

May 14, 2008

**S 1596. NC CITIZEN PROTECTION ACT.** Filed 5/14/08. *CREATING THE NORTH CAROLINA CITIZEN PROTECTION ACT.*

As title indicates, creates the new North Carolina Citizens Protection Act. Provides that all of the requirements of the act regarding immigration or the classification of immigration status are to be construed in conformity with federal immigration law.

Enacts new Article 62 of GS Chapter 14 making it a Class G felony to knowingly transport or attempt to transport an illegal alien for the purpose of preventing the discovery of the presence of the illegal alien by persons or agencies authorized to enforce immigration laws. Makes it a Class G felony to knowingly conceal or shelter from detection an illegal alien for the purpose of preventing the discovery of the presence of the illegal alien by persons or agencies authorized to enforce immigration laws. Provides that these two statutes, GS 14-462 and GS 14-463, do not apply to conduct permitted by federal law. Effective December 1, 2008.

Amends GS 14-113.20(a) regarding identity theft to include knowingly obtaining, possessing, or using the identity of another person, living or dead, for the purpose of fraudulently obtaining employment, as a felony punishable under GS 14-113.22(a). Reorganizes the statute and numbers provisions sequentially. Effective December 1, 2008.

Enacts new GS 15A-407 directing the state Attorney General to negotiate the terms of a memorandum of understanding between North Carolina and the United States Department of Justice or the Department of Homeland Security, as authorized by 8 U.S.C. § 1357(g) (providing for the performance of the functions of federal immigration officers by state officers and employees), concerning enforcement of federal immigration and custom laws, detentions and removals, and investigations. Directs the Secretary of Crime Control and Public Safety to designate the law enforcement officers to be trained pursuant to the memorandum of understanding. Provides that the training is to be funded under the federal Homeland Security Appropriation Act of 2006, Public Law 109-90, or any other source of federal or state funding. Provides that state law enforcement officers certified as trained may enforce federal immigration and custom laws.

Enacts new GS 15A-408 to direct that no prohibitions be imposed on public employees, local officials, law enforcement, or any government entity by state municipalities, political subdivisions, agencies, or officials to prevent or restrict cooperation with federal officials regarding immigration status. Provides that any person lawfully domiciled in North Carolina may seek a writ of mandamus to compel a municipality, state agency, or political subdivision to comply with the statute.

Enacts new Article 1 of GS Chapter 64 and recodifies GS 64-1 through GS 64-5 under this new Article. Adds new Article 2 to GS Chapter 64 regarding the Employment of Unauthorized Aliens as follows. Enacts new GS 64-10 providing definitions of terms. Enacts new GS 64-11 authorizing a licensing agency or commission to summarily revoke a license issued to an entity that has violated any of the federal immigration laws concerning the employment of unauthorized aliens. Enacts new GS 64-12 prohibiting an employer from intentionally or knowingly employing an unauthorized alien. Provides procedures for investigating a complaint that an employer has violated the section and details the penalties for violations of the statute. Makes filing a false or frivolous complaint a Class 2 misdemeanor. An employer who establishes that they complied in good faith with 8 U.S.C. § 1324a(b) has established an affirmative defense. Enacts new GS 64-13 to specify that GS Chapter 64, Article 2 is not to be construed in such a manner as to require an employer to take any action the employer has a good faith belief would violate state or federal law. Enacts new GS 64-14 to require that after December 31, 2008, all employers must, after hiring an employee, verify the employee's eligibility under the federal work authorization program. Enacts new GS 64-15 providing that it is an unfair trade practice to fire an authorized employee while retaining an unauthorized employee and provides that the discharged employee has a right of action under GS 75-16.

Enacts new GS Chapter 84B, *Immigration Assistance Registration Act*, to establish and enforce ethical standards for immigration assistance services provided by persons who are not licensed attorneys. Provides definitions as used in the chapter. Provides criteria for registration of non-licensed attorneys providing immigration services in the state, and specifies persons, certain organizations and non-profit entities, who are exempt from the registration requirements.

Delineates the immigration assistance services that a person offering such services is permitted to perform. Provides that any advertisements by a person providing immigration services must include a clear declaration that the person is not an attorney and therefore cannot offer legal advice or accept fees for legal advice. Provides a list of prohibited conduct for persons who are not exempt from the registration requirements. Specifies misdemeanor penalties and fines for violations of GS Chapter 84B.

Amends GS 105-130.2, 105-134.1, and 105-163.1 to define the term *unauthorized alien*. Amends GS 105-130.5 and GS 105-134.6 regarding income tax deduction, for compensation paid to illegal immigrants and withholding on compensation paid to illegal immigrants. Effective January 1, 2009.

Enacts new Article 7, Illegal Aliens, in GS Chapter 108A to require the verification of the lawful presence in the United States of any natural person 18 years of age or older who has applied for state, local, or federal public benefits. Provides exceptions to the requirement and definitions for terms as applied in the section. Making a false statement in an affidavit concerning residency is a Class H felony. Effective January 1, 2009.

Enacts new subsection GS 143-129(i) providing that no state body or institution may award a contract to any contractor unless the contractor registers and participates or attempts to register and participate in the federal work authorization program to verify the legal status of all new employees.

Enacts new GS 153A-99.1 (regarding counties) and GS 160A-169.1 (regarding cities) requiring a county or a city, respectively, to register and participate, or attempt to register and participate in the federal work authorization program to verify the legal status of all new employees. Enacts new 153A-15.2 (regarding counties) and GS 160A-12.1 (regarding cities), prohibiting a county or a city, respectively, from entering into a contract for the physical performance of services within the state unless the contractor registers and participates in the federal work authorization program, or attempts to register and participate in the federal work authorization program to verify the legal status of all new employees.

Creates the *E-Verify Participation Assistance Fund* (E-Verify Fund) in the Office of the Governor. Appropriates \$324,000 for 2008-09 from the General Fund to the E-Verify Fund to assist counties and cities with the costs of implementing GS 153A-99.1 and GS 160A-169.1.

Effective October 1, 2008 unless otherwise indicated.

**Intro. by Pittenger.**

GS 14, 15A, 64, 84B, 105, 108A, 143, 153A,  
160A, APPROP