

HOUSE BILL 2191

By Shipley

AN ACT to amend Tennessee Code Annotated, Title 38;
Title 39; Title 40; Title 41 and Title 50, relative to
unlawful presence in the United States.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-114, is amended by deleting the section in its entirety and by substituting instead the following:

(a) As used in this section:

(1) "Illegal alien" means an individual who has illegally entered or remained in the United States, as determined by the bureau of immigration and customs enforcement of the United States department of homeland security;

(2) "Minor" means any individual under eighteen (18) years of age; and

(3) "Person" means an individual, corporation, or other legal entity.

(b) It is an offense for a person to knowingly:

(1) Conceal, harbor or shield from detection, or attempt to conceal, harbor or shield from detection, in this state another who the person knows or reasonably should know is an illegal alien; or

(2) Transport, move or attempt to transport in this state another who the person knows or reasonably should know is an illegal alien.

(c) A violation of subsection (b) is a Class E felony; provided that, a violation of subsection (b) is a:

(1) Class D felony if the violation:

(i) Involves the transportation of an illegal alien and illegal drugs for the purpose of drug distribution;

(ii) Involves the transportation of an illegal alien or another individual that the person knows or reasonably should know is a:

(a) Member of organized crime or gangs; or

(b) Terrorist organization or terrorist by the government of the United States;

(iii) Involves delivering an illegal alien or another individual into prostitution; or

(iv) Is committed for the purpose of contract labor or human slavery;

(2) Class C felony if any of the aggravating factors described in subdivision (c)(1) are present and the violation involves a minor;

(3) Class B felony if the violation results in serious bodily injury to any individual; and

(4) Class A felony if the violation results in the death of any individual.

(d) Notwithstanding the provisions of title 39, chapter 11, part 4 and title 39, chapter 12, part 1, if a person commits acts in furtherance of a violation of this section and such acts result in a conviction under §§ 39-11-403, 39-11-411, 39-12-101, 39-12-102, or 39-12-103, then the person shall be considered a principal and be punished for such offense in accordance with subsection (c).

(e) A violation of this section that involves more than one (1) illegal alien is a separate offense for each illegal alien involved.

(f) Notwithstanding any other law to the contrary, all fines received from a violation of this section shall go to the arresting agency or agencies.

(g)

(1) Any property, real or personal, or gross proceeds directly or indirectly acquired by or received as the result of a violation of this section or as an inducement to violate this section, traceable to the proceeds from a violation of this section, or used as an instrumentality in or in furtherance of a violation of this section shall be subject to judicial forfeiture in accordance with § 39-11-703.

(2) The assets of corporations are subject to forfeiture under this section where corporate liability is found, as provided in § 39-11-404.

(h) Nothing in this section shall preclude prosecution and conviction under any other applicable provision of law including, but not limited to, the Terrorism Prevention and Response Act of 2002, compiled in title 39, chapter 13, part 8.

(i) Subsection (b) shall not apply to employees of institutions required by federal law to provide services to illegal aliens during the provision of those services unless such services are provided in violation of the law.

SECTION 2. Tennessee Code Annotated, Section 39-11-703, is amended by redesignating the existing language of subsection (c) as a new subsection (d), and by adding the following language as a new subsection (c):

(c) Any real or personal property, including any right, title and interest in the whole of or any part of such property, used as an instrumentality in or used in furtherance of a violation of § 39-17-114 shall be subject to judicial forfeiture.

SECTION 3. Tennessee Code Annotated, Section 39-11-704, is amended by adding the following language as a new subsection (e):

(e) This section shall not apply to any real or personal property, including any right, title and interest in the whole of or any part of such property, used as an instrumentality in or used in furtherance of a violation of § 39-17-114.

SECTION 4. This act shall take effect July 1, 2012, the public welfare requiring it, and shall apply to any prohibited conduct that occurs on or after the effective date of this act.