**South Carolina General Assembly**

118th Session, 2009-2010

**S. 1446**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Grooms, Mulvaney, Reese, Setzler, McConnell, Verdin, Cromer, Bryant, Ryberg, Bright, Thomas, S. Martin, Elliott, Rose, Cleary, Fair, Rankin, Davis, Shoopman and Campsen

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Introduced in the Senate on May 13, 2010

Currently residing in the Senate Committee on **Judiciary**

Summary: Illegal aliens

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/13/2010 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2010\05-13-10.docx)‑8

5/13/2010 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2010\05-13-10.docx)‑8

5/18/2010 Senate Referred to Subcommittee: L.Martin (ch), Knotts, Campsen, Williams, Coleman

**VERSIONS OF THIS BILL**

[5/13/2010](file:///p:\pprever\2009-10\1446_20100513.docx)

**A** **BILL**

TO AMEND CHAPTER 1, TITLE 23 OF THE 1976 CODE, BY ADDING SECTION 23‑1‑250 TO PROVIDE THAT WHERE A LAW ENFORCEMENT OFFICER HAS REASONABLE SUSPICION THAT A PERSON STOPPED, DETAINED, OR ARRESTED BY LAW ENFORCEMENT IS AN ALIEN UNLAWFULLY IN THE UNITED STATES, THE OFFICER OR HIS AGENCY MUST FOLLOW CERTAIN PROCEDURES TO VERIFY HIS IMMIGRATION STATUS; AND TO AMEND ARTICLE 5, CHAPTER 9, TITLE 16, BY ADDING SECTION 16‑9‑480 TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON UNLAWFULLY IN THE UNITED STATES TO SOLICIT OR ATTEMPT TO SOLICIT WORK, AND TO PROVIDE PROCEDURES FOR VERIFYING IMMIGRATION STATUS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23‑1‑250. (A) No official or agency of this State or any political subdivision of this State may limit or restrict the enforcement of federal immigration laws.

(B) In the implementation of this section, an alien’s immigration status may be determined by:

(1) a law enforcement officer who is authorized by the federal government to verify or ascertain an alien’s immigration status; or

(2) the United States Immigration and Customs Enforcement or the United State Customs and Border Protection, pursuant to 8 USC 1373(c).

(C) If during the commission of a lawful stop, detention, or arrest by a law enforcement officer or agency of this State or political subdivision of this State, where reasonable suspicion exists that a person stopped, detained, or arrested is an alien and unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person, unless the determination may hinder or obstruct an investigation. The person’s immigration status shall be verified with the federal government pursuant to 8 USC 1373(c).

A law enforcement officer or agency of this State or any political subdivision of this State may not consider race, color, or national origin in implementing the requirements of this section, except to the extent permitted by the United States or South Carolina Constitution.

A person is presumed to not be an alien unlawfully present in the United States if the person provides to the law enforcement officer or agency any of the following:

(1) a valid South Carolina driver’s license;

(2) a valid South Carolina Department of Motor Vehicles identification card;

(3) a valid tribal enrollment card or other form of tribal identification; or

(4) any valid United States federal, state, or local government issued identification.

(D) If an alien unlawfully present in the United States is convicted of a violation of state or local law, on discharge from imprisonment or on the assessment of any monetary obligation that is imposed, the United States Immigration and Customs Enforcement or the United States Customs and Border Protection shall be immediately notified.

(E) Notwithstanding any other law, a law enforcement agency may securely transport an alien to a federal facility in this State or to any other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency if the agency has received verification the alien is unlawfully present in the United States. A law enforcement agency shall obtain judicial authorization before securely transporting an alien who is unlawfully present in the United States to a point of transfer that is outside of this State.

(F) Except as provided by federal law, officers and agencies of this State and any political subdivision of this State may not be prohibited or restricted from sending, receiving, or maintaining information relating to the immigration status of any individual or exchanging that information with any other federal, state, or local government entity for the following purposes:

(1) determining eligibility for any public benefit, service, or license provided by any federal, state, local, or other political subdivision of this State;

(2) verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this State or a judicial order issued pursuant to a civil or criminal proceeding in this State;

(3) determining whether an alien is in compliance with the federal registration laws prescribed by Chapter 7, Title II of the federal Immigration and Nationality Act; or

(4) pursuant to 8 USC 1373 and 8 USC 1644.

(G) This section does not implement, authorize, or establish and shall not be construed to implement, authorize, or establish the federal Real ID Act of 2005, including the use of a radio frequency identification chip.

(H) This law shall be implemented in a manner that is consistent with federal laws regulating immigration, protecting the civil rights of all persons and respecting the privileges and immunities of United States citizens.”

SECTION 2. Article 5, Chapter 9, Title 16 of the 1976 Code is amended by adding:

“Section 16‑9‑480. (A) For the purposes of this section, the term:

(1) ‘Solicit’ means verbal or nonverbal communication by a gesture or a nod that would indicate to a reasonable person that a person is willing to be employed.

(2) ‘Unauthorized alien’ means an alien who does not have the legal right or authorization pursuant to federal law to work in the United States as described in 8 U.S.C. 1324(a)(h)(3).

(B) An alien’s immigration status may be determined by:

(1) a law enforcement officer who is authorized by the federal government to verify or ascertain an alien’s immigration status; or

(2) the United States Immigration and Customs Enforcement or the United States Customs and Border Protection pursuant to 8 USC 1373(c).

(C) It is unlawful for a person who is unlawfully present in the United States and who is an unauthorized alien to knowingly apply for work, solicit work in a public place, or perform work as an employee or independent contractor.”

SECTION 3. This act takes effect upon approval by the Governor.

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