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HOUSE BILL NO. 1298

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact §§ 40.1-11.1 and 58.1-3109 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1 of Title 54.1 a section numbered 54.1-118, relating to business, professional and occupational licenses; grounds for disciplinary action for employment of illegal immigrants; penalty.

Patrons—Frederick and Hugo

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-11.1 and 58.1-3109 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 54.1 a section numbered 54.1-118 as follows:

§ 40.1-11.1. Employment of illegal immigrants.

A. It shall be unlawful and constitute a Class 1 misdemeanor for any employer or any person acting as an agent for an employer, or any person who, for a fee, refers an alien who cannot provide documents indicating that he or she is legally eligible for employment in the United States for employment to an employer, or an officer, agent or representative of a labor organization to knowingly:

1. ~~employ~~Employ, continue to employ, or refer for employment any alien who cannot provide documents employment verification documentation as specified by the Department of Homeland Security Employment Eligibility Verification Form I-9 indicating that he or she is legally eligible for employment in the United States; and

2. Fail to obtain documentation of employment eligibility verification, as specified in Department of Homeland Security Form I-9, from a prospective employee that he or she is legally eligible for employment in the United States.

B. In addition to the criminal penalties provided for in subsection A, the employment of any individual in violation of this section shall constitute a separate civil offense punishable by a civil penalty of \$10,000 for each incident.

C. Permits issued by the United States Department of Justice authorizing an alien to work in the United States shall constitute proof of eligibility for employment.

D. All employment application forms used by State and local governments and privately owned businesses operating in the Commonwealth on and after January 1, 1978, shall ask prospective employees if they are legally eligible for employment in the United States.

E. The provisions of this section shall not be deemed to require any employer to use employment application forms.

§ 54.1-118. Employment of illegal immigrants; penalty.

A. No regulatory board established pursuant to this title shall issue a license, certification, or registration to any person who is not a United States citizen or legally present in the United States.

B. In addition to the provisions of § 54.1-111, no person holding a license, certification, or registration or other authority issued pursuant to this title shall employ any individual who cannot provide legal documentation of employment eligibility verification, as specified in Department of Homeland Security Form I-9, that the individual is legally eligible for employment in the United States.

C. Any person licensed, certified, or registered by a regulatory board pursuant to this title who violates the provisions of subsection B shall be subject to the suspension of his license, certificate, or registration for a period of 10 business days. The second or any subsequent violation of this section during a 36-month period shall be grounds for disciplinary action by the regulatory board including revocation or failure to renew the license, certificate, registration, or authority it has issued and a monetary penalty not to exceed \$2,500 for each violation.

§ 58.1-3109. Duties of commissioners as to personal property, income and licenses.

Each commissioner of the revenue shall:

1. Review the lists of all persons licensed by the commissioner of the revenue and assess, for the current license year, additional license taxes for any person who has reported less than the law requires;

2. Upon investigation, (i) assess the proper license taxes for any person who has without a license conducted any business for which a license is required, and (ii) deny any new license and revoke any existing license of any person who (a) is not a United States citizen or legally present in the United States, or (b) employs any other person who is not a United States citizen or legally present in the

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59 *United States;*

60 3. Review, in regard to intangible personal property and income, such returns of taxpayers as may be
61 referred to him by the Department of Taxation and report to the Department, for assessment, any
62 additional intangible personal property and income when his review or investigation discloses that such
63 property or income has not been reported for taxation or has been reported for taxation at less than the
64 law requires;

65 4. Examine causes pending in the courts of his county or city and the records thereof and ascertain
66 and assess all property and income subject to assessment by his office;

67 5. Require every taxpayer who may not have properly returned to the commissioner of the revenue
68 all of his tangible and intangible personal property, and licenses for the current tax year and the three
69 preceding tax years to make the proper and complete return;

70 6. Require taxpayers or their agents or any person, firm or officer of a company or corporation to
71 furnish information relating to tangible or intangible personal property, income or license taxes of any
72 and all taxpayers; and require such persons to furnish access to books of account or other papers and
73 records for the purpose of verifying the tax returns of such taxpayers and procuring the information
74 necessary to make a complete assessment of any taxpayer's tangible and intangible personal property,
75 and license taxes for the current tax year and the three preceding tax years;

76 7. Make such reports to the Department of Taxation as may be required by law or as the rules and
77 regulations adopted by the Tax Commissioner may require; and

78 8. Upon written request of any town treasurer or director of finance or other officer who performs
79 the duties of a treasurer and whose locality is located within such commissioner's jurisdiction, provide
80 the name, address and social security number of any taxpayer who has filed a personal property tax
81 return with such commissioner of the revenue, as long as such town treasurer or director of finance or
82 other officer who performs the duties of a treasurer shall certify that such information is sought in the
83 performance of official duties. Any town official to whom information is furnished pursuant to this
84 provision shall be bound by the provisions and penalties of § 58.1-3.