

HCS#2 SS SCS SB 858, 750, 751, 927, 1186, 1255, 1268 & 1269 --
ILLEGAL ALIENS

SPONSOR: Rupp (Nolte)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on
Immigration by a vote of 8 to 2.

This substitute changes the laws regarding illegal aliens and
immigration status verification.

ENFORCEMENT OF IMMIGRATION LAWS (Section 43.032, RSMo)

The Superintendent of the State Highway Patrol is required,
subject to appropriations, to designate some or all members of
the patrol to be trained in accordance with a memorandum of
understanding between Missouri and the United States Department
of Homeland Security concerning the enforcement of federal
immigration laws during the course of their normal duties in
Missouri.

SANCTUARY CITIES (Section 67.307)

Any county, city, town, or village is prohibited from enacting a
sanctuary policy. Any municipality that enacts a sanctuary
policy will be ineligible for money provided through grants
administered by any state agency or department until the policy
is repealed or is no longer in effect. Upon complaint by any
state resident or before the provision or award of any funds or
grants to any municipality, any member of the General Assembly
may request that the Attorney General issue an opinion as to
whether the municipality has a sanctuary policy. County and
municipal law enforcement officers must be notified in writing of
their duty to cooperate with state and federal agents and
officials regarding matters of immigration.

ENROLLMENT IN INSTITUTIONS OF HIGHER EDUCATION (Sections 172.360, 173.030 174.130, 175.025, 178.635, 178.780, and 178.785)

The enrollment of unlawfully present aliens in public
institutions of higher education is prohibited. The registrar of
each institution must annually certify to the Coordinating Board
for Higher Education that the institution has not knowingly
enrolled any illegal alien prior to the approval of any
appropriations. The board will then forward the certifications
to the Governor, President Pro Tem of the Senate, Speaker of the
House of Representatives, and the chair of the committee for
appropriations in the House of Representatives and Senate.

PUBLIC BENEFITS (Section 208.009)

Persons who are not citizens or permanent residents of the United States or who do not possess lawful immigration status are prohibited from receiving state or local public assistance unless it is mandated under federal law. Documentary evidence accepted by the Department of Revenue for obtaining a driver's license will suffice as proof of citizenship, permanent residency, or lawful immigration status when applying for benefits. Individuals can temporarily receive state or local public assistance for up to 90 days while obtaining the necessary documentation or indefinitely if the applicant provides a copy of a completed birth certificate application which is pending. Nonprofit organizations regulated by the Internal Revenue Service are not required to enforce these restrictions, nor are they prohibited from providing aid.

FEDERAL EMPLOYMENT AUTHORIZATION (Sections 285.525 - 285.560)

Business entities and employers are prohibited from knowingly employing, hiring, or continuing to employ illegal aliens to perform work in Missouri. Participation in a federal work authorization program which enables employers to electronically verify employment eligibility is required for all public employers and business entities receiving a state contract or grant in excess of \$5,000 or state-administered tax credit, tax abatement, or loan from the state. Participation in a federal program is an affirmative defense to an allegation that a business entity knowingly hired an illegal alien, unless it is shown by clear and convincing evidence that the business entity had actual knowledge of the unauthorized status of an employee.

A contractor will not be held liable under the provisions prohibiting employment of illegal aliens if the contractor provides documented proof of enrollment in a federal work authorization program and the contractor obtains from a direct subcontractor documented proof of the subcontractor's enrollment in any federal work authorization program or a sworn affidavit under penalty of perjury attesting that all the direct subcontractor's employees are lawfully present in the United States.

Failing to provide identity information on employees within 10 business days after receipt of the request by the Division of Labor Standards within the Department of Labor and Industrial Relations will result in the suspension of a company's applicable local licenses, permits, and exemptions until the information is supplied.

Employing an illegal alien will result in the suspension of a company's applicable local licenses, permits, and exemptions for 14 days and mandatory participation in a federal work

authorization program. A second violation for employing an illegal alien will result in the suspension of a company's applicable local licenses, permits, and exemptions for a minimum of 30 and a maximum of 60 days. A third or subsequent violation will result in the suspension of a company's applicable local licenses, permits, and exemptions for a minimum of one year and a maximum of five years.

A violation of the prohibition against employing illegal aliens by a business entity awarded a state contract or grant or state-administered tax credit, tax abatement, or loan from the state will result in the termination of the contract and the suspension or debarment of the business entity from doing business in this state for a period of three years. A second or subsequent violation will result in the termination of the contract and the permanent suspension or debarment of the business entity from doing business in this state. The state may withhold up to 25% of the total amount due to the business entity upon termination of the contract.

Any person who files a frivolous complaint not shown by clear and convincing evidence to be valid will be liable for actual, compensatory, and punitive damages and attorney fees and court costs to the alleged violator.

Only the federal government can determine whether a worker is an unauthorized alien.

The division must maintain a database documenting any business entity whose permit, license, or exemption has been suspended or whose state contract has been terminated.

Failure by a municipality or county to suspend any applicable license or permit of a violator as directed by the division within 15 business days after notification by the division will be deemed a violation of Section 67.307 governing sanctuary cities and will subject the municipality or county to the specified penalties.

If the federal government discontinues or fails to authorize any work authorization program, the provisions of the substitute will be reviewed by the General Assembly to determine if they need to be repealed.

The state must indemnify, defend, and hold harmless any political subdivision, public official, or employee sued for a violation of the federal civil rights statutes when attempting to comply with the provisions of the substitute.

DRIVER'S LICENSES (Sections 302.063, 302.720, and 578.570)

The Department of Revenue is prohibited from issuing driver's licenses to illegal aliens and persons who cannot prove lawful presence in the United States. Missouri will not extend full faith and credit to out-of-state driver's licenses issued to illegal aliens.

The commercial driver's license written test must only be given in English. Translators will not be allowed for applicants taking the test.

Penalties for driver's license fraud are established. Any person who knowingly or in reckless disregard of the truth is prohibited from:

(a) Assisting any person in committing fraud or deception during a driver's license, nondriver's license, or instruction permit examination process;

(b) Assisting any person in applying for a driver's license, instruction permit, or nondriver's license that contains or is substantiated with false or fraudulent information or documentation, conceals a material fact, or is fraudulent; or

(c) Engaging in a conspiracy to commit any of the preceding acts or aids or abets the commission of any of the acts.

Any person who violates one of the driver's license fraud provisions will be guilty of a class A misdemeanor.

BAIL (Section 544.470)

If a judge reasonably believes that a person is an illegal alien, bail will be denied at least until the person can provide verification of lawful presence in the United States, at which time a judge must determine whether release on bail is otherwise warranted. If lawful presence verification cannot be provided, a person must be held in custody until discharged by due course of law.

TRANSPORTING OR CONCEALING ILLEGAL ALIENS (Section 577.722)

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 are created. 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.

IMMIGRATION STATUS VERIFICATION UPON ARREST (Section 577.900)

An arresting law enforcement agency is required to verify within

48 hours through the United States Department of Homeland Security the lawful immigration status of a person charged with a crime and held in confinement if verification cannot be made from documents in the possession of the prisoner or after a reasonable effort by the arresting agency. Upon verification that the prisoner is an illegal alien, the arresting agency must notify the federal department. Until August 28, 2009, this provision will only apply to officers employed by the State Highway Patrol, State Water Patrol, Capitol Police, State Fire Marshal's Office, and Division of Alcohol and Tobacco Control within the Department of Public Safety.

COMMUNICATION WITH FEDERAL OFFICIALS (Section 650.681)

No government entity or official or political subdivision can prohibit or restrict any other government entity or official from communicating or cooperating with federal officials on the immigration status of any person in this state. No person or agency can prohibit or restrict any public employee from communicating or cooperating with local, state, or federal officials on the immigration status of any person in this state.

Upon complaint by any state resident or before the provision or award of any funds or grants to any government agency or political subdivision, any member of the General Assembly may request that the Attorney General issue an opinion as to whether the government agency or political subdivision has policies prohibiting or restricting public officials or employees from communicating or cooperating with local, state, or federal officials on the immigration status of any person in this state.

The provisions regarding sanctuary cities, federal employment authorization, and communication with federal officials become effective January 1, 2009.

FISCAL NOTE: Not available at time of printing.

PROPOSERS: Supporters say that the bill will protect Missouri residents from losing their jobs to illegal aliens. The employment of illegal aliens is a tremendous magnet for illegal immigration and is unfair to the employers who are doing the right thing by paying fair wages and providing benefits.

Testifying for the bill were Senator Rupp; and Missourians Against Illegal Immigration.

OPPOSERS: Those who oppose the bill say that it will be prohibitively expensive and have many unintended consequences. A major concern is that the claims process will be used as a tool for harassment; therefore, persons who file frivolous claims

should be punished. Singling out public works contractors for mandatory use of a federal work authorization program is unfair. Deportation often breaks up intact families; and by getting rid of the family's financial provider, the legal immigrants staying here are forced to go on the welfare rolls, which is and will be a serious strain on the welfare budget.

Testifying against the bill were Missouri Chamber of Commerce and Industry; Associated General Contractors of Missouri; Builders Association of Missouri; Linda Callon, Missouri Immigrant and Refugee Advocates; American Civil Liberties Union of Eastern Missouri; City of St. Louis; Missouri Association for Social Welfare; Service Employees International Union, Missouri/Kansas State Council; Catholic Charities Archdiocese of St. Louis; Jewish Federation of St. Louis; and Missouri Catholic Conference.

OTHERS: Others testifying on the bill say it is unrealistic to believe that someone could be deported and then apply for and receive legal citizenship right away. The 10-business-day period within which municipalities have to suspend a business's license may not be feasible in small municipalities where the city hall may be open only twice a month.

Testifying on the bill were Missouri Municipal League; and Marie Kenyon, Catholic Immigration Law Project.