

TO: Members of the West Virginia House of Delegates  
RE: House Bill 4155  
FROM: Eli Baumwell, ACLU of West Virginia Policy Director  
DATE: February 16, 2020

Dear Delegate,

I am writing on behalf of the ACLU of West Virginia to urge you to vote NO on HB 4155. During second reading the bill was amended to require applicants for plumbers' licenses to obtain work authorization through the federal E-Verify system. The E-Verify system has numerous problems that make it unreliable and unacceptable as a means for verifying work authorization.

The E-Verify system is rampant with data errors. In 2012, USCIS estimated that 1 in 400 cases submitted to the system wrongly determined that an individual was not authorized to work. With 717,000 workers in West Virginia, that means nearly 1,800 eligible workers are likely to be wrongly denied if they sought a plumbers' license. Errors are often caused by a wide variety of routine factors including name changes, transliteration problems from non-Roman alphabets, or simple typos.

The E-Verify errors have a discriminatory impact on foreign-born workers. The GAO found that from April through June of 2008, the initial non-confirmation rate for employees who were eventually authorized to work was approximately 20 times higher for foreign-born employees than for U.S.-born employees. As the Migration Policy Institute points out, erroneous initial non-confirmations will disproportionately affect "citizens with foreign names, naturalized citizens, and legal immigrants."

Moreover, if the state wants to block a person from working, the burden should be on it to establish that the person is ineligible. "Innocent until proven guilty" is a core principle in the criminal justice system, but it's not just the law, it's also a good idea. And it's a basic requirement of fairness in any system where people may suffer harmful consequences from wrong decisions. The E-Verify turns this system on its head and essentially requires workers to prove that they are eligible to work. This fatal flaw is worsened because the system lacks sufficient due process protections for people to challenge adverse determinations.

For all of the foregoing reasons, ACLU-WV urges you to vote NO on HB 4155.

Respectfully,

Eli Baumwell  
ACLU-WV Policy Director

