

HOUSE BILL NO. HB0062

Illegal immigration.

Sponsored by: Representative(s) Illoway, Martin, Petersen
and Zwonitzer, Dn. and Senator(s) Anderson,
J., Cooper and Fecht

A BILL

for

1 AN ACT relating to illegal immigration; establishing an
2 offense for transportation or concealment of illegal
3 aliens; providing a penalty; requiring certain employers to
4 verify the citizenship status of employees; requiring state
5 agencies and political subdivisions to verify the
6 citizenship status of applicants for certain public
7 benefits; requiring a report; providing a cause of action
8 against entities employing illegal aliens as specified;
9 authorizing the attorney general to negotiate a memorandum
10 of understanding regarding immigration with the appropriate
11 federal agency; establishing rules for the communication of
12 information related to immigration status; requiring the
13 determination of the immigration status of certain
14 prisoners; authorizing the establishment of the fraudulent
15 documents identification unit in the division of criminal
16 investigation; requiring certain documentation for the

1 issuance of a driver's license or identification card;
2 requiring rulemaking; and providing for an effective date.

3

4 *Be It Enacted by the Legislature of the State of Wyoming:*

5

6 **Section 1.** W.S. 6-5-214 and 9-16-101 through 9-16-104
7 are created to read:

8

9 **6-5-214. Transportation or concealment of illegal**
10 **aliens.**

11

12 (a) No person shall transport, move or attempt to
13 transport in the state of Wyoming any alien knowing or in
14 reckless disregard of the fact that the alien has come to,
15 entered or remained in the United States in violation of
16 law, in furtherance of the illegal presence of the alien in
17 the United States.

18

19 (b) No person shall conceal, harbor or shelter from
20 detection any alien in any place within the state of
21 Wyoming, including any building or means of transportation,
22 knowing or in reckless disregard of the fact that the alien
23 has come to, entered or remained in the United States in
24 violation of law.

1

2 (c) Any person violating this section shall, upon
3 conviction, be guilty of a felony punishable by
4 imprisonment for not less than one (1) year nor more than
5 two (2) years, a fine of not less than one thousand dollars
6 (\$1,000.00) nor more than five thousand dollars
7 (\$5,000.00), or both.

8

9

CHAPTER 16

10

ILLEGAL IMMIGRATION

11

12 **9-16-101. Definitions.**

13

14 (a) As used in this chapter:

15

16 (i) "Public employer" means every department,
17 agency or instrumentality of the state or a political
18 subdivision of the state;

19

20 (ii) "Status verification system" means an
21 electronic system operated by the federal government,
22 through which an authorized official of an agency of the
23 state of Wyoming or of a political subdivision of Wyoming
24 may make an inquiry, by exercise of authority delegated

1 pursuant to 8 U.S.C. § 1373, to verify or ascertain the
2 citizenship or immigration status of any individual within
3 the jurisdiction of the agency for any purpose authorized
4 by W.S. 9-16-102. "Status verification system" includes
5 the electronic verification of work authorization program
6 of the Illegal Immigration Reform and Immigration
7 Responsibility Act of 1996, P.L. 104-208, Division C,
8 Section 403(a); 8 U.S.C. § 1324a, and operated by the
9 United States department of homeland security, known as the
10 basic pilot program, or any equivalent federal work
11 authorization program designated by the United States
12 department of homeland security or any other federal agency
13 authorized to verify the work authorization status of newly
14 hired employees, pursuant to the Immigration Reform and
15 Control Act of 1986, P.L. 99-603;

16

17 (iii) "Subcontractor" includes a subcontractor,
18 contract employee, staffing agency or any contractor
19 regardless of its tier;

20

21 (iv) "Unauthorized alien" means an alien as
22 defined in 8 U.S.C. § 1324a(h)(3).

23

24 **9-16-102. Status verification system.**

1

2 (a) Every public employer shall register and
3 participate in the status verification system to verify the
4 work authorization status of all new employees.

5

6 (b) No public employer shall enter into a contract
7 for the physical performance of services within this state
8 unless the contractor registers and participates in the
9 status verification system to verify the work authorization
10 status of all new employees.

11

12 (c) No contractor or subcontractor who enters a
13 contract with a public employer shall enter into such a
14 contract or subcontract in connection with the physical
15 performance of services within this state unless the
16 contractor or subcontractor registers and participates in
17 the status verification system to verify information of all
18 new employees.

19

20 (d) The discharge of any United States citizen or
21 permanent resident alien employee by an employer within
22 this state, who, on the date of the discharge employed an
23 unauthorized alien in this state shall be considered an
24 unfair employment practice. The discharged employee shall

1 have a private cause of action against the employing entity
2 for the unfair employment practice. An employer who is
3 found to have violated this subsection shall be liable to
4 the aggrieved employee for:

5
6 (i) Actual loss of compensation and benefits
7 sustained by the employee plus an additional two percent
8 (2%) of that amount as liquidated damages from the date of
9 discharge of the employee until either the date the
10 employee has begun, or been offered in writing, employment
11 at an equivalent or higher rate of compensation, up to a
12 maximum period of one hundred eighty (180) days from the
13 date of discharge, plus reasonable interest from the date
14 of discharge until the date of payment of the liability;
15 and

16
17 (ii) Reasonable attorney fees and costs.

18
19 (e) An employer who, on the date of a discharge under
20 subsection (d) of this section, was currently enrolled in
21 and used the basic pilot program or other electronic status
22 verification system to verify the employment authorization
23 of its employees in Wyoming shall be exempt from liability
24 under subsection (d) of this section.

1

2 (f) The provisions of this section shall be enforced
3 without regard to race or national origin.

4

5 (g) The department of employment shall prescribe
6 forms and promulgate rules and regulations necessary for
7 the administration of this section.

8

9 **9-16-103. Public benefits.**

10

11 (a) Except as provided by subsection (c) of this
12 section or where exempted by federal law, each agency or
13 political subdivision of this state shall verify the lawful
14 presence in the United States of any natural person
15 fourteen (14) years of age or older who has applied for
16 state or local benefits as defined in 8 U.S.C. § 1621(c),
17 or for federal public benefits as defined in 8 U.S.C. §
18 1611(c) that are administered by an agency or political
19 subdivision of this state.

20

21 (b) The provisions of this section shall be enforced
22 without regards to race, religion, gender, ethnicity or
23 national origin.

24

1 (c) Verification of lawful presence under the
2 provisions of this section shall not be required for:

3

4 (i) Any purpose if lawful presence in the United
5 States is not restricted by law, ordinance or regulation;

6

7 (ii) Assistance for health care items and
8 services that are necessary for the treatment of an
9 emergency medical condition, as defined in 42 U.S.C. §
10 1396b(v)(3) if the items or services are not related to an
11 organ transplant procedure;

12

13 (iii) Short term, noncash, in-kind emergency
14 disaster relief;

15

16 (iv) Public health assistance for immunizations
17 with respect to diseases and for testing and treatment of
18 symptoms of communicable diseases whether or not such
19 symptoms are caused by a communicable disease; or

20

21 (v) Programs, services or assistance such as
22 soup kitchens, crisis counseling and intervention and
23 short-term shelters which:

24

1 (A) Deliver in-kind services at the
2 community level including through public or private
3 nonprofit agencies;

4
5 (B) Do not condition the provision of
6 assistance, amount of assistance or cost of assistance on
7 the income or resources of the recipient; and

8
9 (C) Are necessary for the protection of
10 life or safety.

11
12 (d) For verification of the lawful presence of an
13 applicant in the United States, the agency or political
14 subdivision required to make such verification shall
15 provide notary public services at no cost to the applicant
16 and require that the applicant execute an affidavit under
17 penalty of perjury that:

18
19 (i) He is a United States citizen; or

20
21 (ii) He is a qualified alien under the federal
22 Immigration and Nationality Act, and is lawfully present in
23 the United States.

24

1 (e) For any applicant who has executed an affidavit
2 pursuant to paragraph (d)(ii) of this section, eligibility
3 for benefits shall be determined through the systematic
4 alien verification of entitlement program operated by the
5 United States department of homeland security or a
6 successor program designated by the United States
7 department of homeland security. Until such eligibility
8 verification is made, an affidavit executed pursuant to
9 subsection (d) of this section may be presumed to be proof
10 of lawful presence in the United States for the purposes of
11 this section.

12

13 (f) Any person who knowingly makes a false or
14 fraudulent statement of representation in an affidavit
15 executed pursuant to subsection (d) of this section shall
16 be subject to criminal penalties under W.S. 6-5-303(a).
17 If the affidavit constitutes a false claim of United States
18 citizenship under 18 U.S.C. § 911, a complaint shall be
19 filed by the agency or political subdivision which required
20 the affidavit with the United States attorney for the
21 district in which the affidavit was executed.

22

23 (g) An agency or political subdivision may adopt
24 variations to the requirements of this section if the

1 agency or political subdivision can demonstrate that the
2 variation improves the efficiency of or reduces any delay
3 in the verification process or to provide for the
4 adjudication of unique individual circumstances where the
5 verification procedures in this section would impose a
6 hardship on a legal resident of this state.

7
8 (h) No agency or political subdivision of this state
9 shall provide any state, local or federal benefit as
10 defined in 8 U.S.C. §§ 1611 or 1621 in violation of the
11 provisions of this section.

12
13 (j) Each agency or political subdivision subject to
14 the provisions of this section shall provide an annual
15 report to the governor, the speaker of the house and the
16 president of the senate with respect to its compliance with
17 the provisions of this section. Each agency or political
18 subdivision shall monitor the systematic alien verification
19 of entitlement program for errors and significant delays
20 and report any recommendations that would ensure that the
21 systematic alien verification of entitlement program is not
22 erroneously denying benefits to legal residents of Wyoming.
23 Any error discovered pursuant to this subsection shall also

1 be reported to the United States department of homeland
2 security.

3

4 **9-16-104. Memorandum of understanding; communication**
5 **of immigration status.**

6

7 (a) The attorney general is authorized and directed
8 to negotiate the terms of a memorandum of understanding
9 between the state of Wyoming and the United States
10 department of justice or the United States department of
11 homeland security, as provided by 8 U.S.C. § 1357(g),
12 concerning the enforcement of federal immigration and
13 custom laws, detentions and removals and investigations in
14 the state of Wyoming.

15

16 (b) The memorandum of understanding negotiated
17 pursuant to subsection (a) of this section shall be signed
18 on behalf of this state by the attorney general and the
19 governor or as otherwise required by the appropriate
20 federal agency.

21

22 (c) No local government, whether acting through its
23 governing body or by an initiative, referendum or any other
24 process, shall enact any ordinance or policy that limits or

1 prohibits a law enforcement officer, local official or
2 local government employee from communicating or cooperating
3 with federal officials with regard to the immigration
4 status of any person within this state.

5

6 (d) Notwithstanding any other provision of law, no
7 government entity or official within the state of Wyoming
8 may prohibit or in any way restrict any government entity
9 or official from sending to, or receiving from, the United
10 States department of homeland security information
11 regarding the citizenship or immigration status, lawful or
12 unlawful, of any individual.

13

14 (e) Notwithstanding any other provision of law, no
15 person or agency may prohibit or in any way restrict a
16 public employee from doing any of the following with
17 respect to information regarding the immigration status,
18 lawful or unlawful, of any individual:

19

20 (i) Sending information related to immigration
21 status to, or requesting or receiving such information from
22 the United States department of homeland security;

23

1 (ii) Maintaining information related to
2 immigration status; or

3
4 (iii) Exchanging such information with any other
5 federal, state or local government entity.

6
7 (f) The provisions of this section shall allow for a
8 private right of action by any natural or legal person
9 lawfully domiciled in this state to file for a writ of
10 mandamus to compel any noncooperating local state
11 governmental agency to comply with such reporting laws.

12
13 **Section 2.** W.S. 7-13-104, 9-1-618 by creating a new
14 subsection (c), 31-7-111 by creating new subsections (g)
15 through (k) and 31-8-101 by creating new subsections (c)
16 through (f) are amended to read:

17
18 **7-13-104. Record of prisoners; citizenship.**

19
20 (a) The department of corrections shall keep a
21 complete record of the background and current status of all
22 prisoners sentenced and confined in any state penal
23 institution. The administrator of the institution where a
24 prisoner is incarcerated, the division of criminal

1 investigation, and the clerk of court and sheriff of the
2 county from which the prisoner is committed shall, at the
3 request of the department or the board of parole, furnish
4 any information in their possession relating to the
5 prisoner or the offense committed.

6
7 (b) When a person charged with a felony or with
8 driving or having control of a vehicle while under the
9 influence pursuant to W.S. 31-5-233 is confined, for any
10 period, in a county jail or a state penal institution, a
11 reasonable effort shall be made to determine the
12 citizenship status of the person. If verification of
13 lawful status cannot be made from documents in the
14 possession of the prisoner, verification shall be made
15 within forty-eight (48) hours through a query to the law
16 enforcement support center of the United States department
17 of homeland security or other office or agency designated
18 for that purpose by the United States department of
19 homeland security. If the lawful immigration status of a
20 prisoner cannot be verified, the administrator of the
21 institution or other officer shall notify the United States
22 department of homeland security.

1 **9-1-618. Agents to be safeguarded as peace officers;**
2 **general assistance to state, county or local authorities;**
3 **investigative duties; fraudulent documents identification**
4 **unit.**

5
6 (c) Subject to the availability of funding, the
7 division shall establish the fraudulent documents
8 identification unit for the primary purpose of
9 investigating and apprehending persons or entities that
10 participate in the sale or distribution of fraudulent
11 documents used for identification purposes. The unit shall
12 additionally specialize in fraudulent identification
13 documents created and prepared for persons who are
14 unlawfully residing in the state of Wyoming. Subject to
15 legislative authorization, the division shall employ
16 sufficient employees to investigate and implement the
17 fraudulent documents identification unit.

18
19 **31-7-111. Application for license or permit**
20 **generally.**

21
22 (g) Except as otherwise provided in subsection (h) of
23 this section, no person shall be issued a driver's license

1 unless the person is a United States citizen, national or
2 legal permanent resident alien.

3
4 (h) The provisions of subsection (g) of this section
5 shall not apply if an applicant presents, in person, valid
6 documentary evidence of:

7
8 (i) Unexpired immigrant or nonimmigrant visa
9 status for admission into the United States;

10
11 (ii) A pending or approved application for
12 asylum in the United States;

13
14 (iii) Admission into the United States in
15 refugee status;

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

19
20 (v) Approved deferred action status; or

21
22 (vi) A pending application for adjustment of
23 status to legal permanent residence status or conditional
24 resident status.

1

2 (j) If an applicant provides evidence under
3 subsection (h) of this section, a license issued pursuant
4 to this chapter shall be valid only during the period of
5 time of the authorized stay of the applicant in the United
6 States or if there is no definite end to the period of
7 authorized stay, a period of one (1) year. A license
8 issued pursuant to this subsection:

9

10 (i) Shall clearly indicate that it is temporary
11 and state the date on which it will expire; and

12

13 (ii) May be renewed only upon presentation of
14 valid documentary evidence that the status by which the
15 applicant qualified for the identification is still in
16 effect or has been extended by the appropriate federal
17 agency.

18

19 (k) When an application is made for renewal or
20 replacement of a driver's license, the license shall be
21 presumed to have been issued in accordance with subsection
22 (h) of this section provided that, at the time the
23 application is made, the license has not expired or been
24 cancelled, suspended or revoked. If the division is

1 notified by a local, state or federal government agency of
2 a reasonable suspicion that the individual seeking renewal
3 or replacement is present in the United States in violation
4 of law, the provisions of subsection (h) of this section
5 apply to the renewal or replacement of the license.

6
7 **31-8-101. Issuance to residents by department;**
8 **restrictions.**

9
10 (c) Except as otherwise provided in subsection (d) of
11 this section, no person shall be issued an identification
12 card unless the person is a United States citizen, national
13 or legal permanent resident alien.

14
15 (d) The provisions of subsection (c) of this section
16 shall not apply if an applicant presents, in person, valid
17 documentary evidence of:

18
19 (i) Unexpired immigrant or nonimmigrant visa
20 status for admission into the United States;

21
22 (ii) A pending or approved application for
23 asylum in the United States;

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

3
4 (iv) A pending or approved application for
5 temporary protected status in the United States;

6
7 (v) Approved deferred action status; or

8
9 (vi) A pending application for adjustment of
10 status to legal permanent residence status or conditional
11 resident status.

12
13 (e) If an applicant provides evidence under
14 subsection (d) of this section, an identification card
15 issued pursuant to this chapter shall be valid only during
16 the period of time of the authorized stay of the applicant
17 in the United States or if there is no definite end to the
18 period of authorized stay, a period of one (1) year. An
19 identification card issued pursuant to this subsection:

20
21 (i) Shall clearly indicate that it is temporary
22 and state the date on which it will expire; and

23

1 (ii) May be renewed only upon presentation of
2 valid documentary evidence that the status by which the
3 applicant qualified for the identification is still in
4 effect or has been extended by the appropriate federal
5 agency.

6
7 (f) When an application is made for renewal or
8 replacement of an identification card, the identification
9 card shall be presumed to have been issued in accordance
10 with subsection (d) of this section, but, if the department
11 is notified by a local, state or federal government agency
12 of a reasonable suspicion that the individual seeking
13 renewal or replacement is present in the United States in
14 violation of law, the provisions of subsection (d) of this
15 section apply to the renewal or replacement of the
16 identification card.

17
18 **Section 3.** This act is effective July 1, 2008.

19
20 (END)