

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **431**

February 2, 2009

Authored by Smith, Drazkowski, Cornish and Dettmer

The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

1.1 A bill for an act
1.2 relating to public safety; providing penalties for employers hiring illegal
1.3 immigrants; adding documents that are included in the crime of aggravated
1.4 forgery; increasing penalty for aggravated forgery; establishing sex trafficking
1.5 as a separate crime from the promotion of prostitution; amending Minnesota
Statutes 2008, sections 609.281, subdivision 4, by adding subdivisions; 609.282,
subdivisions 1, 2; 609.321, subdivision 7a; 609.625, subdivision 1; proposing
coding for new law in Minnesota Statutes, chapter 181.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. **[181.981] EMPLOYER VIOLATION OF FEDERAL IMMIGRATION**
1.11 **LAW.**

1.12 Subdivision 1. **Sanctions against a licensed entity.** A state agency that licenses
1.13 a Minnesota employer may impose a fine or penalty authorized under the licensing
1.14 law if the employer has been found to have knowingly hired an illegal immigrant for
1.15 employment in Minnesota. In taking action against the employer under this section, the
1.16 agency shall use the existing laws and procedures that govern the agency's authority to
1.17 take action against the employer. The commissioner of the Department of Labor and
1.18 Industry shall coordinate the enforcement of this section by state agencies. The penalty
1.19 under this section is as follows:

1.20 (1) for a first occurrence, \$250 to \$2,000;
1.21 (2) for a second occurrence, \$2,000 to \$3,000; and
1.22 (3) for a third or subsequent occurrence, \$3,000 to \$5,000.

1.23 Subd. 2. **Violations established.** This section applies to cases in which an
1.24 employer has been found to have knowingly hired an illegal immigrant for employment
1.25 in Minnesota pursuant to:

2.1 (1) a final order or fine issued by the United States Immigration and Customs
2.2 Enforcement Office;

2.3 (2) a final order following a hearing conducted by the Office of the Chief
2.4 Administrative Hearing Officer, Executive Office for Immigration Review, United States
2.5 Department of Justice; or

2.6 (3) a criminal conviction or settlement.

2.7 Subd. 3. **Definitions.** For purposes of this section, the following definitions apply.

2.8 (a) "Employer" means any person having one or more employees in Minnesota.

2.9 (b) "License" includes a certification, registration, permit, or other authorization
2.10 required for a business or employer to operate in Minnesota.

2.11 (c) "Person" includes any individual, limited liability company, corporation,
2.12 partnership, incorporated or unincorporated association, sole proprietorship, joint stock
2.13 company, or any other legal or commercial entity.

2.14 (d) "State agency" means the state, and any office, officer, department, division,
2.15 bureau, board, commissioner, authority, district, or agency of the state, including the
2.16 University of Minnesota and the Minnesota State Colleges and Universities system.

2.17 Subd. 4. **Exception.** The commissioner may not fine an employer who is actively
2.18 cooperating with and using the United States Immigration and Customs Enforcement
2.19 Agency to screen workers.

2.20 Sec. 2. Minnesota Statutes 2008, section 609.281, subdivision 4, is amended to read:

2.21 Subd. 4. **Forced; forced labor or services.** "Forced" or "forced labor or services"
2.22 means labor or services that are performed or provided by another person and are obtained
2.23 or maintained through an actor's:

2.24 (1) threat, either implicit or explicit, scheme, plan, or pattern, or other action
2.25 intended to cause a person to believe that, if the person did not perform or provide the labor
2.26 or services, that person or another person would suffer bodily harm or physical restraint;

2.27 (2) physically restraining or threatening to physically restrain a person;

2.28 (3) abuse or threatened abuse of the legal process;

2.29 (4) knowingly destroying, concealing, removing, confiscating, or possessing any
2.30 actual or purported passport or other immigration document, or any other actual or
2.31 purported government identification document, of another person; or

2.32 (5) use of blackmail.

2.33 Sec. 3. Minnesota Statutes 2008, section 609.281, is amended by adding a subdivision
2.34 to read:

3.1 Subd. 7. **Nudity.** "Nudity" has the meaning given in section 617.292, subdivision 3.

3.2 Sec. 4. Minnesota Statutes 2008, section 609.281, is amended by adding a subdivision
3.3 to read:

3.4 Subd. 8. **Performance.** "Performance" has the meaning given in section 617.241,
3.5 subdivision 1, paragraph (f).

3.6 Sec. 5. Minnesota Statutes 2008, section 609.281, is amended by adding a subdivision
3.7 to read:

3.8 Subd. 9. **Sexual performance.** "Sexual performance" means any play, dance, or
3.9 other exhibition presented before an audience or for purposes of visual or mechanical
3.10 reproduction that uses a person to depict actual or simulated sexual conduct as defined by
3.11 section 617.241, subdivision 1, paragraph (b).

3.12 Sec. 6. Minnesota Statutes 2008, section 609.282, subdivision 1, is amended to read:

3.13 Subdivision 1. **Individuals under age 18.** Whoever knowingly engages in the labor
3.14 or sex trafficking of an individual who is under the age of 18 is guilty of a crime and
3.15 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of
3.16 not more than \$40,000, or both.

3.17 Sec. 7. Minnesota Statutes 2008, section 609.282, subdivision 2, is amended to read:

3.18 Subd. 2. **Other offenses.** Whoever knowingly engages in the labor or sex trafficking
3.19 of another is guilty of a crime and may be sentenced to imprisonment for not more than 15
3.20 years or to payment of a fine of not more than \$30,000, or both.

3.21 Sec. 8. Minnesota Statutes 2008, section 609.321, subdivision 7a, is amended to read:

3.22 Subd. 7a. **Sex trafficking.** "Sex trafficking" means receiving, recruiting, enticing,
3.23 harboring, providing, or obtaining by any means an individual to aid in the;

3.24 (1) prostitution of the individual;

3.25 (2) forced sexual performance by the individual; or

3.26 (3) forced performance involving nudity by the individual.

3.27 Sec. 9. Minnesota Statutes 2008, section 609.625, subdivision 1, is amended to read:

3.28 Subdivision 1. **Making or altering writing or object.** Whoever, with intent to
3.29 defraud, falsely makes or alters a writing or object of any of the following kinds so that it
3.30 purports to have been made by another or by the maker or alterer under an assumed or

4.1 fictitious name, or at another time, or with different provisions, or by authority of one
4.2 who did not give such authority, is guilty of aggravated forgery and may be sentenced
4.3 to imprisonment for not more than ~~ten~~ 20 years or to payment of a fine of not more than
4.4 ~~\$20,000~~ \$40,000, or both:

4.5 (1) a writing or object whereby, when genuine, legal rights, privileges, or obligations
4.6 are created, terminated, transferred, or evidenced, or any writing normally relied upon as
4.7 evidence of debt or property rights, other than a check as defined in section 609.631 or a
4.8 financial transaction card as defined in section 609.821; or

4.9 (2) an official seal or the seal of a corporation; or

4.10 (3) a public record or an official authentication or certification of a copy thereof; or

4.11 (4) an official return or certificate entitled to be received as evidence of its contents;

4.12 or

4.13 (5) a court order, judgment, decree, or process; or

4.14 (6) the records or accounts of a public body, office, or officer; ~~or~~

4.15 (7) the records or accounts of a bank or person, with whom funds of the state or any
4.16 of its agencies or subdivisions are deposited or entrusted, relating to such funds;

4.17 (8) an unexpired or expired United States passport;

4.18 (9) a driver's license;

4.19 (10) an identification card issued by federal, state, or local agencies or entities,
4.20 provided it contains a photograph or information, such as name, date of birth, gender,
4.21 height, eye color, and address;

4.22 (11) a school identification card with a photograph;

4.23 (12) a voter registration card;

4.24 (13) a United States military identification card or draft record;

4.25 (14) a Native American tribal document;

4.26 (15) a social security card issued by the United States Social Security Administration;

4.27 (16) a Consular Report of Birth Abroad of a Citizen of the United States of America;

4.28 (17) United States Citizen Identification Card; or

4.29 (18) an identification card for use of resident citizen in the United States.

4.30 **EFFECTIVE DATE.** This section is effective August 1, 2008, and applies to crimes
4.31 committed on or after that date.

4.32 Sec. 10. **REVISOR'S INSTRUCTION.**

4.33 In Minnesota Statutes, the revisor of statutes shall renumber section 609.294,
4.34 subdivision 7a, as section 609.281, subdivision 9, and section 609.294, subdivision 7b,

- 5.1 as section 609.281, subdivision 10, and correct any cross-references resulting from the
- 5.2 renumbering.