

SENATE BILL 137

By Ketron

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) "Commercial air carrier" means an entity authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce;

(2) "Common carrier" means every person operating a business by which freight or passengers are transported by any vehicle or mode of travel, including but not limited to a motor vehicle, watercraft, aircraft or railroad car; and

(3) "Illegal alien" means a person 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.

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

(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)

(1) A violation of subsection (b) is a Class E felony.

(2) If the violation of subsection (b) results in serious bodily injury to any person, it is a Class B felony.

(3) If the violation of subsection (b) results in the death of any person, it is a Class A felony.

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

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

(f) All fines received from a violation of this section shall go to the arresting agency or agencies.

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

(h) Nothing in this section shall preclude prosecution under any other applicable offense.

(i)

(1) Subdivision (b)(1) shall not apply to employees of institutions required by federal law to provide services to illegal aliens during the provision of those services.

(2) Subdivision (b)(2) shall not apply to a common carrier or a commercial air carrier.

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 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. This act shall take effect July 1, 2011, the public welfare requiring it, and shall apply to any prohibited conduct that occurs on or after the effective date of this act.