

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2021

COUNCIL BILL NO. CB21-0772
COMMITTEE OF REFERENCE:

Safety, Housing, Education & Homelessness

A BILL

For an ordinance amending the Revised Municipal Code of the City and County of Denver to update terminology from “illegal alien” to “worker without authorization” in accordance with state law.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Section 20-90, D.R.M.C., is amended by deleting the language stricken and adding the language underlined to read as follows:

Sec. 20-90. – Purpose.

~~Pursuant to HB 06-1343~~ In accordance with HB 21-1075, codified at § 8-17.5-101, et seq., C.R.S., as amended, the State of Colorado prohibited political subdivisions of the state from entering into or renewing any public contract for services with a contractor who knowingly employs or subcontracts with ~~an illegal alien~~ a worker without authorization to perform work under the contract. Among other things, ~~HB 06-1343~~ HB 21-1075 requires contractors to confirm the employment eligibility of all employees who are newly hired to perform work under the public contract for services through the federal E-verify program. The purpose of this division 5 is to clarify and confirm the applicability of the requirements of ~~HB 06-1343~~ HB 21-1075 to certain contracts entered into by the City and County of Denver. This division is also intended to provide supplemental local procedures for enforcing the requirements of ~~HB 06-1343~~ in regard to HB 21-1075 regarding city contractors.

Section 2. Section 20-90.2, D.R.M.C., is amended by deleting the language stricken and adding the language underlined to read as follows:

Sec. 20-90.2. – Verification and certification of employment eligibility under city contracts.

(a) Prior to executing a contract, each prospective contractor shall certify that, at the time of the certification, it does not knowingly employ or contract with ~~an illegal alien~~ a worker without authorization who will perform work under the contract and that the contractor will participate in the e-verify program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the contract.

(b) Each contract shall include a provision that the contractor shall not:

(1) Knowingly employ or contract with ~~an illegal alien~~ a worker without authorization to perform work under the contract; or

1 (2) Enter into a contract with a subcontractor that fails to certify to the contractor that
2 the subcontractor shall not knowingly employ or contract with ~~an illegal alien~~ a worker without
3 authorization to perform work under the contract.

4 (c) Each contract shall also include the following provisions:

5 (1) A provision stating that the contractor has confirmed the employment eligibility of all
6 employees who are newly hired for employment to perform work under the contract through
7 participation in the e-verify program;

8 (2) A provision that prohibits the contractor from using the e-verify program procedures
9 to undertake pre-employment screening of job applicants while the contract is being performed
10 and that otherwise requires the contractor to comply with any and all federal requirements related
11 to use of the e-verify program including, by way of example, all program requirements related to
12 employee notification and preservation of employee rights;

13 (3) A provision that, if the contractor obtains actual knowledge that a subcontractor
14 performing work under the contract knowingly employs or contracts with ~~an illegal alien~~ a worker
15 without authorization, the contractor shall be required to:

16 a. Notify the subcontractor and the city within three (3) days that the contractor has
17 actual knowledge that the subcontractor is employing or contracting with ~~an illegal alien~~ a worker
18 without authorization; and

19 b. Terminate the subcontract with the subcontractor if within three (3) days of receiving
20 the notice required pursuant to sub-subparagraph a. of this subparagraph (3) the subcontractor
21 does not stop employing or contracting with the ~~illegal alien~~ worker without authorization; except
22 that the contractor shall not terminate the contract with the subcontractor if during such three (3)
23 days the subcontractor provides information to establish that the subcontractor has not knowingly
24 employed or contracted with ~~an illegal alien~~ a worker without authorization.

25 (4) A provision that requires the contractor to comply with any reasonable request by
26 the CDLE or the auditor made in the course of an investigation that the CDLE is undertaking
27 pursuant to the authority established in section 8-17.5-102, C.R.S., as amended, or that the
28 auditor is undertaking pursuant to section 20-90.3.

29 (d) If a contractor violates a provision of the contract required pursuant to subsections
30 (b) or (c) of this section, the city may terminate the contract for a breach of the contract. If the
31 contract is so terminated, the contractor shall be liable for actual and consequential damages to
32 the city. Any such termination of a contract due to a violation of this section may also, at the
33 discretion of any city department or agency responsible for soliciting contract bids and proposals,

1 constitute grounds for disqualifying the violator from submitting bids or proposals for future
2 contracts with the city.

3 **Section 3.** Section 20-90.5 (c), D.R.M.C., is amended by deleting the language stricken and
4 adding the language underlined to read as follows:

5 **Sec. 20-90.5. – Compliance with federal law.**

6 (c) A contractor that establishes that it has complied in good faith with the employment
7 verification requirements set forth in federal law and the e-verify requirements set forth in this
8 division shall, in any action to enforce the requirements of this division 5, have an affirmative
9 defense that the employer did not knowingly employ ~~an illegal alien~~ a worker without authorization.
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11 COMMITTEE APPROVAL DATE: July 14, 2021

12 MAYOR-COUNCIL DATE: July 20, 2021

13 PASSED BY THE COUNCIL: _____ August 2, 2021

14 *Steve Filmore* - PRESIDENT

15 APPROVED: _____ - MAYOR _____

16 ATTEST: _____ - CLERK AND RECORDER,
17 EX-OFFICIO CLERK OF THE
18 CITY AND COUNTY OF DENVER

19 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

20 PREPARED BY: Troy C. Bratton, Assistant City Attorney DATE: July 22, 2021

21 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
22 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
23 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
24 3.2.6 of the Charter.

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26 Kristin M. Bronson, Denver City Attorney

27
28 BY: *Jonathan Griffin*, Assistant City Attorney DATE: Jul 22, 2021

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