A) (4) of section 4177.06 of the Revised 279
Code held by the employer for a minimum of ten days; 280

(d) Order the employer to file a signed affidavit of the 281
type described in division (A) (4) of this section with the 282
prosecuting attorney of the county where the violation occurred 283

within three business days after the order is issued. 284

(2) During the probationary period described in division 285
(A)(1)(b) of this section, the employer shall file quarterly 286
reports in the form provided in section 3121.892 of the Revised 287
Code with the prosecuting attorney of each new employee who is 288
hired by the employer after the date the court determined the 289
employer violated division (A)(2) of section 4177.02 of the 290
Revised Code and who is employed at the business location where 291
the unauthorized alien performed work. 292

(3) The court shall base its decision on the length of the 293
suspension described in division (A)(1)(c) of this section on 294
any evidence or information submitted to it during the action 295
and shall consider the factors described in divisions (A)(2)(a) 296
to (g) of section 4177.06 of the Revised Code, as applicable. 297

(4) The affidavit described in division (A)(1)(d) of this 298
section shall state that the employer has terminated the 299
employment of all unauthorized aliens employed by the employer 300
in this state and that the employer will not purposely or 301
knowingly employ an unauthorized alien in this state. If the 302
employer fails to file the affidavit with the prosecuting 303
attorney within three business days after the date the order is 304
issued, the court shall order the appropriate agencies to extend 305
the suspension of all licenses described in division (A)(4) of 306
section 4177.06 of the Revised Code held by the employer until 307
the employer files the affidavit required under division (A)(1) 308
(d) of this section. On receipt of the court's order and 309
notwithstanding any other law to the contrary, the appropriate 310
agencies shall suspend the licenses according to the court's 311
order. The court shall send a copy of the court's order to the 312
attorney general, and the attorney general shall maintain the 313

copy pursuant to section 4177.08 of the Revised Code. 314

A license remains suspended until the employer files the 315
affidavit required under division (A) (1) (d) of this section with 316
the prosecuting attorney. Notwithstanding any other law to the 317
contrary, the appropriate agency shall reinstate the suspended 318
license on the employer's filing of the affidavit with the 319
prosecuting attorney. 320

(B) For a second violation of division (A) (2) of section 321
4177.02 of the Revised Code, the court shall order the 322
appropriate agencies to permanently revoke all licenses that are 323
held by the employer specific to the business location where the 324
unauthorized alien performed work. If the employer does not hold 325
a license specific to the business location where the 326
unauthorized alien performed work, but a license is necessary to 327
operate the employer's business in general, the court shall 328
order the appropriate agencies to permanently revoke all 329
licenses that are held by the employer at the employer's primary 330
place of business. On receipt of the order and notwithstanding 331
any other law, the appropriate agencies immediately shall revoke 332
the licenses. 333

(C) A violation is considered a first violation by an 334
employer at a business location if the violation did not occur 335
during a probationary period ordered by the court under this 336
section or section 4177.06 of the Revised Code for that 337
employer's business location. A violation is considered a second 338
violation by an employer at a business location if the violation 339
occurred during a probationary period ordered by the court under 340
this section or section 4177.06 of the Revised Code for that 341
employer's business location. 342

Sec. 4177.08. The attorney general shall do all of the 343

<u>following:</u>	344
<u>(A) Maintain copies of all court orders received pursuant</u>	345
<u>to section 4177.06 or 4177.07 of the Revised Code;</u>	346
<u>(B) Maintain a database that includes the name of the</u>	347
<u>employer who has committed a first violation of division (A) (1)</u>	348
<u>or (2) of section 4177.02 of the Revised Code and the address of</u>	349
<u>the business location where that violation occurred;</u>	350
<u>(C) Make the court orders available on the web site</u>	351
<u>maintained by the attorney general.</u>	352
<u>Sec. 4177.99. Whoever violates division (A) (3) of section</u>	353
<u>4177.02 of the Revised Code is guilty of a misdemeanor of the</u>	354
<u>fourth degree.</u>	355