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BILL ANALYSIS / SUMMARY

H0700

2026 Regular Session

02/23/2026

IDAHO DAIRYMEN'S ASSOCIATION POSITION: OPPOSED

SHORT TITLE: Aliens, unlawful employment

SPONSOR(S): Representative Dale Hawkins, R–Fernwood, Representative Kyle Harris, R–Lewiston

COMMITTEE ASSIGNMENT: House Business Committee

STATEMENT OF PURPOSE: This bill creates a new chapter in Idaho law making it a misdemeanor for employers, labor representatives, or employment agents to knowingly hire, continue employing, recruit individuals who are not lawfully present in the U.S. or authorized to work under federal law. It defines when an individual is considered unauthorized and requires employers to stop employment if they know or should know that work authorization has expired or been revoked. Employers who verify work authorization through the federal E-Verify system before hiring, and receive confirmation, are shielded from criminal liability and may raise good-faith compliance as an affirmative defense. An emergency clause provides for an effective date of July 1, 2026.

FISCAL NOTE: This legislation causes no increase or decrease in revenue, or additional expenditure of funds at the state or local level of government; therefore, this legislation has no fiscal impact. [NOTE – IDA disagrees with the fiscal note for the reasons set forth in a recent [economic impact study](#)¹].

BILL SUMMARY: H700 makes it a misdemeanor crime for an employer, agent of an employer, or any officer or agent of a labor organization to knowingly employ, continue to employ, rehire, recruit, or refer for employment an alien who is not lawfully present. An alien is unauthorized to work if they are unlawfully present, lack valid federal employment authorization, or previously held authorized employment status that has expired or been revoked. Employers must cease employment of any alien they know or reasonably should know that lacks work authorization. Employers using the federal E-Verify system to verify employment eligibility are exempt from criminal liability under this statute.

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https://static1.squarespace.com/static/69826647c008487194a3c1ee/t/698df6815c5f2a55bab88adf/1770911364389/IALW_Final_v7.pdf

REASONING FOR POSITION: IDA opposes this bill because it increases the strain on the agricultural workforce, requiring dairies to fire current employees in a manner directly contrary to Federal law. In addition to overstepping Federal law, H700 basically imposes a mandatory e-verify program in Idaho, which is objected to by IDA for the same reasons as explained relative to IDA's position on H704. Federal law preempts in this case, and Federal law is clear that traditional employment verification, without use of e-verify, is sufficient to avoid criminal or civil penalties for hiring or employing an undocumented worker.

Legal Analysis: The provisions made criminal by H700 are already made criminal by Federal law, 8 U.S.C. 1324a. In fact, civil and criminal punishments await a violator under the Federal law. The Federal law that is substantially similar to H700 provides for express Federal preemption, stating that –

Preemption. The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

8 U.S.C. 1324a(h)(2). Thus, adoption of H700 will certainly result in litigation against the State of Idaho and likely invalidation of H700 on grounds of Federal preemption.

Moreover, H700 suggests an employer has a duty to conduct ongoing verification of a worker's right to work. If an individual provides work authorization documents that are not temporary in nature, conducting re-verification of the worker's status during employment constitutes a discriminatory practice under Federal law. 8 U.S.C. 1324b(a)(6). If a worker presents work documents that appear genuine on their face, and establish a permanent basis to work, an employer cannot thereafter require the worker to re-verify even if circumstances present themselves that cause the employer to doubt the genuineness of the documents presented. 8 U.S.C. 1324b. Violations of the foregoing subject the employer to Federal penalties. H700 would place employers in a precarious position of having to follow Federal law and thereby violate Idaho law, or follow Idaho law and thereby violate Federal law. This is another instance of certain preemption, and is fatal to H700.

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