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**SUBSTITUTE HOUSE BILL 2568**

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**State of Washington**

**62nd Legislature**

**2012 Regular Session**

**By** House Labor & Workforce Development (originally sponsored by Representatives Kenney, Sells, Hunt, Hasegawa, Moscoso, Hudgins, Ryu, Pettigrew, Ormsby, Santos, Reykdal, Eddy, Fitzgibbon, Upthegrove, Appleton, and Maxwell)

READ FIRST TIME 01/31/12.

1       AN ACT Relating to maintaining voluntary use of electronic  
2 employment verification systems; and adding a new chapter to Title 49  
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6       (a) An electronic employment verification system, originally known  
7 as the basic pilot program, enacted by P.L. 104-208 and renamed in 2007  
8 as the e-verify program, was established as an experimental and  
9 temporary system available to employers on a voluntary basis;

10       (b) A recent study by the United States government accountability  
11 office found that significant challenges remain for the e-verify  
12 program, including the persistence of erroneous tentative  
13 nonconfirmations, the risks of identity theft and employer fraud, the  
14 difficulties in correcting personal information, and the need for  
15 reliable cost estimates and sufficient resources;

16       (c) Another recent study concluded that, if use of the e-verify  
17 program had been made mandatory for all employers in 2010, it would  
18 have cost businesses two billion seven hundred million dollars, two

1 billion six hundred million dollars of which would have been borne by  
2 small businesses;

3 (d) The costs, technological demands, and staff time required to  
4 use and implement the e-verify program come at a time when many  
5 employers are struggling and many workers remain unemployed;

6 (e) The state must pursue all avenues in facilitating and  
7 incubating economic growth and job development;

8 (f) It is too expensive to mandate the use of the e-verify program,  
9 especially in fragile economic times; and

10 (g) Our state's diverse economy relies on increased certainty and  
11 stability for the present and future needs of our industries and  
12 workforce, and immigration reform by congress is critical to accomplish  
13 the needed certainty and stability.

14 (2) For these reasons, the legislature intends that the state  
15 maintain the intent of federal law by ensuring that private employers  
16 retain the ability to choose whether to participate in an electronic  
17 employment verification program.

18 NEW SECTION. **Sec. 2.** The definitions in this section apply  
19 throughout this chapter unless the context clearly requires otherwise.

20 (1) "Electronic employment verification system" means an employment  
21 verification system that allows employers to electronically verify  
22 workers' employment authorization with the federal government. The  
23 term "electronic employment verification system" includes the basic  
24 pilot program, enacted by P.L. 104-208 and renamed in 2007 as the  
25 e-verify program, and other pilot programs for electronic employment  
26 eligibility confirmation. The term "electronic employment verification  
27 system" does not include the I-9 employment eligibility verification  
28 form or any other employment eligibility systems that are required by  
29 federal law.

30 (2) "Employer" means an employer other than the state, or a county,  
31 city, town, or other political subdivision thereof.

32 NEW SECTION. **Sec. 3.** Except as required by federal law or as a  
33 condition of receiving federal funds, neither the state nor any county,  
34 city, town, or other political subdivision thereof shall require an  
35 employer to use an electronic employment verification system, including  
36 under the following circumstances:

- 1 (1) As a condition of receiving a government contract;
- 2 (2) As a condition of applying for or maintaining a business
- 3 license; or
- 4 (3) As a penalty for violating licensing or other similar laws.

5 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act constitute  
6 a new chapter in Title 49 RCW.

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