

## Session 117 - (2007-2008)

**H\*4400 (Rat #0327, Act #0280 of 2008) General Bill, By Harrell, Harrison, Cato, Cooper, Walker, Witherspoon, Merrill, Sandifer, Haley, Young, Erickson, Littlejohn, Simrill, Bowen, Crawford, Barfield, Cotty, Taylor, Spires, Davenport, E.H. Pitts, Frye, Lowe, Shoopman, Hardwick, Bingham, Skelton, Clemmons, Thompson, Bedingfield, Bannister, Mahaffey, Herbkersman, J.R. Smith, Haskins, Huggins, Hutson, Leach, Toole, Viers, Brady, Dantzler, Delleney, Gambrell, Hamilton, Kelly, Rice, Scarborough, G.M. Smith, G.R. Smith, Talley, Umphlett, Duncan, Owens, Mulvaney, White, Loftis and Edge**

***Similar (H 3149, H 4117, H 4119)***

**Summary:** Illegal aliens

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE SOUTH CAROLINA ILLEGAL IMMIGRATION REFORM ACT; TO AMEND SECTION 1-31-40, RELATING TO DUTIES OF THE STATE COMMISSION ON MINORITY AFFAIRS, SO AS TO REQUIRE THE COMMISSION TO ESTABLISH AND MAINTAIN A HOTLINE FOR REPORTING IMMIGRATION VIOLATIONS; TO ADD CHAPTER 14 TO TITLE 8 SO AS TO REQUIRE THAT EVERY PUBLIC EMPLOYER PARTICIPATE IN THE FEDERAL WORK AUTHORIZATION PROGRAM OR USE CERTAIN DOCUMENTS 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 OR OTHERWISE VERIFY EMPLOYEES, TO DEFINE TERMS, TO ESTABLISH DEADLINES FOR COMPLIANCE BY 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 ADD SECTION 23-3-80 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, A COUNTY SHERIFF, OR THE GOVERNING BODY OF A 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 ADD CHAPTER 29 TO TITLE 8 SO AS TO REQUIRE THAT EVERY AGENCY OR POLITICAL SUBDIVISION OF THIS STATE VERIFY THE LAWFUL PRESENCE IN THE UNITED STATES OF ANY 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 WILFULLY 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 WILFULLY MAKING A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR REPRESENTATION IN AN AFFIDAVIT IS GUILTY OF A FELONY AND, UPON CONVICTION, MUST 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 IS

UNLAWFUL FOR A 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 CHAPTER 30 TO TITLE 8 SO AS TO ESTABLISH A DATABASE AND HOTLINE FOR REPORTING ALLEGATIONS OF VIOLATIONS OF ANY LAW BY A NONRESIDENT; TO ADD SECTION 12-6-1175 SO AS TO PROHIBIT WAGES OR REMUNERATION FOR LABOR SERVICES PAID TO AN INDIVIDUAL OF SIX HUNDRED DOLLARS OR MORE EACH 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, AND TO REQUIRE THE DIRECTOR OF THE DEPARTMENT OF REVENUE TO PRESCRIBE FORMS AND PROMULGATE REGULATIONS TO EFFECTUATE THIS SECTION AND 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 SEVEN PERCENT OF THE AMOUNT OF COMPENSATION PAID TO AN INDIVIDUAL IF THE INDIVIDUAL HAS FAILED TO PRODUCE A TAXPAYER IDENTIFICATION NUMBER, OR A CORRECT TAXPAYER IDENTIFICATION NUMBER, OR PRODUCED 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 DIRECTOR OF THE DEPARTMENT OF REVENUE SEND NOTICE OF THIS PROVISION TO ALL EMPLOYERS; TO ADD SECTION 16-9-460 SO AS SO MAKE IT A FELONY TO TRANSPORT, MOVE, OR ATTEMPT TO TRANSPORT WITHIN THE STATE A 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 A PERSON IN ANY PLACE KNOWINGLY OR IN RECKLESS DISREGARD OF THE FACT THAT THE PERSON IS NOT LEGALLY PRESENT IN THE UNITED STATES, PROVIDE PENALTIES FOR A CONVICTION FOR THAT CRIME, AND PROVIDE EXEMPTIONS; TO ADD SECTION 16-13-525 SO AS TO PROVIDE FOR DISGORGEMENT OF ILLEGALLY RECEIVED BENEFITS AND FOR PERSONAL LIABILITY FOR IDENTITY THEFT IN CONNECTION WITH UNLAWFUL PRESENCE IN THIS STATE; TO ADD SECTION 23-3-1100 SO AS TO REQUIRE THAT ALL JAILS OF THIS STATE OR ITS COUNTIES OR MUNICIPALITIES MAKE A REASONABLE EFFORT TO DETERMINE WHETHER A PERSON CHARGED WITH A FELONY OR DRIVING UNDER THE INFLUENCE IS LAWFULLY PRESENT IN THE UNITED STATES, TO MAKE THE VERIFICATION WITHIN SEVENTY-TWO 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 41-1-30 SO AS TO PROVIDE A CIVIL CAUSE OF ACTION TO A PERSON WHO IS TERMINATED BY AN EMPLOYER IF THE PURPOSE FOR DISCHARGE WAS TO REPLACE THE WORKER WITH ANOTHER PERSON WHOM 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 PROVIDE EXEMPTIONS; TO ADD CHAPTER 83 TO TITLE 40 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, PROVIDE DEFINITIONS, LIST THE SERVICES THAT IMMIGRATION ASSISTANCE SERVICES MAY PROVIDE, PROHIBIT IMMIGRATION SERVICES FROM ACCEPTING PAYMENT IN EXCHANGE FOR PROVIDING LEGAL ADVICE, REFUSING TO RETURN DOCUMENTS SUPPLIED BY, PREPARED FOR, OR PAID FOR BY A CUSTOMER, REPRESENTING OR ADVERTISING, IN CONNECTION WITH PROVIDING IMMIGRATION ASSISTANCE SERVICES, CERTAIN TITLES TO INCLUDE "NOTARY PUBLIC", OR "IMMIGRATION CONSULTANT", OR PROVIDING LEGAL ADVICE, OR MAKING ANY MISREPRESENTATION OR FALSE STATEMENT TO INFLUENCE, PERSUADE, OR INDUCE PATRONAGE, PROVIDE FOR CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS, AND REQUIRE THE DIRECTOR OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION TO PROMULGATE RULES TO EFFECTUATE THIS SUBSECTION; TO AMEND SECTION 14-7-1630, AS AMENDED, RELATING TO STATE GRAND JURY JURISDICTION, SO AS TO INCLUDE CASES INVOLVING ILLEGAL ACTS IN FURTHERANCE OF UNLAWFUL PRESENCE IN THE STATE; TO ADD SECTION 16-23-530 SO AS TO MAKE IT UNLAWFUL FOR ONE UNLAWFULLY PRESENT TO POSSESS OR TRANSFER A FIREARM; TO AMEND SECTION 17-15-30, AS AMENDED, RELATING TO CONDITIONS FOR GRANTING RELEASE, SO AS TO INCLUDE CONSIDERATION BY THE COURT OF UNLAWFUL PRESENCE IN THIS STATE WHEN GRANTING BOND; TO ADD SECTION 59-101-430 SO AS TO PROHIBIT A PERSON NOT LAWFULLY IN THIS STATE FROM ATTENDING, OR

RECEIVING FINANCIAL AID TO ATTEND, A PUBLIC INSTITUTION OF HIGHER LEARNING; TO ADD SECTION 6-1-170 SO AS TO PREEMPT LOCAL LAWS IN CONNECTION WITH UNLAWFUL PRESENCE IN THIS STATE; AND TO ADD CHAPTER 8 TO TITLE 41 SO AS TO REQUIRE PRIVATE EMPLOYERS IN THIS STATE TO VERIFY THE LAWFUL PRESENCE OF THEIR EMPLOYEES, TO PROVIDE FOR LICENSING AND INVESTIGATION BY THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AND ENFORCEMENT BY THE DEPARTMENT, TO REQUIRE ASSISTANCE AND ACCESS FOR EMPLOYERS FROM THE EMPLOYMENT SECURITY COMMISSION, AND TO PROVIDE FOR ADMINISTRATIVE PENALTIES FOR VIOLATIONS. - ratified title

01/09/08	House	Introduced and read first time HJ-13
01/09/08	House	Referred to Committee on Judiciary HJ-16
01/22/08	House	Member(s) request name added as sponsor: Duncan
01/23/08	House	Member(s) request name added as sponsor: Owens
01/23/08	House	Committee report: Favorable with amendment Judiciary HJ-4
01/24/08	House	Member(s) request name added as sponsor: Mulvaney
01/29/08	House	Member(s) request name added as sponsor: White
01/29/08	House	Debate adjourned until Wednesday, January 30, 2008 HJ-19
01/30/08	House	Member(s) request name added as sponsor: Loftis, Edge
01/30/08	House	Requests for debate-Rep(s). Cobb-Hunter, Sellers, Ott, JH Neal, MA Pitts, Vick, Hosey, Williams, Shoopman, Bedingfield, Viers, Hamilton, Hodges, and Frye HJ-17
01/30/08	House	Amended HJ-39
01/30/08	House	Read second time HJ-76
01/30/08	House	Roll call Yeas-89 Nays-23 HJ-76
01/31/08	House	Read third time and sent to Senate HJ-51
01/31/08	House	Roll call Yeas-80 Nays-13 HJ-56
02/04/08		Scrivener's error corrected
02/05/08	Senate	Introduced and read first time SJ-17
02/05/08	Senate	Referred to Committee on Judiciary SJ-17
02/11/08	Senate	Referred to Subcommittee: Ritchie (ch), Sheheen, Campsen, Scott, Williams, Vaughn
05/07/08	Senate	Recalled from Committee on Judiciary SJ-18
05/22/08	Senate	Special order, set for May 22, 2008 SJ-102
05/27/08	Senate	Amended SJ-35
05/27/08	Senate	Read second time SJ-35
05/28/08	Senate	Read third time and returned to House with amendments SJ-124
05/29/08	House	Concurred in Senate amendment and enrolled HJ-121
05/29/08	House	Roll call Yeas-94 Nays-16 HJ-130
05/29/08		Ratified R 327
06/04/08		Signed By Governor
06/13/08		Copies available
06/13/08		Effective date 06/04/08
06/17/08		Act No. 280
06/18/08		Scrivener's error corrected