A bill to be entitled
An act relating to the verification of employment eligibility; providing definitions; requiring employers to register with and use the E-Verify system beginning on a specified date to verify the employment eligibility of new employees; suspending certain employer licenses and providing for license reinstatement under certain conditions; prohibiting an employer from employing an unauthorized alien; authorizing certain persons to file a specified complaint with the Department of Economic Opportunity; prohibiting the filing of a complaint based on race, color, or national origin; providing that a person who knowingly files a false and frivolous complaint commits a misdemeanor of the second degree; providing criminal penalties; providing responsibilities and powers of the department relating to notice, investigations, and subpoenas for the production of records; prohibiting the department from independently making a final determination regarding whether an employee is an unauthorized alien; requiring the department to order an employer to take certain action upon the employer's first violation of hiring an unauthorized alien; requiring the department to order an agency to take certain action against an employer.
upon the employer's second violation of hiring an
unauthorized alien within a specified period of time;
providing civil immunity for an employer registered
with and using the E-Verify system; providing
specified immunity and nonliability for an employer
who complies in good faith with the E-Verify system;
requiring the department to maintain a public database
containing certain information and make such
information available on its website; authorizing the
department to apply for a judicial order directing an
employer to comply with an order issued by the
department; creating a rebuttable presumption for
certain employers that the employer did not knowingly
employ an unauthorized alien; authorizing an employer
or employee to seek an injunction under certain
circumstances; providing that certain actions by an
employer constitute a deceptive and unfair trade
practice; providing that an employee aggrieved by such
actions has a private cause of action against the
employer and providing available remedies; providing
that a cause of action does not exist against an
employer under specified circumstances; providing
construction; creating s. 287.137, F.S.; providing
definitions; requiring public employers, contractors,
and subcontractors to register with and use the E-
Verify system; prohibiting such entities from entering into a contract unless each party to the contract registers with and uses the E-Verify system; requiring a subcontractor to provide certain certification to a contractor, which the contractor must maintain for a specified period of time; authorizing the termination of a contract under certain conditions; providing that such termination is not a breach of contract; authorizing a challenge to such termination; providing construction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Use of E-Verify system required for private employers; business licensing enforcement; private right of action for wrongfully discharged employee.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Agency" means an agency, department, board, or commission of this state or a county, municipality, or town issuing a license to operate a business in this state.

(b) "Department" means the Department of Economic Opportunity.

(c) "E-Verify system" means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the
employment eligibility of newly hired employees.

(d) "Employee" means a person who performs labor or services for an employer in exchange for salary, wages, or other remuneration. The term does not include a licensed independent contractor as defined in federal laws or regulations.

(e) "Employer" means a person or entity that employs persons to perform labor or services in exchange for salary, wages, or other remuneration. The term does not include:

1. A government employer;
2. The occupant or owner of a private residence who hires:
   a. Casual labor, as defined in s. 443.036, to be performed entirely within the private residence; or
   b. A licensed independent contractor, as defined in federal laws or regulations, to perform a specified portion of labor or services; or
3. An employee leasing company licensed pursuant to part XI of chapter 468 that enters into a written agreement or understanding with a client company which places the primary obligation for compliance with this section upon the client company. In the absence of a written agreement or understanding, the employee leasing company is responsible for compliance with this section. Such employee leasing company shall, at all times, remain an employer as otherwise defined in federal laws or regulations.

(f) "Knowingly employ an unauthorized alien" has the same
meaning as in 8 U.S.C. s. 1324a. The term shall be interpreted
consistently with 8 U.S.C. s. 1324a and any applicable federal
rules or regulations.

(g) "License" means a franchise, permit, certificate,
approval, registration, charter, or similar form of
authorization required by state law and issued by an agency for
the purpose of operating a business in this state. The term
includes, but is not limited to:

1. An article of incorporation.
2. A certificate of partnership, partnership registration,
or article of organization.
3. A grant of authority issued pursuant to state or
federal law.
4. A transaction privilege tax license.

(h) "Unauthorized alien" means a person who is not
authorized under federal law to be employed in the United
States, as described in 8 U.S.C. s. 1324a(h)(3). The term shall
be interpreted consistently with that section and any applicable
federal rules or regulations.

(2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; SUSPENSION OF
BUSINESS LICENSE.—

(a) Beginning January 1, 2020, an employer shall, after
making an offer of employment which has been accepted by a
person, use the E-Verify system to verify such person's
employment eligibility. Verification must occur within the
period stipulated by applicable federal rules or regulations. However, an employer is not required to verify the employment eligibility of a continuing employee hired before the date of the employer's registration with the E-Verify system.

(b) A business that does not comply with paragraph (a) shall lose its license to do business in this state until it registers with the E-Verify system and provides the department with an affidavit stating such fact.

(3) EMPLOYMENT OF UNAUTHORIZED ALIENS; PROHIBITION; FALSE AND FRIVOLOUS COMPLAINTS; VIOLATION; CLASSIFICATION; SUSPENSION AND REVOCATION OF LICENSE.—Beginning January 1, 2020:

(a) An employer may not knowingly employ an unauthorized alien.

(b) A person who has a good faith belief that an employer knowingly employs, or has within the last 90 calendar days knowingly employed, an unauthorized alien may file a complaint with the department.

(c) A complaint may not be based on race, color, or national origin, except to the extent permitted by state or federal law.

(d) A person who knowingly files a false and frivolous complaint under this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082, Florida Statutes, or s. 775.083, Florida Statutes.

(e) Upon the receipt of a valid complaint of a violation
of paragraph (a), the department shall notify the employer of
the complaint and direct the employer to notify any employees
named in the complaint.

(f) The department shall investigate whether a violation
of paragraph (a) has occurred and hold an administrative hearing
at which the employer has the right to counsel and may present
any evidence it desires. The department shall request that the
Federal Government verify, pursuant to 8 U.S.C. s. 1373(c), the
work authorization status of any employee named in the
complaint, and the department must rely upon such verification.
The department may not independently make a final determination
as to whether an employee is an unauthorized alien.

(g) The department may issue a subpoena for an employer to
produce employment records that relate to employment
recruitment, hiring, or termination policies, practices, or acts
relating to the investigation of a valid complaint of a
violation of paragraph (a).

(h) Upon finding that an employer has violated paragraph
(a), the department shall notify:

1. The United States Immigration and Customs Enforcement
Agency of the identity of the unauthorized alien and, if known,
the physical address at which the unauthorized alien resides.

2. The local law enforcement agency of the jurisdiction in
which the unauthorized alien resides.

(i)1. Upon finding that an employer has violated paragraph
(a), the department shall order the employer to:

a. Terminate the employment of all unauthorized aliens.

b. File a sworn affidavit with the department within 10 calendar days after receipt of the order. The affidavit must state that the employer has corrected such violation by:

   (I) Terminating the employment of all unauthorized aliens;

   or

   (II) Attempting to terminate the employment of all unauthorized aliens but such termination is being challenged in a court of competent jurisdiction.

2. If the employer fails to file the affidavit under subparagraph 1., the department shall order the appropriate agencies to suspend all applicable licenses held by the employer until the affidavit is filed. Notwithstanding any other law, the suspended licenses shall be deemed to have been reinstated upon the filing of the affidavit. During the pendency of any court action or challenge to an E-Verify system determination, the 10-calendar-day period shall be tolled.

3. Licenses subject to suspension under subparagraph 2. include all licenses that are held by the employer that are necessary to operate the employer's business at the specific location at which the unauthorized alien performed work. If a license is not necessary to operate the employer's business at such location, but a license is necessary to operate the employer's business in general, the licenses subject to
suspension under subparagraph 2. shall include all licenses held by the employer at the employer's primary place of business.

(j) Upon finding that a second or subsequent violation of paragraph (a) occurred during a 2-year period, the department shall order the appropriate agencies to suspend, for at least 30 calendar days, all licenses held by the employer that are necessary to operate the employer's business at the specific location at which the unauthorized alien performed work. If a license is not necessary to operate the employer's business at such location, but a license is necessary to operate the employer's business in general, the department shall order the appropriate agencies to suspend, for at least 30 calendar days, all licenses held by the employer at the employer's primary place of business.

(k) 1. An employer registered with and using the E-Verify system may not be held civilly liable in a cause of action for the employer's:
   a. Unlawful hiring of an unauthorized alien if the information obtained from the E-Verify system indicated that the person's work authorization status was not that of an unauthorized alien; or
   b. Refusal to hire a person if the information obtained from the E-Verify system indicated that the person's work authorization status was that of an unauthorized alien.

   2. An employer who in good faith registers with and uses
the E-Verify system is considered to have complied with the
requirements of 8 U.S.C. s. 1324a(b) and may not be held liable
for any damages and shall be immune from any legal cause of
action brought by any person or entity, including former
employees, for the use of and reliance upon any incorrect
information obtained from the E-Verify system, including any
incorrect information obtained as a result of an isolated,
sporadic, or accidental technical or procedural failure, when
determining final action on a person's work authorization
status.

(l) The department shall maintain a public database
containing copies of all orders issued pursuant to this
subsection and make such information available on its website.

(m) If the department determines that an agency or
employer has failed to comply with an order under this
subsection, the department may apply to the circuit court for a
judicial order directing the agency or employer to comply with
such order.

(n) For purposes of this subsection, compliance with
paragraph (2)(a) creates a rebuttable presumption that an
employer did not knowingly employ an unauthorized alien in
violation of paragraph (a).

(4) INJUNCTION.—At any time after the department has
notified an employer that a valid complaint of a violation of
paragraph (3)(a) was received, and up to 30 calendar days after
the date on which the department issues an order pursuant to
paragraph (3)(i), the employer subject to the complaint, or any
employee who is alleged to be an unauthorized alien, may
challenge and seek to enjoin the enforcement of this section
before a court of competent jurisdiction.

(5) DECEPTIVE AND UNFAIR TRADE PRACTICE.—

(a) An employer commits a deceptive and unfair trade
practice in violation of part II of chapter 501, Florida
Statutes, if it discharges an employee who is a United States
citizen or resident alien, as defined in s. 379.101(31), Florida
Statutes, while knowingly employing an unauthorized alien at the
same job site or in the same job classification elsewhere in
this state.

(b) The discharged employee has a private cause of action
against the employer for a violation of this subsection. The
available remedies to the discharged employee are reinstatement,
back pay, court costs, and attorney fees. Criminal or civil
sanctions, including fines, shall not be imposed against an
employer for a violation of this subsection.

(c) A cause of action under this subsection does not exist
against an employer who, on the date it discharged an employee
as described in paragraph (a), was registered with and used the
E-Verify system to verify a person's work authorization status.

(6) CONSTRUCTION.—This section shall be enforced without
regard to race, color, or national origin and shall be construed
in a manner so as to be fully consistent with any applicable federal laws or regulations.

Section 2. Section 287.137, Florida Statutes, is created to read:

287.137 Verification of work authorization status; public employers.—

(1) As used in the section, the term:

(a) "Contractor" means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.

(b) "E-Verify system" means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

(c) "Public employer" means a department, agency, or political subdivision of this state that enters or attempts to enter into a contract with a contractor.

(d) "Subcontractor" means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

(e) "Unauthorized alien" means a person who is not authorized under federal law to be employed in the United States, as described in 8 U.S.C. s. 1324a(h)(3). The term shall
be interpreted consistently with that section and any applicable federal rules or regulations.

(2)(a) Every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all new employees.

(b) A public employer, contractor, or subcontractor may not enter into a contract under this section unless each party to the contract registers with and uses the E-Verify system.

(3)(a) If a contractor enters into a contract with a subcontractor, the subcontractor shall certify to the contractor in a manner that does not violate federal law that the subcontractor, at the time of such certification, does not employ, contract, or subcontract with an unauthorized alien.

(b) A contractor shall maintain a copy of such certification for the duration of the contract with the subcontractor.

(4)(a) A public employer, contractor, or subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated this section shall terminate the contract with the person or entity.

(b) A public employer that has a good faith belief that a subcontractor knowingly violated this section, but the contractor otherwise complied with this section, shall promptly notify the contractor and order the contractor to immediately terminate the contract with the subcontractor.
(c) A contract terminated pursuant to paragraph (a) or paragraph (b) is not a breach of contract and may not be considered as such.

(d) A public employer, contractor, or subcontractor may file an action with a circuit or county court to challenge a termination under paragraph (a) or paragraph (b) no later than 20 calendar days after the date on which the contract was terminated.

(e) If a public employer terminates a contract with a contractor pursuant to paragraph (a), the contractor may not be awarded a public contract for at least 1 year after the date on which the contract was terminated.

(5) This section shall be construed in a manner so as to be fully consistent with any applicable federal laws or regulations.

Section 3. This act shall take effect July 1, 2019.