

Amendment No. 785

Senate Amendment to Assembly Bill No. 383 First Reprint (BDR 15-1053)

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date			
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

RBL/BJE



Date: 5/21/2007

A.B. No. 383—Makes various changes to laws related to immigration.

(BDR 15-1053)



ASSEMBLY BILL NO. 383—ASSEMBLYMEN
KIRKPATRICK, ~~[AND]~~ CONKLIN AND KOIVISTO

MARCH 16, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to laws related to immigration.
(BDR 15-1053)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to immigration; creating new crimes relating to trafficking in persons; providing for punitive damages in a civil action against a person who commits such crimes in certain circumstances; making property of a person who commits such crimes subject to forfeiture; adding the crimes to the list of felonies that may cause a person to be charged as a habitual felon; requiring the Director of the Department of Business and Industry to include on the website of the Department a link to the Social Security Administration for employers to verify employee social security numbers; providing for ~~disciplinary action to be taken~~ **an administrative fine to be imposed** against a person who holds a state business license if the person **willfully, flagrantly or otherwise egregiously** engages in the unlawful hiring or employment of an unauthorized alien in violation of federal law; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 of this bill creates the crime of trafficking in persons for illegal purposes which involves engaging in certain acts concerning the transportation of an illegal alien into this State with the intent: 1) to subject the person to certain acts relating to involuntary servitude; 2) to commit another felony; or 3) to violate any state or federal labor law. A person who commits such a crime is guilty of a category B felony punishable by a term of imprisonment in the state prison for not less than 1 year and not more than 20 years, and by a fine of not more than \$50,000. **Section 1.5** of this bill creates the crime of trafficking in persons which contains the same elements as for trafficking in persons for illegal purposes except that rather than committing the act with the intent to commit another crime, the person commits the act in exchange for money or other financial gain. A person who commits the crime of trafficking in persons is guilty of a category B felony which is punishable by a term of imprisonment in the state prison for a minimum term of 1 year and a maximum term of 10 years, and by a fine of not more than \$50,000.

Section 3 of this bill adds the two new crimes of trafficking in persons to the list of crimes that may cause a person to be charged as a habitual felon. (NRS 207.012) **Section 4** of this bill allows a person who suffers an injury as the result of the willful violation of such

17 crimes by a person who was motivated by certain characteristics of the person to recover
18 actual and punitive damages in a civil action. (NRS 41.690) **Section 5** of this bill makes
19 personal property of a person who engages in either of the two crimes of trafficking in persons
20 subject to forfeiture. (NRS 179.121)

21 **Section 6** of this bill requires the Director of the Department of Business and Industry to
22 include on the website maintained by the Department a link to the Social Security
23 Administration where an employer may verify the social security numbers of his employees.

24 **Section 10** of this bill requires the Nevada Tax Commission to hold a hearing concerning
25 any person who holds a state business license who has been found to have engaged in the
26 unlawful hiring or employment of an unauthorized alien in violation of federal law. ~~(If the
27 violation was inadvertent, the Commission may impose an administrative fine and require the
28 person to demonstrate the manner in which he will prevent such violations in the future.)~~ If
29 the violation is willful, **flagrant or otherwise egregious**, the Commission is ~~authorized to
30 suspend or revoke the license depending upon the egregiousness of the violation. If the license
31 is revoked, the person may not obtain a new license for a certain period.~~ **required to impose
32 an administrative fine on the person.**

1 WHEREAS, Trafficking in persons provides opportunities for modern day
2 slavery to occur; and

3 WHEREAS, Thousands of persons of all ages worldwide are trafficked annually
4 across international borders; and

5 WHEREAS, Victims of trafficking in persons are often subjected to force, fraud
6 or coercion for the purpose of subjecting the victims to sexual exploitation,
7 prostitution, providing other forms of sexual entertainment or forced labor; and

8 WHEREAS, Victims of trafficking in persons may also be used to provide labor
9 in a manner that violates labor laws, including, without limitation, providing labor
10 for reduced wages in the areas of domestic services, restaurants, janitorial services,
11 production work in factories and agricultural labor; and

12 WHEREAS, Traffickers often employ tactics to instill fear in victims and to deny
13 them freedom, including, without limitation, keeping the victims locked against
14 their will, isolating victims from the public and from their families, confiscating
15 passports, visas or other documents, using or threatening to use violence against
16 victims or their families, informing victims that they will be imprisoned or deported
17 for the violation of immigration laws if they disobey or try to inform the authorities
18 about their situation and controlling any money of the victims; and

19 WHEREAS, The Legislature recognizes that it is necessary for the State to
20 protect these victims by ensuring that persons who engage in trafficking of persons
21 are punished severely for engaging in such conduct; now therefore,

22
23 **THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN**
24 **SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:**

25
26 **Section 1.** Chapter 200 of NRS is hereby amended by adding thereto the
27 provisions set forth as sections 1.3 and 1.5 of this act.

28 **Sec. 1.3. 1. A person shall not transport, procure transportation for or**
29 **assist in the transportation of or procurement of transportation for another**
30 **person into the State of Nevada whom he knows or has reason to know does not**
31 **have the legal right to enter or remain in the United States with the intent to:**

32 **(a) Subject the person to involuntary servitude or any other act prohibited**
33 **pursuant to NRS 200.463 or 200.465;**

34 **(b) Violate any state or federal labor law, including, without limitation, 8**
35 **U.S.C. § 1324a; or**

1 (c) *Commit any other crime which is punishable by not less than 1 year*
2 *imprisonment in the state prison.*

3 2. *A person who violates the provisions of subsection 1 is guilty of*
4 *trafficking in persons for illegal purposes and shall be punished for a category B*
5 *felony by imprisonment in the state prison for a minimum term of not less than 1*
6 *year and a maximum term of not more than 20 years, and may be further*
7 *punished by a fine of not more than \$50,000.*

8 **Sec. 1.5.** 1. *A person shall not transport, procure transportation for or*
9 *assist in the transportation of or procurement of transportation for another*
10 *person into the State of Nevada whom he knows or has reason to know does not*
11 *have the legal right to enter or remain in the United States in exchange for*
12 *money or other financial gain.*

13 2. *A person who violates the provisions of subsection 1 is guilty of*
14 *trafficking in persons and, unless a greater penalty is provided pursuant to NRS*
15 *200.464 or section 1.3 of this act, shall be punished for a category B felony by*
16 *imprisonment in the state prison for a minimum term of not less than 1 year and*
17 *a maximum term of not more than 10 years, and may be further punished by a*
18 *fine of not more than \$50,000.*

19 **Sec. 2.** NRS 200.464 is hereby amended to read as follows:

20 200.464 ~~FA~~ *Unless a greater penalty is provided pursuant to section 1.3 of*
21 *this act, a person who knowingly:*

22 1. *Recruits, entices, harbors, transports, provides or obtains by any means, or*
23 *attempts to recruit, entice, harbor, transport, provide or obtain by any means,*
24 *another person, intending or knowing that the person will be held in involuntary*
25 *servitude; or*

26 2. *Benefits, financially or by receiving anything of value, from participating*
27 *in a violation of NRS 200.463,*

28 *is guilty of a category B felony and shall be punished by imprisonment in the*
29 *state prison for a minimum term of not less than 1 year and a maximum term of not*
30 *more than 15 years, and may be further punished by a fine of not more than*
31 *\$50,000.*

32 **Sec. 3.** NRS 207.012 is hereby amended to read as follows:

33 207.012 1. A person who:

34 (a) *Has been convicted in this State of a felony listed in subsection 2; and*

35 (b) *Before the commission of that felony, was twice convicted of any crime*
36 *which under the laws of the situs of the crime or of this State would be a felony*
37 *listed in subsection 2, whether the prior convictions occurred in this State or*
38 *elsewhere,*

39 *is a habitual felon and shall be punished for a category A felony by*
40 *imprisonment in the state prison:*

41 (1) *For life without the possibility of parole;*

42 (2) *For life with the possibility of parole, with eligibility for parole*
43 *beginning when a minimum of 10 years has been served; or*

44 (3) *For a definite term of 25 years, with eligibility for parole beginning*
45 *when a minimum of 10 years has been served.*

46 2. *The district attorney shall include a count under this section in any*
47 *information or shall file a notice of habitual felon if an indictment is found, if each*
48 *prior conviction and the alleged offense committed by the accused constitutes a*
49 *violation of subparagraph (1) of paragraph (a) of subsection 1 of NRS 193.330,*
50 *NRS 199.160, 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390,*
51 *subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of NRS 200.450,*
52 *subsection 5 of NRS 200.460, NRS 200.463, 200.464, 200.465, subsection 1,*
53 *paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2*

1 of NRS 200.508, NRS 200.710, 200.720, 201.230, 201.450, 202.170, 202.270,
2 subsection 2 of NRS 202.780, paragraph (b) of subsection 2 of NRS 202.820,
3 subsection 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060,
4 subsection 4 of NRS 205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1
5 of NRS 212.090, NRS 453.3325, 453.333, 484.219, 484.3795 or 484.3795 **+** *or*
6 *section 1.3 or 1.5 of this act.*

7 3. The trial judge may not dismiss a count under this section that is included
8 in an indictment or information.

9 **Sec. 4.** NRS 41.690 is hereby amended to read as follows:

10 41.690 1. A person who has suffered injury as the proximate result of the
11 willful violation of the provisions of NRS 200.280, 200.310, 200.366, 200.380,
12 200.400, 200.460, 200.463, 200.464, 200.465, 200.471, 200.481, 200.508,
13 200.5099, 200.571, 200.575, 203.010, 203.020, 203.030, 203.060, 203.080,
14 203.090, 203.100, 203.110, 203.119, 206.010, 206.040, 206.140, 206.200, 206.310,
15 207.180, 207.200 or 207.210 *or section 1.3 or 1.5 of this act* by a perpetrator who
16 was motivated by the injured person's actual or perceived race, color, religion,
17 national origin, physical or mental disability or sexual orientation may bring an
18 action for the recovery of his actual damages and any punitive damages which the
19 facts may warrant. If the person who has suffered injury prevails in an action
20 brought pursuant to this subsection, the court shall award him costs and reasonable
21 attorney's fees.

22 2. The liability imposed by this section is in addition to any other liability
23 imposed by law.

24 **Sec. 5.** NRS 179.121 is hereby amended to read as follows:

25 179.121 1. All personal property, including, without limitation, any tool,
26 substance, weapon, machine, computer, money or security, which is used as an
27 instrumentality in any of the following crimes is subject to forfeiture:

28 (a) The commission of or attempted commission of the crime of murder,
29 robbery, kidnapping, burglary, invasion of the home, grand larceny, theft if it is
30 punishable as a felony, or pandering;

31 (b) The commission of or attempted commission of any felony with the intent
32 to commit, cause, aid, further or conceal an act of terrorism;

33 (c) A violation of NRS 202.445 or 202.446;

34 (d) The commission of any crime by a criminal gang, as defined in NRS
35 213.1263; or

36 (e) A violation of NRS 200.463, 200.464, 200.465, 202.265, 202.287, 205.473
37 to 205.513, inclusive, 205.610 to 205.810, inclusive, 370.380, 370.382, 370.395,
38 370.405 or 465.070 to 465.085, inclusive **+**, *or section 1.3 or 1.5 of this act.*

39 2. Except as otherwise provided for conveyances forfeitable pursuant to NRS
40 453.301 or 501.3857, all conveyances, including aircraft, vehicles or vessels, which
41 are used or intended for use during the commission of a felony or a violation of
42 NRS 202.287, 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture
43 except that:

44 (a) A conveyance used by any person as a common carrier in the transaction of
45 business as a common carrier is not subject to forfeiture under this section unless it
46 appears that the owner or other person in charge of the conveyance is a consenting
47 party or privy to the felony or violation;

48 (b) A conveyance is not subject to forfeiture under this section by reason of
49 any act or omission established by the owner thereof to have been committed or
50 omitted without his knowledge, consent or willful blindness;

51 (c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if
52 the firearm used in the violation of that section was not loaded at the time of the
53 violation; and

1 (d) A forfeiture of a conveyance encumbered by a bona fide security interest is
2 subject to the interest of the secured party if he neither had knowledge of nor
3 consented to the felony. If a conveyance is forfeited, the appropriate law
4 enforcement agency may pay the existing balance and retain the conveyance for
5 official use.

6 3. For the purposes of this section, a firearm is loaded if:

7 (a) There is a cartridge in the chamber of the firearm;

8 (b) There is a cartridge in the cylinder of the firearm, if the firearm is a
9 revolver; or

10 (c) There is a cartridge in the magazine and the magazine is in the firearm or
11 there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

12 4. As used in this section, "act of terrorism" has the meaning ascribed to it in
13 NRS 202.4415.

14 **Sec. 6.** Chapter 232 of NRS is hereby amended by adding thereto a new
15 section to read as follows:

16 *1. The Director shall include on the Internet website maintained by the*
17 *Department a link which connects to the Social Security Administration where an*
18 *employer may verify the social security number of an employee.*

19 *2. The link required pursuant to subsection 1 must be maintained in the*
20 *area of the website that encourages and promotes the growth, development and*
21 *legal operation of businesses within the State of Nevada.*

22 **Sec. 7.** NRS 232.505 is hereby amended to read as follows:

23 232.505 As used in NRS 232.505 to 232.840, inclusive, *and section 6 of this*
24 *act*, unless the context requires otherwise:

25 1. "Department" means the Department of Business and Industry.

26 2. "Director" means the Director of the Department.

27 **Sec. 8.** Chapter 360 of NRS is hereby amended by adding thereto the
28 provisions set forth as sections 9 and 10 of this act.

29 **Sec. 9.** *"Unauthorized alien" has the meaning ascribed to it in 8 U.S.C. §*
30 *1324a(h)(3).*

31 **Sec. 10.** *1. Upon finding that the Attorney General of the United States*
32 *has made a final decision and entered an order that a person who holds a state*
33 *business license has engaged in the unlawful hiring or employment of an*
34 *unauthorized alien pursuant to U.S.C § 1324a(e), the Nevada Tax Commission*
35 *shall hold a hearing to determine whether to take action against ~~the state~~*
36 *business license of the person.*

37 *2. The Nevada Tax Commission shall consider any proof submitted by the*
38 *person who holds a state business license which demonstrates that the person*
39 *attempted to verify the social security number of the unauthorized alien within 6*
40 *months from the date on which the unauthorized alien was allegedly employed.*
41 *Such proof may include, without limitation, a printout from the link maintained*
42 *on the Internet website of the Department of Business and Industry pursuant to*
43 *section 6 of this act. Such proof may be used as prima facie evidence that the*
44 *violation was ~~inadvertent,~~ not willful, flagrant or otherwise egregious.*

45 *3. If the Nevada Tax Commission determines that the person who holds the*
46 *state business license violated the federal law ~~or~~*

47 ~~*(a) Inadvertently, the Commission may impose an administrative fine upon*~~
48 ~~*the person or require the person to provide an explanation concerning the*~~
49 ~~*manner in which the person will conduct business in the future to prevent*~~
50 ~~*additional violations of the law; or*~~

51 ~~*(b) Willfully,*~~ *willfully, flagrantly or otherwise egregiously, the Commission*
52 ~~*may suspend or revoke the state business license of the person depending on the*~~
53 ~~*egregiousness of the violation.*~~

~~4. The Department shall not issue a new license to a person whose state business license is revoked pursuant to this section.~~

~~(a) For 1 year after the date of revocation for the first revocation pursuant to this section.~~

~~(b) For 5 years after the date of revocation for a second or subsequent revocation pursuant to this section.~~

~~5. Upon revoking a state business license pursuant to this section, the Department shall provide written notice of the revocation to the governing body of the city or county in which the business is being conducted.~~

~~6.] shall impose an administrative fine against the person in an amount established by the Commission by regulation. Any such administrative fine imposed must be deposited in the State General Fund.~~

4. The Nevada Tax Commission shall adopt such regulations as it determines necessary to carry out the provisions of this section.

Sec. 11. NRS 360.760 is hereby amended to read as follows:

360.760 As used in NRS 360.760 to 360.798, inclusive, **and sections 9 and 10 of this act**, unless the context otherwise requires, the words and terms defined in NRS 360.765 to 360.775, inclusive, **and section 9 of this act**, have the meanings ascribed to them in those sections.

Sec. 12. ~~[NRS 360.798 is hereby amended to read as follows:~~

~~360.798 1. If a person who holds a state business license fails to comply with a provision of NRS 360.760 to 360.798, inclusive, or a regulation of the Department adopted pursuant thereto, or if the Nevada Tax Commission determines that the person has engaged in the unlawful hiring or employment of an unauthorized alien pursuant to section 10 of this act, the Department may revoke or suspend the state business license of the person. Before so doing, the Department must hold a hearing after 10 days' written notice to the licensee. The notice must specify the time and place of the hearing and require the licensee to show cause why his license should not be revoked.~~

~~2. If the license is suspended or revoked, the Department shall give written notice of the action to the person who holds the state business license.~~

~~3. The notices required by this section may be served personally or by mail in the manner provided in NRS 360.350 for the service of a notice of the determination of a deficiency.~~

~~4. The Department shall not issue a new license to the former holder of a revoked state business license unless the Department is satisfied that the person will comply with the provisions of this chapter and the regulations of the Department adopted pursuant thereto.] (Deleted by amendment.)~~

Sec. 13. NRS 613.080 is hereby amended to read as follows:

613.080 1. The immigration to this State of all slaves and other people bound by contract to involuntary servitude for a term of years is hereby prohibited.

2. It is unlawful for any company, person or persons to collect the wages or compensation for the labor of the persons described in subsection 1.

3. It is unlawful for any corporation, company, person or persons to pay to any owner or agent of the owner of any such persons mentioned in subsection 1 any wages or compensation for the labor of such slaves or persons so bound by the contract to involuntary servitude.

4. Unless a greater penalty is provided in NRS 200.463 or 200.464 **[] or section 1.3 of this act**, a violation of any of the provisions of this section is a gross misdemeanor.