

New immigration rule may spawn discomfort

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Some Austin employers may be put in a tight spot as a result of President Obama's June 15 announcement to allow undocumented immigrants who were brought to the United States as children to apply for work permits.

Although his proclamation was received enthusiastically by those directly affected, some said it doesn't offer a clear-cut path to legitimate work status.

Before the president's executive action, undocumented immigrants who graduated from college couldn't be legally employed in the United States, resulting in many finding work using falsified work documents. Now, there's an opportunity to acquire authorized work status for applicants who meet criteria. But there is a potential snag for applicants in that if undocumented workers approach employers for help in obtaining legal status, federal law compels employers to suspend them or risk prosecution until authorization is granted. Employers could lose valuable employees who in turn would lose crucial salaries.

"This can create an opportunity but also create a problem when an employee comes up and says they need assistance in applying for work authorization," said [Robert Loughran](#), an Austin-based partner for immigration law firm FosterQuan LLP. "This is an administration that gives on one hand but prosecutes on the other."

Businesses have increasingly faced civil fines and even criminal sanctions for immigration policy noncompliance, with business owners held responsible for maintaining workers' correct documentation. Businesses that innocently employed undocumented immigrants — due to fake documentation, for example — aren't liable if hiring paperwork is correctly completed. If there are paperwork errors, the employer may be fined up to \$1,100 per individual; knowingly employing such an individual can result in fines of up to \$16,000 and more than a dozen felony charges, Loughran said.

The new policy only applies to undocumented immigrants 30 and younger who entered the U.S. before they turned 16 and have either graduated from high school or served in the military. It affects many who are American in all but documentation; hence, distinguishing an undocumented worker is far from clear.

"Any number of people we see are accent-less as they have been raised here," Loughran said. "They've watched the same cartoons as children of U.S. citizens."

As many as 170,000 immigrants might be eligible in Texas, according to estimates by the Migration Policy Institute, a nonpartisan think tank in Washington. Although figures aren't

available for cities such as Austin, estimates based on Austin's population as a percentage of Texas' population equates to 5,600 potential immigrants here.

Loughran said the nature of undocumented immigration means it's not possible to confirm how many businesses are using undocumented workers or whether they're aware employees are undocumented. As a result, it's hard to predict the impact of additional employees in the labor force once the policy takes effect.

“To the extent that the folks in the retail or hospitality environment are needing young talent,” said [Andy Martinez](#), president of Greater Austin Hispanic Chamber of Commerce, “I think it's going to create some opportunities there.”

It's likely to take another two months before a formal application process is established, according to the Department of Homeland Security. In its current form the policy offers protection from deportation — called deferred action — for two years. At that point, protection could be renewed, though nothing has been confirmed yet. In the meantime, those affected no longer need to work every day under the threat of deportation.

“It's a very meritorious population,” Loughran said. “Young people on the straight and narrow should be benefited.”

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