

ASSEMBLY BILL NO. 383—ASSEMBLYMEN
KIRKPATRICK AND CONKLIN

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 against a person who holds a state business license if the person 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:

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



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10 than committing the act with the intent to commit another crime, the person
11 commits the act in exchange for money or other financial gain. A person who
12 commits the crime of trafficking in persons is guilty of a category B felony which is
13 punishable by a term of imprisonment in the state prison for a minimum term of 1
14 year and a maximum term of 10 years, and by a fine of not more than \$50,000.

15 **Section 3** of this bill adds the two new crimes of trafficking in persons to the
16 list of crimes that may cause a person to be charged as a habitual felon. (NRS
17 207.012) **Section 4** of this bill allows a person who suffers an injury as the result of
18 the willful violation of such crimes by a person who was motivated by certain
19 characteristics of the person to recover actual and punitive damages in a civil
20 action. (NRS 41.690) **Section 5** of this bill makes personal property of a person
21 who engages in either of the two crimes of trafficking in persons subject to
22 forfeiture. (NRS 179.121)

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

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

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

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

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

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

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



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

5
6 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
7 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
8

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

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

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

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

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

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

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

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

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

42 200.464 ~~FA~~ *Unless a greater penalty is provided pursuant to*
43 *section 1.3 of this act, a person who knowingly:*

44 1. Recruits, entices, harbors, transports, provides or obtains by
45 any means, or attempts to recruit, entice, harbor, transport, provide



1 or obtain by any means, another person, intending or knowing that
2 the person will be held in involuntary servitude; or

3 2. Benefits, financially or by receiving anything of value, from
4 participating in a violation of NRS 200.463,

5 ➡ is guilty of a category B felony and shall be punished by
6 imprisonment in the state prison for a minimum term of not less
7 than 1 year and a maximum term of not more than 15 years, and
8 may be further punished by a fine of not more than \$50,000.

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

10 207.012 1. A person who:

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

13 (b) Before the commission of that felony, was twice convicted
14 of any crime which under the laws of the situs of the crime or of this
15 State would be a felony listed in subsection 2, whether the prior
16 convictions occurred in this State or elsewhere,

17 ➡ is a habitual felon and shall be punished for a category A felony
18 by imprisonment in the state prison:

19 (1) For life without the possibility of parole;

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

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

24 2. The district attorney shall include a count under this section
25 in any information or shall file a notice of habitual felon if an
26 indictment is found, if each prior conviction and the alleged offense
27 committed by the accused constitutes a violation of subparagraph
28 (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160,
29 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390,
30 subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of
31 NRS 200.450, subsection 5 of NRS 200.460, NRS 200.463,
32 200.464, 200.465, subsection 1, paragraph (a) of subsection 2 or
33 subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508,
34 NRS 200.710, 200.720, 201.230, 201.450, 202.170, 202.270,
35 subsection 2 of NRS 202.780, paragraph (b) of subsection 2 of NRS
36 202.820, subsection 2 of NRS 202.830, NRS 205.010, subsection 4
37 of NRS 205.060, subsection 4 of NRS 205.067, NRS 205.075,
38 207.400, paragraph (a) of subsection 1 of NRS 212.090, NRS
39 453.3325, 453.333, 484.219, 484.3795 or 484.37955 **or section**
40 **1.3 or 1.5 of this act.**

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

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

44 41.690 1. A person who has suffered injury as the proximate
45 result of the willful violation of the provisions of NRS 200.280,



1 200.310, 200.366, 200.380, 200.400, 200.460, 200.463, 200.464,
2 200.465, 200.471, 200.481, 200.508, 200.5099, 200.571, 200.575,
3 203.010, 203.020, 203.030, 203.060, 203.080, 203.090, 203.100,
4 203.110, 203.119, 206.010, 206.040, 206.140, 206.200, 206.310,
5 207.180, 207.200 or 207.210 *or section 1.3 or 1.5 of this act* by a
6 perpetrator who was motivated by the injured person's actual or
7 perceived race, color, religion, national origin, physical or mental
8 disability or sexual orientation may bring an action for the recovery
9 of his actual damages and any punitive damages which the facts
10 may warrant. If the person who has suffered injury prevails in an
11 action brought pursuant to this subsection, the court shall award him
12 costs and reasonable attorney's fees.

13 2. The liability imposed by this section is in addition to any
14 other liability imposed by law.

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

16 179.121 1. All personal property, including, without
17 limitation, any tool, substance, weapon, machine, computer, money
18 or security, which is used as an instrumentality in any of the
19 following crimes is subject to forfeiture:

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

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

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

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

29 (e) A violation of NRS 200.463, 200.464, 200.465, 202.265,
30 202.287, 205.473 to 205.513, inclusive, 205.610 to 205.810,
31 inclusive, 370.380, 370.382, 370.395, 370.405 or 465.070 to
32 465.085, inclusive *or section 1.3 or 1.5 of this act*.

33 2. Except as otherwise provided for conveyances forfeitable
34 pursuant to NRS 453.301 or 501.3857, all conveyances, including
35 aircraft, vehicles or vessels, which are used or intended for use
36 during the commission of a felony or a violation of NRS 202.287,
37 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture
38 except that:

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

44 (b) A conveyance is not subject to forfeiture under this section
45 by reason of any act or omission established by the owner thereof to



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1 have been committed or omitted without his knowledge, consent or
2 willful blindness;

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

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

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

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

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

16 (c) There is a cartridge in the magazine and the magazine is in
17 the firearm or there is a cartridge in the chamber, if the firearm is a
18 semiautomatic firearm.

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

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

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

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

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

32 232.505 As used in NRS 232.505 to 232.840, inclusive, *and*
33 *section 6 of this act*, unless the context requires otherwise:

34 1. "Department" means the Department of Business and
35 Industry.

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

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

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

41 **Sec. 10.** *1. Upon finding that the Attorney General of the*
42 *United States has made a final decision and entered an order that*
43 *a person who holds a state business license has engaged in the*
44 *unlawful hiring or employment of an unauthorized alien pursuant*
45 *to U.S.C § 1324a(e), the Nevada Tax Commission shall hold a*



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1 *hearing to determine whether to take action against the state*
2 *business license of the person.*

3 2. *The Nevada Tax Commission shall consider any proof*
4 *submitted by the person who holds a state business license which*
5 *demonstrates that the person attempted to verify the social security*
6 *number of the unauthorized alien within 6 months from the date*
7 *on which the unauthorized alien was allegedly employed. Such*
8 *proof may include, without limitation, a printout from the link*
9 *maintained on the Internet website of the Department of Business*
10 *and Industry pursuant to section 6 of this act. Such proof may be*
11 *used as prima facie evidence that the violation was inadvertent.*

12 3. *If the Nevada Tax Commission determines that the person*
13 *who holds the state business license violated the federal law:*

14 (a) *Inadvertently, the Commission may impose an*
15 *administrative fine upon the person or require the person to*
16 *provide an explanation concerning the manner in which the*
17 *person will conduct business in the future to prevent additional*
18 *violations of the law; or*

19 (b) *Willfully, flagrantly or otherwise egregiously, the*
20 *Commission may suspend or revoke the state business license of*
21 *the person depending on the egregiousness of the violation.*

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

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

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

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

32 6. *The Nevada Tax Commission shall adopt such regulations*
33 *as it determines necessary to carry out the provisions of this*
34 *section.*

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

36 360.760 As used in NRS 360.760 to 360.798, inclusive, *and*
37 *sections 9 and 10 of this act*, unless the context otherwise requires,
38 the words and terms defined in NRS 360.765 to 360.775, inclusive,
39 *and section 9 of this act*, have the meanings ascribed to them in
40 those sections.

41 **Sec. 12.** NRS 360.798 is hereby amended to read as follows:

42 360.798 1. If a person who holds a state business license fails
43 to comply with a provision of NRS 360.760 to 360.798, inclusive,
44 or a regulation of the Department adopted pursuant thereto, *or if the*
45 *Nevada Tax Commission determines that the person has engaged*



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1 *in the unlawful hiring or employment of an unauthorized alien*
2 *pursuant to section 10 of this act*, the Department may revoke or
3 suspend the state business license of the person. Before so doing, the
4 Department must hold a hearing after 10 days' written notice to the
5 licensee. The notice must specify the time and place of the hearing
6 and require the licensee to show cause why his license should not be
7 revoked.

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

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


14 4. The Department shall not issue a new license to the former
15 holder of a revoked state business license unless the Department is
16 satisfied that the person will comply with the provisions of this
17 chapter and the regulations of the Department adopted pursuant
18 thereto.

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

20 613.080 1. The immigration to this State of all slaves and
21 other people bound by contract to involuntary servitude for a term of
22 years is hereby prohibited.

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

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

31 4. Unless a greater penalty is provided in NRS 200.463 or
32 200.464  *or section 1.3 of this act*, a violation of any of the
33 provisions of this section is a gross misdemeanor.

