

REFERENCE TITLE: employer sanctions; independent contractors

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2342

Introduced by
Representatives Konopnicki, Pancrazi, Ulmer; Senators Aguirre, Arzberger,
Flake

AN ACT

AMENDING SECTION 23-211, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT OF
UNAUTHORIZED ALIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 23-211, Arizona Revised Statutes, is amended to
3 read:
4 23-211. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Agency" means any agency, department, board or commission of this
7 state or a county, city or town that issues a license for purposes of
8 operating a business in this state.
9 2. "Basic pilot program" means the basic employment verification pilot
10 program as jointly administered by the United States department of homeland
11 security and the social security administration or its successor program.
12 3. "Employee" means any person who performs employment services for an
13 employer pursuant to an employment relationship between the employee and
14 employer. **EMPLOYEE DOES NOT INCLUDE AN INDEPENDENT CONTRACTOR.**
15 4. "Employer" means any individual or type of organization that
16 transacts business in this state, that has a license issued by an agency in
17 this state and that employs one or more individuals who perform employment
18 services in this state. Employer includes this state, any political
19 subdivision of this state and self-employed persons.
20 5. **"INDEPENDENT CONTRACTOR" MEANS A PERSON WHO IS ENGAGED IN WORK FOR**
21 **A BUSINESS, WHO IS INDEPENDENT OF THAT BUSINESS IN THE EXECUTION OF THE WORK**
22 **AND NOT SUBJECT TO THE RULE OR CONTROL OF THE BUSINESS FOR WHICH THE WORK IS**
23 **DONE, BUT IS ENGAGED ONLY IN THE PERFORMANCE OF A DEFINITE JOB OR PIECE OF**
24 **WORK, AND WHO IS SUBORDINATE TO THAT BUSINESS ONLY IN EFFECTING A RESULT**
25 **ACCORDING TO THAT BUSINESS DESIGN. WHETHER A PERSON IS AN INDEPENDENT**
26 **CONTRACTOR SHALL BE DETERMINED ACCORDING TO THE STANDARDS OF THE FEDERAL FAIR**
27 **LABOR STANDARDS ACT BUT THE BURDEN OF PROOF SHALL BE ON THE PARTY FOR WHOM**
28 **THE WORK IS PERFORMED TO SHOW INDEPENDENT CONTRACTOR STATUS.**
29 ~~5-~~ 6. "Intentionally" has the same meaning prescribed in section
30 13-105.
31 ~~6-~~ 7. "Knowingly employ an unauthorized alien" means the actions
32 described in 8 United States Code section 1324a. This term shall be
33 interpreted consistently with 8 United States Code section 1324a and any
34 applicable federal rules and regulations.
35 ~~7-~~ 8. "License":
36 (a) Means any agency permit, certificate, approval, registration,
37 charter or similar form of authorization that is required by law and that is
38 issued by any agency for the purposes of operating a business in this state.
39 (b) Includes:
40 (i) Articles of incorporation under title 10.
41 (ii) A certificate of partnership, a partnership registration or
42 articles of organization under title 29.
43 (iii) A grant of authority issued under title 10, chapter 15.
44 (iv) Any transaction privilege tax license.
45 (c) Does not include:

1 (i) Any license issued pursuant to title 45 or 49 or rules adopted
2 pursuant to those titles.
3 (ii) Any professional license.
4 ~~8.~~ 9. "Unauthorized alien" means an alien who does not have the legal
5 right or authorization under federal law to work in the United States as
6 described in 8 United States Code section 1324a(h)(3).