

PUBLIC CHAPTER NO. 529**HOUSE BILL NO. 729**

By Representatives Hood, DuBois, Dean, Hill, Campfield, Hackworth, Fraley, McDonald, Odom, Harmon, Curt Cobb, Sontany, Jim Cobb, Fincher, Bibb, Curtiss, Coleman, Mike Turner, Bass, Pitts, Shaw, Pruitt, Ferguson, Rinks, Floyd, Miller, McManus, Bell, Hensley, Hawk, Maggart, Kevin Brooks, Vaughn, Tidwell, Dunn, Gresham, Harrison, Williams, Borchert, Montgomery, West, McDaniel, Todd, Casada, Eldridge, Coley, Yokley, John DeBerry, Ford, Lollar, Winningham, Phillip Johnson, Moore, Sherry Jones

Substituted for: Senate Bill No. 202

By Senators Ketron, Johnson, Beavers, Stanley, Tracy, Raymond Finney, Kilby

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 50, relative to employment of illegal aliens.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated § 50-1-103, is amended by deleting the section in its entirety and substituting instead the following:

§ 50-1-103.

(a) As used in this section, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of labor and workforce development.

(2) "Department" means the department of labor and workforce development.

(3) "Employ" or "employment" means any work engaged in for compensation in money or other valuable consideration and for which a person paying the compensation for the work performed is required to file a "Form W-2" wage and tax statement with the federal internal revenue service.

(4) "Illegal alien" means a person who is at the time of employment neither an alien who is lawfully admitted for permanent residence in the United States pursuant to the federal Immigration and Naturalization Act nor authorized to be employed by the federal Immigration and Naturalization Act or the United States attorney general.

(5) "Knowingly" means having actual knowledge that a person is an illegal alien or having a duty imposed by law to

determine the immigration status of an illegal alien and failing to perform such duty.

(6) "Lawful resident alien" means a person who is entitled to lawful residence in the United States pursuant to the federal Immigration and Naturalization Act.

(7) "Lawful resident verification information" means the documentation that is required by the United States department of homeland security when completing the employment eligibility verification form commonly referred to as the federal "Form I-9". Documentation that later proves to be falsified, but that at the time of employment satisfies the requirements of the "Form I-9", is lawful resident verification information.

(8) "License" means any certificate, approval, registration or similar form of permission required by law.

(9) "Person" means individual, corporation, partnership, association or any other legal entity.

(b) A person shall not knowingly employ, recruit or refer for a fee for employment, an illegal alien.

(c) A person has not violated subsection (b) with respect to a particular employee if the person:

(1) Requested from the employee, received, and documented in the employee record at least fourteen (14) calendar days after commencement of employment lawful resident verification information consistent with employer requirements under the Immigration Reform and Control Act of 1986; and

(2) The lawful resident verification information provided by the person later was determined to be false.

(d) A person has not violated subsection (b) with respect to a particular employee if the person verified the immigrant status of the person at least fourteen (14) calendar days after commencement of employment by using the federal electronic work authorization verification service provided by the United States department of homeland security pursuant to the federal Basic Pilot Program Extension and Expansion Act of 2003.

(e) If any state or local governmental agency, officer, employee or entity has reason to believe that a violation of subsection (b) has occurred, the agency, officer, employee or entity shall file a complaint with the department. Upon receipt of the complaint, the commissioner shall conduct an investigation. If there is substantial evidence that a violation of subsection (b) has occurred, the commissioner shall conduct a contested case hearing pursuant to the Uniform Administrative

Procedures Act, compiled in title 4, chapter 5, on the question of whether such person has violated subsection (b). If the commissioner or the commissioner's designee determines that there is clear and convincing evidence that a person has violated subsection (b) and such violation occurred while the person was acting within the scope of practice of a license issued by the state of Tennessee or pursuant to title 67, chapter 4, the commissioner shall request an order consistent with § 4-5-320, requiring the appropriate regulatory board or local government with respect to business licensure pursuant to title 67, chapter 4, to revoke, suspend, or deny the person's license. The commissioner shall state in its findings of fact and conclusions of law whether there have been previous violations of subsection (b).

(1) For the first violation of subsection (b), the commissioner shall order that the regulatory board or local government suspend the person's license until the person shows to the satisfaction of the commissioner that the person is no longer in violation of subsection (b). Such showing may be made by the person filing a sworn statement with the commissioner stating that the person is no longer employing illegal aliens.

(2) For a second or subsequent violation of subsection (b) occurring within three (3) years from the issuance of the commissioner's first order, the commissioner shall order that the regulatory agency or local government suspend the license for one (1) year.

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 1, Part 1, is amended by inserting the following as a new appropriately designated section thereto:

(a) For purposes of enforcing federal immigration laws, including, if applicable, federal laws relating to the employment of illegal aliens, the legislative body of a municipality or county, or the chief law enforcement officer of the county upon approval by the governing legislative body, may enter into a written agreement, in accordance with federal law, between the municipality or county and the United States department of homeland security concerning the enforcement of federal immigration laws, detention and removals, and investigations in the municipality or county.

(b) If a memorandum of understanding with the United States department of homeland security is executed pursuant to subsection (a), municipal and county law enforcement officers shall be designated from local law enforcement agencies who, by written designation and recommendation of a commanding officer, shall be trained pursuant to such memorandum of understanding. Funding for such training shall be provided pursuant to the federal Homeland Security Appropriation Act of 2006, Public Law 109-90 or subsequent federal funding sources.

SECTION 3. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be

promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect January 1, 2008, the public welfare requiring it.

PASSED: June 12, 2007



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 26th day of June 2007



PHIL BREDESEN, GOVERNOR