

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS85185-LYx-79 (2/7)

Short Title: Illegal Immigrants Tax Collection Enforcement. (Public)

Sponsors: Senator Berger of Franklin.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DEVELOP A STATE PORTAL TO VERIFY WORK ELIGIBILITY, TO REQUIRE A PAYER TO WITHHOLD STATE TAXES FROM COMPENSATION PAID TO AN UNAUTHORIZED ALIEN, AND TO MAKE FAILURE OF A PAYER TO WITHHOLD THE TAX DUE FROM AN ILLEGAL IMMIGRANT A FELONY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 143A of the General Statutes is amended by adding a new section to read:

"§ 143A-23.1. Work eligibility verification portal.

The Secretary of State shall develop a work eligibility verification portal to assist persons in determining whether a person is authorized to work in the United States. The portal shall be developed to provide the person with access to the Basic Pilot Employment Verification Program administered by the United States Department of Homeland Security pursuant to 8 U.S.C. § 1101, et seq. The portal shall be accessible online and by contacting the Secretary of State in person or by phone.

SECTION 2. G.S. 105-163.1 reads as rewritten:

"§ 105-163.1. Definitions.

The following definitions apply in this Article:

- (1) Compensation. – Consideration a payer pays a nonresident ~~individual~~ ~~or individual, a nonresident entity~~ entity, or an unauthorized alien for personal services performed in this State.
- (2) Contractor. – ~~Either~~ Any of the following:
 - a. A nonresident individual who performs in this State for compensation other than wages any personal services in connection with a performance, an entertainment, an athletic

1 event, a speech, or the creation of a film, radio, or television
 2 program.

3 b. A nonresident entity that provides for the performance in this
 4 State for compensation of any personal services in connection
 5 with a performance, an entertainment, an athletic event, a
 6 speech, or the creation of a film, radio, or television program.

7 c. An unauthorized alien who performs in this State for
 8 compensation other than wages any personal services.

9 ...

10 (12a) Unauthorized alien. – Defined in 8 U.S.C. § 1324a(h)(3).

11"

12 **SECTION 3.** G.S. 105-236(a)(8) reads as rewritten:

13 "(a) Penalties. – The following civil penalties and criminal offenses apply:

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15 (8) Willful Failure to Collect, Withhold, or Pay Over Tax. – ~~Any~~ Except
 16 as provided in this subsection, any person required to collect, withhold,
 17 account for, and pay over any tax who willfully fails to collect or
 18 truthfully account for and pay over the tax shall, in addition to other
 19 penalties provided by law, be guilty of a Class 1 misdemeanor. If the
 20 tax to be collected, withheld, or accounted for is due from an
 21 unauthorized alien, as defined in G.S. 105-163.1, then the person who
 22 fails to collect, withhold, account for, or pay over any tax is, in
 23 addition to other penalties provided by law, guilty of a Class I felony.
 24 Notwithstanding any other provision of law, no prosecution for a
 25 violation brought under this subdivision shall be barred before the
 26 expiration of six years after the date of the violation."

27 **SECTION 4.** Section 2 of this act becomes effective January 1, 2008, and
 28 applies to payments made on or after that date. The remainder of this act is effective
 29 when it becomes law.