

CCS SS HCS HB 1549, 1771, 1395 & 2366 -- ILLEGAL ALIENS AND
IMMIGRATION STATUS VERIFICATION

This bill 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is repealed or is no longer in effect.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 government entity, agency, or political
subdivision, any member of the General Assembly may request that
the Attorney General issue an opinion as to whether the
government entity, agency, or political subdivision 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.

PUBLIC BENEFITS (Section 208.009)

Aliens unlawfully present in the United States are prohibited
from receiving a state or local public benefit unless it is
offered under 8 U.S.C. 1621(b). 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 benefits 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.

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. A person is prohibited from knowingly or in reckless disregard of the truth:

(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 a driver's license fraud provision will be guilty of a class A misdemeanor.

MISCLASSIFICATION OF EMPLOYEES (Sections 285.309 and 285.500 - 285.515)

Employers with five or more employees are required to file federal 1099-miscellaneous forms with the Department of Revenue within the same deadline as the filing of Missouri Form 99 forms. After the fifth violation, an employer will be fined up to \$200 for each additional violation.

Employers are prohibited from knowingly and willfully misclassifying a worker as an independent contractor by failing to claim the worker as an employee when the employer knows that the worker is an employee. The Attorney General is given certain investigative and prosecutorial powers regarding misclassification of workers. Anyone violating this provision will be subject to a fine of \$50 per day per misclassified worker up to \$50,000.

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 a 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.

A general contractor or subcontractor will not be held liable under the provisions prohibiting employment of illegal aliens, even if the general contractor's or subcontractor's direct subcontractor hires an illegal alien, if the contract binding the contractor and subcontractor states that the direct subcontractor is not knowingly in violation of the prohibition and will not violate the prohibition and the contractor or subcontractor receives a sworn affidavit under penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

Failing to provide identity information on employees within 15 business days after receipt of the request by the Attorney General 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. A second violation will result in suspension for a period of one year. A third or subsequent violation will result in permanent suspension.

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 to the alleged violator.

Only the federal government can determine whether a worker is an

unauthorized alien.

The Attorney General 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 Attorney General within 15 business days after notification by the Attorney General 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, Sections 285.525 - 285.550 will be reviewed by the General Assembly to determine if they need to be repealed.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) TRAINING (Section 292.675)

Effective August 28, 2009, contractors and subcontractors who contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within 60 days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body \$2,500 plus \$100 a day for each employee who is employed without training. Public bodies and contractors may withhold assessed penalties from the payment due to contractors and subcontractors.

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 knowingly 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, and the provisions regarding OSHA training become effective August 28, 2009.