
SENATE BILL 6436

State of Washington

62nd Legislature

2012 Regular Session

By Senators Stevens and King

Read first time 01/23/12. Referred to Committee on Judiciary.

1 AN ACT Relating to unlawful aliens; amending RCW 46.20.031; adding
2 a new section to chapter 9A.76 RCW; adding a new section to chapter
3 70.48 RCW; adding a new section to chapter 41.04 RCW; and prescribing
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.76 RCW
7 to read as follows:

8 (1) It is unlawful for any person to transport, move, or attempt to
9 transport in the state of Washington any alien knowing or in reckless
10 disregard of the fact that the alien has come to, entered, or remained
11 in the United States in violation of law, in furtherance of the illegal
12 presence of the alien in the United States.

13 (2) It is unlawful for any person to conceal, harbor, or shelter
14 from detection any alien in any place within the state of Washington,
15 including any building or means of transportation, knowing or in
16 reckless disregard of the fact that the alien has come to, entered, or
17 remained in the United States in violation of law.

18 (3) Nothing in this section may be construed so as to prohibit or

1 restrict the provision of any state or local public benefit described
2 in 8 U.S.C. Sec. 1621(b), or regulated public health services provided
3 by a private charity using private funds.

4 (4) Any person violating the provisions of subsections (1) or (2)
5 of this section is, upon conviction, guilty of a felony punishable by
6 imprisonment in the custody of the department of corrections for not
7 less than one year, or by a fine of not less than one thousand dollars,
8 or by both the fine and imprisonment.

9 **Sec. 2.** RCW 46.20.031 and 2002 c 279 s 3 are each amended to read
10 as follows:

11 The department shall not issue a driver's license to a person:

12 (1) Who is under the age of sixteen years;

13 (2) Whose driving privilege has been withheld unless and until the
14 department may authorize the driving privilege under RCW 46.20.311;

15 (3) Who has been classified as an alcoholic, drug addict, alcohol
16 abuser, or drug abuser by a program approved by the department of
17 social and health services. The department may, however, issue a
18 license if the person:

19 (a) Has been granted a deferred prosecution under chapter 10.05
20 RCW; or

21 (b) Is satisfactorily participating in or has successfully
22 completed an alcohol or drug abuse treatment program approved by the
23 department of social and health services and has established control of
24 his or her alcohol or drug abuse problem;

25 (4) Who has previously been adjudged to be (~~mentally ill~~) an
26 individual with a mental illness or insane, or to be incompetent due to
27 a mental disability or disease. The department shall, however, issue
28 a license to the person if he or she otherwise qualifies and:

29 (a) Has been restored to competency by the methods provided by law;
30 or

31 (b) The superior court finds the person able to operate a motor
32 vehicle with safety upon the highways during such incompetency;

33 (5) Who has not passed the driver's licensing examination required
34 by RCW 46.20.120 and 46.20.305, if applicable;

35 (6) Who is required under the laws of this state to deposit proof
36 of financial responsibility and who has not deposited such proof;

1 (7) Who is unable to safely operate a motor vehicle upon the
2 highways due to a physical or mental disability. The department's
3 conclusion that a person is barred from licensing under this subsection
4 must be reasonable and be based upon good and substantial evidence.
5 This determination is subject to review by a court of competent
6 jurisdiction;

7 (8)(a) Who cannot provide proof of United States citizenship, or
8 status as a legal permanent resident alien. The provisions of this
9 subsection (8) do not apply when an applicant presents, in person,
10 valid documentary evidence of:

11 (i) A valid, unexpired immigrant or nonimmigrant visa status for
12 admission into the United States;

13 (ii) A pending or approved application for asylum in the United
14 States;

15 (iii) Admission into the United States in refugee status;

16 (iv) A pending or approved application for temporary protected
17 status in the United States;

18 (v) Approved deferred action status; or

19 (vi) A pending application for adjustment of status to legal
20 permanent residence status or conditional resident status.

21 (b) Upon approval, the applicant may be issued an identification
22 document provided for in (a)(iii) or (iv) of this subsection. The
23 driver's license is valid only during the period of time of the
24 authorized stay of the applicant in the United States or, if there is
25 no definite end to the period of authorized stay, a period of one year.
26 Any driver's license issued pursuant to the provisions of this
27 subsection must clearly indicate that it is temporary and must state
28 the date that the identification document expires. The identification
29 document may be renewed only upon presentation of valid documentary
30 evidence that the status by which the applicant qualified for the
31 identification document has been extended by the United States
32 citizenship and immigration services or other authorized agency of the
33 United States department of homeland security.

34 Any driver license issued to a person who is not a United States
35 citizen, national or legal permanent resident alien for which an
36 application has been made for renewal, duplication, or reissuance is
37 presumed to have been issued in accordance with the provisions of
38 subsection (8) of this section if, at the time the application is made,

1 the driver's license has not expired, or been canceled, suspended, or
2 revoked. The requirements of subsection (8) of this section apply,
3 however, to a renewal, duplication, or reissuance if the department is
4 notified by a local, state, or federal government agency of information
5 in the possession of the agency indicating a reasonable suspicion that
6 the individual seeking the renewal, duplication, or reissuance is
7 present in the United States in violation of law. The provisions of
8 this subsection do not apply to United States citizens, nationals, or
9 legal permanent resident aliens.

10 NEW SECTION. Sec. 3. A new section is added to chapter 70.48 RCW
11 to read as follows:

12 (1) When a person charged with a felony or with driving under the
13 influence pursuant to RCW 46.61.502 is confined, for any period, in the
14 jail of the county, any municipality or a jail operated by a regional
15 jail authority, a reasonable effort must be made to determine the
16 citizenship status of the person so confined.

17 (2) If the prisoner is a foreign national, the keeper of the jail
18 or other officer shall make a reasonable effort to verify that the
19 prisoner has been lawfully admitted to the United States and, if
20 lawfully admitted, that his or her lawful status has not expired. If
21 verification of lawful status cannot be made from documents in the
22 possession of the prisoner, verification must be made within forty-
23 eight hours through a query to the law enforcement support center of
24 the United States department of homeland security or other office or
25 agency designated for that purpose by the United States department of
26 homeland security. If the lawful immigration status of the prisoner
27 cannot be verified, the keeper of the jail or other officer shall
28 notify the United States department of homeland security.

29 (3) For the purpose of determining the grant of or issuance of
30 bond, it is a rebuttable presumption that a person whose citizenship
31 status has been verified pursuant to subsection (2) of this section to
32 be a foreign national who has not been lawfully admitted to the United
33 States is at risk of flight.

34 NEW SECTION. Sec. 4. A new section is added to chapter 41.04 RCW
35 to read as follows:

1 (1) Every public employer shall register with and utilize a status
2 verification system to verify the federal employment authorization
3 status of all new employees.

4 (2)(a) After July 1, 2012, a public employer may not enter into a
5 contract for the physical performance of services within this state
6 unless the contractor registers and participates in the status
7 verification system to verify the work eligibility status of all new
8 employees.

9 (b) After July 1, 2012, a contractor or subcontractor who enters
10 into a contract with a public employer may not enter into such a
11 contract or subcontract in connection with the physical performance of
12 services within this state unless the contractor or subcontractor
13 registers and participates in the status verification system to verify
14 information of all new employees.

15 (c) The provisions of this subsection do not apply to any contracts
16 entered into prior to the effective date of this section even though
17 the contracts may involve the physical performance of services within
18 this state after July 1, 2012.

19 (3)(a) It is a discriminatory practice for an employing entity to
20 discharge an employee working in the state who is a United States
21 citizen or permanent resident alien while retaining an employee who the
22 employing entity knows, or reasonably should have known, is an
23 unauthorized alien hired after July 1, 2012, and who is working in
24 Washington state in a job category that requires equal skill, effort,
25 and responsibility, and which is performed under similar working
26 conditions, as defined by 29 U.S.C. Sec. 206(d)(1), as the job category
27 held by the discharged employee.

28 (b) An employing entity which, on the date of the discharge in
29 question, was currently enrolled in and used a status verification
30 system to verify the employment eligibility of its employees in
31 Washington hired after July 1, 2008, is exempt from liability,
32 investigation, or suit arising from any action under this section.

33 (c) No cause of action for a violation of this subsection may arise
34 anywhere in Washington law but from the provisions of this subsection.

35 (4) The definitions in this subsection apply throughout this
36 section unless the context clearly requires otherwise.

37 (i) The electronic verification of work authorization program of 8

1 U.S.C. Sec. 1324a, and operated by the United States department of
2 homeland security, known as the basic pilot program;

3 (ii) Any equivalent federal program designated by the United States
4 department of homeland security or any other federal agency authorized
5 to verify the work eligibility status of newly hired employees,
6 pursuant to the immigration reform and control act of 1986 (IRCA), P.L.
7 99-603;

8 (iii) Any other independent, third-party system with an equal or
9 higher degree of reliability as the programs, systems, or processes
10 described in this subsection (b); or

11 (iv) The social security number verification service, or such
12 similar online verification process implemented by the United States
13 social security administration.

14 (a) "Public employer" means every department, agency, or
15 instrumentality of the state or a political subdivision of the state.

16 (b) "Status verification system" means an electronic system
17 operated by the federal government, through which an authorized
18 official of an agency of the state of Washington or of a political
19 subdivision therein may make an inquiry, by exercise of authority
20 delegated pursuant to 8 U.S.C. Sec. 1373, to verify or ascertain the
21 citizenship or immigration status of any individual within the
22 jurisdiction of the agency for any purpose authorized by this section.
23 The status verification system includes:

24 (c) "Subcontractor" means a subcontractor, contract employee,
25 staffing agency, or any contractor regardless of its tier.

26 (d) "Unauthorized alien" means an alien as defined in 8 U.S.C. Sec.
27 1324a(h)(3).

28 NEW SECTION. **Sec. 5.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

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