

SENATE BILL No. 166

By Committee on Federal and State Affairs

2-5

1 AN ACT enacting the rule of law restoration act.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. This act shall be known and may be cited as the rule of law
5 restoration act.

6 Sec. 2. The state of Kansas finds that:

7 (a) Illegal immigration causes economic hardship in this state for
8 unemployed United States citizens and unemployed aliens who are
9 lawfully present in the United States; and

10 (b) illegal immigration depresses wages that are paid to United States
11 citizens and aliens lawfully present in the United States;

12 (c) illegal immigration imposes a significant fiscal burden upon the
13 taxpayers of this state;

14 (d) on June 15, 2012, and on November 20, 2014, the secretary of the
15 United States department of homeland security issued executive
16 memoranda that attempt to permit large, specifically-defined categories of
17 aliens not lawfully present in the United States to remain in the United
18 States under a de facto amnesty by granting such aliens "deferred action"
19 and employment authorization;

20 (e) the federal executive memoranda of June 15, 2012, and November
21 20, 2014, attempt to exercise legislative power, in violation of the
22 separation of powers described in articles I and II of the United States
23 constitution;

24 (f) the federal executive memoranda of June 15, 2012, and November
25 20, 2014, violate the federal law found in 8 U.S.C. § 1225(b)(2)(A), which
26 requires federal immigration officers to detain certain aliens not lawfully
27 present in the United States and to place such aliens into removal
28 proceedings; and

29 (g) such unconstitutional and unlawful actions taken by the federal
30 executive branch are invalid and have no preemptive effect on the states
31 under the supremacy clause of article VI of the United States constitution.

32 Sec. 3. For the purposes of this act, the following words shall have
33 the following meanings:

34 (a) "Alien" means any person who is not a citizen or national of the
35 United States, as described in 8 U.S.C. § 1101 et seq., and amendments
36 thereto.

1 (b) "Business entity" means any person or group of persons
2 performing or engaging in any activity, enterprise, profession or
3 occupation for gain, benefit, advantage or livelihood, whether for profit or
4 not-for-profit. "Business entity" also shall include, but not be limited to,
5 the following:

6 (1) Self-employed individuals, business entities filing articles of
7 incorporation, partnerships, limited partnerships, limited liability
8 companies, foreign corporations, foreign limited partnerships, foreign
9 limited liability companies authorized to transact business in this state,
10 business trusts and any business entity that registers with the secretary of
11 state; and

12 (2) any business entity that possesses a business license, permit,
13 certificate, approval, registration, charter, or similar form of authorization
14 issued by the state, any business entity that is exempt by law from
15 obtaining such a business license, and any business entity that is operating
16 unlawfully without a business license.

17 (c) "Employee" means any person directed, allowed, or permitted to
18 perform labor or service of any kind by an employer. The employees of an
19 independent contractor working for a business entity shall not be regarded
20 as the employees of the business entity, for the purposes of this act.

21 (d) "Employer" means any person, firm, corporation, partnership,
22 joint stock association, agent, manager, representative, foreman or other
23 person having control or custody of any employment, place of
24 employment or of any employee, including any person or entity employing
25 any person for hire within the state of Kansas, including a public
26 employer. This term shall not include the occupant of a household
27 contracting with another person to perform casual domestic labor within
28 the household.

29 (e) "Employment" means the act of employing or state of being
30 employed, engaged or hired to perform work or service of any kind or
31 character within the state of Kansas.

32 (f) "Unauthorized alien" means an alien who does not possess
33 employment authorization in the United States, as defined by federal law
34 in 8 U.S.C. § 1101 et seq.

35 (g) "Knowingly" means a person acts knowingly or with knowledge
36 with respect to either of the following:

37 (1) The person's conduct or attendant circumstances when the
38 person is aware of the nature of the person's conduct or that those
39 circumstances exist; or

40 (2) a result of the person's conduct when the person is reasonably
41 aware that the person's conduct is likely to cause that result.

42 (h) "Federal executive memoranda" means the memoranda issued on
43 June 15, 2012, and November 20, 2014. The memorandum issued by

1 secretary of homeland security Janet Napolitano on June 15, 2012, entitled
2 "exercising prosecutorial discretion with respect to individuals who came
3 to the United States as children," and the memorandum issued by secretary
4 of homeland security Jeh Johnson on November 20, 2014, entitled
5 "exercising prosecutorial discretion with respect to individuals who came
6 to the United States as children and with respect to certain individuals who
7 are the parents of U.S. citizens or permanent residents," and subsequent
8 guidelines or memoranda issued by the department of homeland security
9 or its component agencies for the purpose of implementing the memoranda
10 of June 15, 2012, and November 20, 2014.

11 Sec. 4. No employer or business entity may knowingly hire or recruit
12 or refer for a fee, for employment, an alien knowing the alien is an
13 unauthorized alien with respect to such employment, or knowing that the
14 alien's employment authorization is based upon the fact that the alien
15 received deferred action pursuant to the federal executive memoranda.

16 Sec. 5. (a) No wage, compensation, whether in money or in kind or in
17 services, or remuneration of any kind for the performance of services paid
18 to an unauthorized alien shall be allowed as a deductible business expense
19 for any state income or business tax purposes in this state. This subsection
20 shall apply whether or not an internal revenue service form 1099 is issued
21 in conjunction with the wages or remuneration.

22 (b) No wage, compensation, whether in money or in kind or in
23 services, or remuneration of any kind for the performance of services paid
24 to an alien who received deferred action pursuant to the federal executive
25 memoranda shall be allowed as a deductible business expense for any state
26 income or business tax purposes in this state. This subsection shall apply
27 whether or not an internal revenue service form 1099 is issued in
28 conjunction with the wages or remuneration.

29 Sec. 6. (a) No driver's license or nondriver identification card shall be
30 issued to any person who is an alien not lawfully present in the United
31 States.

32 (b) No driver's license or nondriver identification card shall be issued
33 to any person who is an alien who received deferred action pursuant to the
34 federal executive memoranda.

35 (c) Any alien who applies for a new driver's license or applies to
36 renew a driver's license shall be required to provide the following, in
37 addition to the pertinent documents or information required from United
38 States citizens:

39 (1) A valid passport in the applicant's name issued by the applicant's
40 country of citizenship; or

41 (2) any document issued by the federal government of the United
42 States indicating the applicant's lawful immigration status.

43 Sec. 7. The prohibitions described in this act shall not apply to an

1 alien who, after receiving deferred action pursuant to the federal executive
2 memoranda becomes lawfully present in the United States through a
3 process consistent with federal statute, including, but not limited to,
4 receiving asylum pursuant to 8 U.S.C. § 1158.

5 Sec. 8. The provisions of this act are severable. If any part of this act
6 is declared invalid or unconstitutional, that declaration shall not affect the
7 part which remains.

8 Sec. 9. This act shall become effective on and after January 1, 2016
9 and its publication in the statute book.