

HB 1346 -- Illegal Aliens

Sponsor: Portwood

This bill establishes the Missouri Taxpayer and Citizen Protection Act regarding illegal aliens in the state.

TRANSPORTING OR CONCEALING ILLEGAL ALIENS

The bill creates the crimes of transporting and concealing an alien knowing or in reckless disregard of the fact that the alien has entered or remained in the country illegally. A violation of either of these crimes is a felony punishable by not less than a one-year imprisonment, a fine of not less than \$1,000, or both.

IDENTIFICATION CARDS

The bill also authorizes business entities, agencies of the state and its political subdivisions, educational institutions, professional organizations, and labor unions to create documents, cards, or certificates for identification of their employees, customers, members, and students.

Identification for state and political subdivision agencies and educational institutions can only be issued to United States citizens, nationals, and legal permanent resident aliens with the following exceptions: (1) if the applicant personally presents certain valid documentary evidence as specified in the bill, identification that clearly indicate its expiration date can be issued to persons with temporary legal status in the United States; and (2) identification only valid for use at an educational institution can be issued if it clearly indicates the restricted validity.

LAWFUL STATUS VERIFICATION - PERSONS IN CONFINEMENT

The bill requires that a reasonable effort be made to determine the citizenship status of anyone in confinement charged with a felony, driving while intoxicated, or driving with excessive blood alcohol content. If the person in confinement is a foreign national, reasonable effort must be made to verify his or her lawful status in the United States, either through documents in the person's possession or, within 48 hours, through an inquiry to the United States Department of Homeland Security (DHS). If lawful status cannot be verified, notice must be given to DHS. A foreign national without lawful status will be presumed to be a flight risk for the purpose of granting or issuing a bond.

LAWFUL STATUS VERIFICATION - PUBLIC EMPLOYERS

All public employers are required to participate in the federal status verification system specified in the bill to verify the work authorization status of all new employees. No public employer can enter into a contract for the physical performance of services within the state unless the contractor or subcontractor participates in the status verification system to verify the work authorization status of all new employees.

The discharge of a United States citizen or permanent resident alien working in Missouri by an employing entity that retains an employee it knows or reasonably should have known to be an unauthorized alien working in certain federally defined job categories is an actionable discriminatory labor practice as established by the Department of Labor and Industrial Relations, unless on the date of the discharge, the employing entity participated in the status verification system.

LAWFUL STATUS VERIFICATION - APPLICANTS FOR PUBLIC BENEFITS

Agencies and political subdivisions of the state are required to verify the lawful presence in the United States of any applicant 14 years of age or older for certain federally defined federal, state, or local public benefits administered by the agency or political subdivision, except in circumstances specified in the bill. Verification will include obtaining an affidavit of qualification from the applicant, which will be presumed proof of eligibility for the benefits until actual verification is made. A person who knowingly and willfully signs an affidavit containing false or fraudulent information will be subject to criminal penalties. Each state agency or department that administers a program of federal, state, or local public benefits must provide an annual report to the Governor and the General Assembly on its compliance with the eligibility verification requirements.

LAWFUL STATUS VERIFICATION - INDEPENDENT CONTRACTORS

If any individual independent contractor contracting for the performance of physical services in this state fails to provide the contracting entity with documentary proof of federal employment authorization, the contracting entity must withhold state income tax at the top marginal rate for the amount of compensation paid to the independent contractor as reportable on federal tax form 1099. A contracting entity who fails to withhold the taxes will be liable for those taxes unless certain federal withholding exemptions apply and are documented to the Department of Revenue.

STATE ENFORCEMENT OF FEDERAL IMMIGRATION LAWS

The Attorney General is required to negotiate the terms of a memorandum of understanding between the State of Missouri and either the United States Department of Justice or the United States Department of Homeland Security concerning the enforcement of federal immigration and customs laws, detentions and removals, and investigations in this state. The memo must be signed by the Attorney General and the Governor, or as otherwise federally required. No local government, acting through its governing body or by initiative or referendum, can enact any ordinance, order, or policy that limits or prohibits a law enforcement officer or public official or employee from communicating or cooperating with federal officials with regard to the immigration status of any person in this state. Lawful residents of the state may compel any noncooperating local political subdivision or state governmental agency to comply with all reporting requirements by filing a writ of mandamus.

HIGHER EDUCATION ASSISTANCE FOR ILLEGAL ALIENS

Persons not lawfully present in the United States are not eligible, on the basis of residence within this state, for postsecondary education benefits, scholarships, financial aid, or resident tuition, except under certain circumstances specified in the bill. This prohibition will not be deemed to impose additional conditions to maintain resident tuition status at a postsecondary educational institution on an individual who was enrolled in a degree program and first received the resident tuition status during the 2007-2008 school year or any prior year.