

## Session 117 - (2007-2008)

### **S 1336 General Bill, By Ritchie, Campsen and McConnell**

***Similar (S 0392, H 3026, H 3027, H 3037, H 3068, H 3141)***

#### **Summary:** Illegal Immigration Reform Act

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 14 TO TITLE 8, RELATING TO ILLEGAL ALIENS AND PUBLIC EMPLOYMENT, SO AS TO ENACT THE "SOUTH CAROLINA ILLEGAL IMMIGRATION REFORM ACT", TO REQUIRE THAT EVERY PUBLIC EMPLOYER PARTICIPATE IN THE FEDERAL WORK AUTHORIZATION PROGRAM TO VERIFY ALL NEW EMPLOYEES, TO REQUIRE CONTRACTORS OR SUBCONTRACTORS WHO CONTRACT WITH PUBLIC EMPLOYERS FOR THE PHYSICAL PERFORMANCE OF SERVICES TO REGISTER AND PARTICIPATE IN THE FEDERAL WORK AUTHORIZATION PROGRAM, TO DEFINE TERMS, TO ESTABLISH DEADLINES TO COMPLY FOR PUBLIC EMPLOYERS, CONTRACTORS, AND SUBCONTRACTORS, TO REQUIRE THAT THE PROVISIONS OF THE CHAPTER ARE ENFORCEABLE WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY, OR NATIONAL ORIGIN, AND TO AUTHORIZE THE DIRECTOR OF THE STATE BUDGET AND CONTROL BOARD TO PRESCRIBE FORMS AND PROMULGATE RULES NECESSARY TO ADMINISTER THE ACT AND PUBLISH THE RULES AND REGULATIONS ON THE BOARD'S WEBSITE; TO AMEND TITLE 8 BY ADDING CHAPTER 28, RELATING TO ENFORCEMENT OF FEDERAL IMMIGRATION AND CUSTOMS LAWS, SO AS TO AUTHORIZE THE CHIEF OF THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION TO NEGOTIATE THE TERMS OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE STATE AND THE FEDERAL GOVERNMENT CONCERNING THE ENFORCEMENT OF FEDERAL IMMIGRATION AND CUSTOMS LAWS, DETENTION AND REMOVALS, AND INVESTIGATIONS IN THE STATE, TO AUTHORIZE THE CHIEF OF THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION TO DESIGNATE APPROPRIATE LAW ENFORCEMENT OFFICERS TO BE TRAINED PURSUANT TO THE MEMORANDUM OF UNDERSTANDING, TO STIPULATE THAT NO TRAINING SHALL TAKE PLACE UNTIL FUNDING IS SECURED, TO PERMIT THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS, ANY COUNTY SHERIFF, OR THE GOVERNING BODY OF ANY MUNICIPALITY THAT MAINTAINS A POLICE FORCE TO ENTER INTO THE MEMORANDUM AS A PARTY AND PROVIDE OFFICERS TO BE TRAINED, AND TO PROVIDE THAT AN OFFICER CERTIFIED AS TRAINED IN ACCORDANCE WITH THE MEMORANDUM IS AUTHORIZED TO ENFORCE FEDERAL IMMIGRATION AND CUSTOMS LAWS WHILE PERFORMING WITHIN THE SCOPE OF HIS OR HER DUTIES; TO AMEND TITLE 8, BY ADDING CHAPTER 29, RELATING TO VERIFICATION OF A PERSON'S LAWFUL PRESENCE IN THE UNITED STATES, SO AS TO REQUIRE THAT EVERY AGENCY OR POLITICAL SUBDIVISION OF THIS STATE VERIFY THE LAWFUL PRESENCE IN THE UNITED STATES OF ANY NATURAL PERSON EIGHTEEN OR OLDER WHO HAS APPLIED FOR STATE OR LOCAL PUBLIC BENEFITS, AS DEFINED BY FEDERAL LAW, THAT ARE ADMINISTERED BY AN AGENCY OR POLITICAL SUBDIVISION OF THIS STATE, TO REQUIRE ENFORCEMENT OF THIS PROVISION WITHOUT REGARD TO RACE, RELIGION, GENDER, ETHNICITY, OR NATIONAL ORIGIN, TO PROVIDE EXCEPTIONS FOR VERIFICATION OF A PERSON'S LAWFUL PRESENCE IN THE UNITED STATES, TO PROVIDE A PROCEDURE FOR A PERSON TO VERIFY HIS OR HER LAWFUL PRESENCE IN THE UNITED STATES, INCLUDING EXECUTING AN AFFIDAVIT THAT THE PERSON IS A UNITED STATES CITIZEN OR LEGAL PERMANENT RESIDENT OR A QUALIFIED ALIEN OR NONIMMIGRANT UNDER THE IMMIGRATION AND NATURALIZATION ACT, TO REQUIRE THAT ELIGIBILITY FOR BENEFITS SHALL BE MADE THROUGH THE FEDERAL SYSTEMATIC ALIEN VERIFICATION OF ENTITLEMENT PROGRAM MAINTAINED BY THE DEPARTMENT OF HOMELAND SECURITY, TO MANDATE THAT A PERSON WHO KNOWINGLY AND WILLFULLY MAKES A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR REPRESENTATION IN AN AFFIDAVIT EXECUTED PURSUANT TO THIS SECTION, OR WHO AIDS OR ABETS A PERSON IN KNOWINGLY AND WILLFULLY MAKING A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR REPRESENTATION IN AN AFFIDAVIT SHALL BE GUILTY OF A FELONY AND, UPON CONVICTION, SHALL BE FINED OR IMPRISONED NOT MORE THAN FIVE YEARS, OR BOTH, AND MUST DISGORGE ANY BENEFIT RECEIVED AND MAKE RESTITUTION TO THE AGENCY WHO ADMINISTERED THE BENEFIT OR ENTITLEMENT, TO REQUIRE THAT IF THE AFFIDAVIT CONSTITUTES A FALSE CLAIM OF UNITED STATES CITIZENSHIP, THE STATE SHALL FILE A COMPLAINT WITH THE UNITED STATES ATTORNEY'S OFFICE, TO PROVIDE THAT AGENCIES OR POLITICAL SUBDIVISIONS MAY ADOPT VARIATIONS OF THE REQUIREMENTS OF THIS SECTION TO REDUCE DELAY AND IMPROVE EFFICIENCY, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR ANY STATE AGENCY OR POLITICAL SUBDIVISION TO PROVIDE BENEFITS IN VIOLATION OF THIS SECTION, AND TO REQUIRE THAT ALL ERRORS AND DELAYS EXPERIENCED BY AGENCIES OR POLITICAL SUBDIVISIONS IN THE SYSTEMATIC ALIEN VERIFICATION OF ENTITLEMENT PROGRAM BE REPORTED TO THE DEPARTMENT OF HOMELAND SECURITY; TO ADD SECTION 12-6-1175, SO AS TO PROHIBIT ANY WAGES OR REMUNERATION FOR LABOR SERVICES PAID TO AN INDIVIDUAL OF SIX HUNDRED DOLLARS OR

MORE PER YEAR FROM BEING CLAIMED AS A DEDUCTIBLE BUSINESS EXPENSE FOR STATE INCOME TAX PURPOSES UNLESS THE INDIVIDUAL IS AN AUTHORIZED EMPLOYEE, TO PROVIDE FOR EXEMPTIONS, TO REQUIRE THE DIRECTOR OF THE DEPARTMENT OF REVENUE TO PRESCRIBE FORMS AND PROMULGATE REGULATIONS TO EFFECTUATE THIS SECTION, AND TO REQUIRE THE EXECUTIVE DIRECTOR OF THE SOUTH CAROLINA EMPLOYMENT SECURITIES COMMISSION TO SEND WRITTEN NOTICE OF THIS PROVISION TO ALL EMPLOYERS IN THIS STATE; TO ADD SECTION 12-8-595, SO AS TO REQUIRE TAX WITHHOLDING AGENTS FOR EMPLOYERS TO WITHHOLD STATE INCOME TAX AT THE RATE OF SIX PERCENT OF THE AMOUNT OF COMPENSATION PAID TO AN INDIVIDUAL IF THE INDIVIDUAL HAS FAILED TO PROVIDE A TAXPAYER IDENTIFICATION NUMBER, FAILED TO PROVIDE A CORRECT TAXPAYER IDENTIFICATION NUMBER, OR PROVIDED A TAXPAYER IDENTIFICATION NUMBER ISSUED FOR NONRESIDENTS, TO PROVIDE THAT WITHHOLDING AGENTS WHO FAIL TO FOLLOW THE PROVISIONS OF THIS SECTION ARE LIABLE FOR THE TAX, TO PROVIDE EXCEPTIONS FROM LIABILITY FOR WITHHOLDING AGENTS IF THE EMPLOYEE PROVIDES A FACIALLY CORRECT TAXPAYER IDENTIFICATION NUMBER THAT THE WITHHOLDING AGENT DOES NOT KNOW WAS FALSE OR INCORRECT, AND TO REQUIRE THE EXECUTIVE DIRECTOR OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION TO SEND NOTICE OF THIS PROVISION TO ALL EMPLOYERS; TO ADD SECTION 16-9-460, TO PROVIDE THAT IT IS A FELONY FOR ANY PERSON TO TRANSPORT, MOVE, OR ATTEMPT TO TRANSPORT WITHIN THE STATE ANY PERSON KNOWINGLY OR IN RECKLESS DISREGARD TO THE FACT THAT THE PERSON HAS COME TO, ENTERED INTO, OR REMAINED IN THE UNITED STATES IN VIOLATION OF THE LAW, IN FURTHERANCE OF THE PERSON'S ILLEGAL PRESENCE IN THE UNITED STATES, OR TO CONCEAL, HARBOR, OR SHELTER FROM DETECTION A PERSON ILLEGALLY IN THE UNITED STATES IN FURTHERANCE OF THE PERSON'S ILLEGAL PRESENCE IN THE UNITED STATES, TO PROVIDE FOR PENALTIES IF A PERSON IS CONVICTED, AND TO PROHIBIT ANY PERSON CONVICTED FROM OBTAINING A PROFESSIONAL LICENSE IN SOUTH CAROLINA; TO ADD SECTION 16-9-460, SO AS SO MAKE IT A FELONY TO TRANSPORT, MOVE, OR ATTEMPT TO TRANSPORT WITHIN THE STATE ANY PERSON KNOWINGLY OR IN RECKLESS DISREGARD FOR THE FACT THAT THE PERSON IS NOT LEGALLY PRESENT IN THE UNITED STATES, OR TO CONCEAL, HARBOR, OR SHELTER FROM DETECTION ANY PERSON IN ANY PLACE KNOWINGLY OR IN RECKLESS DISREGARD OF THE FACT THAT THE PERSON IS NOT LEGALLY PRESENT IN THE UNITED STATES, AND TO PROVIDE PENALTIES FOR A CONVICTION FOR SUCH CRIME; TO ADD SECTION 23-3-1100, SO AS TO REQUIRE THAT ALL JAILS OF THIS STATE OR ITS COUNTIES OR MUNICIPALITIES MUST MAKE A REASONABLE EFFORT TO DETERMINE WHETHER ANY PERSON CHARGED WITH A FELONY OR DRIVING UNDER THE INFLUENCE IS LAWFULLY PRESENT IN THE UNITED STATES, TO MAKE SUCH VERIFICATION WITHIN 72 HOURS OF CONFINEMENT, TO NOTIFY THE DEPARTMENT OF HOMELAND SECURITY IF A PERSON IS NOT LAWFULLY IN THE UNITED STATES, AND TO REQUIRE THE STATE LAW ENFORCEMENT DIVISION TO PROMULGATE REGULATIONS TO COMPLY WITH THE PROVISIONS OF THIS SECTION; TO ADD SECTION 39-5-37, SO AS TO PROVIDE A CIVIL CAUSE OF ACTION TO ANY PERSON WHO IS TERMINATED BY AN EMPLOYER IF THE PURPOSE FOR DISCHARGE WAS TO REPLACE THE WORKER WITH ANOTHER PERSON WHO THE EMPLOYER KNEW OR SHOULD HAVE KNOWN WAS NOT LAWFULLY ADMITTED TO THE UNITED STATES, OR NOT AUTHORIZED TO WORK IN THE UNITED STATES, AND TO PROVIDE AN EXEMPTION FOR ANY EMPLOYER WHO CONFIRMS A WORKER'S STATUS THROUGH THE FEDERAL WORK AUTHORIZATION PROGRAM; AND TO AMEND TITLE 40, BY ADDING CHAPTER 83, RELATING TO REGISTRATION OF IMMIGRATION ASSISTANCE SERVICES, SO AS TO ADD THE "REGISTRATION OF IMMIGRATION SERVICE ACT" TO REQUIRE ALL IMMIGRATION ASSISTANCE SERVICES TO OBTAIN A BUSINESS LICENSE FROM THE SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION, TO PROVIDE DEFINITIONS, TO LIST THE SERVICES THAT IMMIGRATION ASSISTANCE SERVICES MAY PROVIDE, TO PROHIBIT IMMIGRATION SERVICES FROM ACCEPTING PAYMENT IN EXCHANGE FOR PROVIDING LEGAL ADVICE, FOR REFUSING TO RETURN DOCUMENTS SUPPLIED BY, PREPARED FOR, OR PAID FOR BY A CUSTOMER, FOR REPRESENTING OR ADVERTISING, IN CONNECTION WITH PROVIDING IMMIGRATION ASSISTANCE SERVICES, CERTAIN TITLES TO INCLUDE 'NOTARY PUBLIC', OR 'IMMIGRATION CONSULTANT', OR FOR PROVIDING LEGAL ADVICE, OR MAKING ANY MISREPRESENTATION OR FALSE STATEMENT TO INFLUENCE, PERSUADE, OR INDUCE PATRONAGE, TO PROVIDE FOR CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS, AND TO REQUIRE THE DIRECTOR OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION TO PROMULGATE RULES TO EFFECTUATE THIS SUBSECTION, AND TO AMEND TITLE 41 OF THE CODE OF LAWS BY ADDING CHAPTER 8 TO REQUIRE PRIVATE EMPLOYERS TO VERIFY THE IMMIGRATION STATUS OF ALL NEW EMPLOYEES.

**04/29/08 Senate Introduced and read first time**

**04/29/08 Senate Referred to Committee on Judiciary**

05/06/08 Senate Referred to Subcommittee: Ritchie (ch), Sheheen, Campsen, Scott, Williams, Vaughn