

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 35

Introduced by Assembly Member Roger Hernández

December 3, 2012

An act to add Section 22449 to the Business and Professions Code, to add Section 1251.5 to the Unemployment Insurance Code, and to amend Section 12801.6 of the Vehicle Code, ~~and to add Section 10001.7 to the Welfare and Institutions Code~~, relating to childhood arrivals.

LEGISLATIVE COUNSEL'S DIGEST

AB 35, as amended, Roger Hernández. Deferred action for childhood arrivals.

(1) Under existing federal law, the Secretary of the Department of Homeland Security has issued a directive allowing certain undocumented individuals who meet several key criteria for relief from removal from the United States or from entering into removal proceedings to be eligible to receive deferred action for a period of 2 years, subject to renewal, and who will be eligible to apply for work authorization.

Existing law provides for the regulation of immigration consultants by the Department of Consumer Affairs, the licensure and regulation of attorneys by the State Bar of California, and the commission of notaries public by the Secretary of State. A violation of certain of these provisions is a crime.

This bill would provide that immigration consultants, attorneys, and notaries public shall be the only individuals authorized to charge clients or prospective clients a fee for providing services associated with filing an application under the deferred action program. The bill also would prohibit immigration consultants, attorneys, and notaries public from

participating in practices that amount to price gouging, as defined, when a client or prospective client solicits these services. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(2) Commencing January 1, 2013, state law provides that any federal document demonstrating favorable action by the federal government for acceptance of a person into this deferred action program shall satisfy specified requirements for the purposes of being authorized to receive an original driver's license from the Department of Motor Vehicles, as described.

This bill would provide that these provisions also apply for the purposes of being authorized to receive a California identification cards.

~~(3) Existing law provides for various public benefits, including, but not limited to, public social services such as CalWORKs, Medi-Cal, and CalFresh. Existing law provides that funds are continuously appropriated from the General Fund for the state's share of certain public social services programs, such as CalWORKs. Existing law also provides for unemployment compensation benefits to eligible persons who are unemployed through no fault of their own.~~

This bill would, to the extent permitted by federal law and contingent on the appropriation of funds, provide that a person who has received a notice of decision from the federal government granting deferred action under the deferred action program shall be eligible for ~~public benefits, including, but limited to, state-administered medical assistance and unemployment compensation benefits, to the same extent that a legal resident of California is eligible for those benefits. By increasing county duties by expanding eligibility for certain public social services, the bill would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22449 is added to the Business and
2 Professions Code, to read:

3 22449. (a) Immigration consultants, attorneys, and notaries
4 public shall be the only individuals authorized to charge clients or
5 prospective clients fees for providing consultations, legal advice,
6 or notary public services, respectively, associated with filing an
7 application under the deferred action for childhood arrivals program
8 announced by the United States Secretary of the Department of
9 Homeland Security on June 15, 2012.

10 (b) (1) Immigration consultants, attorneys, and notaries public
11 shall be prohibited from participating in practices that amount to
12 price gouging when a client or prospective client solicits services
13 associated with filing an application for deferred action for
14 childhood arrivals as described in subdivision (a).

15 (2) For the purposes of this section, “price gouging” means any
16 practice that has the effect of pressuring the client or prospective
17 client to purchase services immediately because purchasing them
18 at a later time will result in the client or prospective client paying
19 a higher price for the same services.

20 (c) (1) In addition to the civil and criminal penalties described
21 in Section 22445, a violation of this section by an attorney shall
22 be cause for discipline by the State Bar pursuant to Chapter 4
23 (commencing with Section 6000) of Division 3.

24 (2) In addition to the civil and criminal penalties described in
25 Section 22445, a violation of this section by a notary public shall
26 be cause for the revocation or suspension of his or her commission
27 as a notary public by the Secretary of State and the application of
28 any other applicable penalties pursuant to Chapter 3 (commencing
29 with Section 8200) of Division 1 of Title 2 of the Government
30 Code.

1 SEC. 2. Section 1251.5 is added to the Unemployment
2 Insurance Code, to read:

3 1251.5. (a) Notwithstanding any other law, a person who has
4 received a notice of decision from the federal government granting
5 deferred action under the deferred action for childhood arrivals
6 program announced by the United States Secretary of the
7 Department of Homeland Security on June 15, 2012, shall be
8 eligible for unemployment compensation benefits as provided in
9 this article.

10 (b) Eligibility for benefits under subdivision (a) shall be
11 contingent on receipt of employment authorization from the federal
12 government.

13 ~~SEC. 2.~~

14 SEC. 3. Section 12801.6 of the Vehicle Code is amended to
15 read:

16 12801.6. (a) Any federal document demonstrating favorable
17 action by the federal government for acceptance of a person into
18 the deferred action for childhood arrivals program shall satisfy the
19 requirements of Section 12801.5.

20 (b) The department may issue an original driver’s license or
21 California identification card to the person who submits proof of
22 presence in the United States as authorized under federal law
23 pursuant to subdivision (a) and either a social security account
24 number or ineligibility for a social security account number.

25 ~~SEC. 3. Section 10001.7 is added to the Welfare and
26 Institutions Code, to read:~~

27 ~~10001.7. (a) Notwithstanding any other law, a person who has
28 received a notice of decision from the federal government granting
29 deferred action under the deferred action for childhood arrivals
30 program announced by the United States Secretary of the
31 Department of Homeland Security on June 15, 2012, shall be
32 eligible for public benefits, including, but not limited to,
33 state-administered medical assistance and unemployment
34 compensation benefits, to the same extent that a legal resident of
35 California is eligible for those benefits.~~

36 ~~(b) Except for unemployment compensation benefits, eligibility
37 for benefits under subdivision (a) shall not be contingent on receipt
38 of employment authorization from the federal government.~~

1 ~~(e) This section shall be implemented only to the extent~~
2 ~~permitted by federal law, including, but not limited to, Section~~
3 ~~1621(d) of Title 8 of the United States Code.~~

4 ~~(d) This section shall be implemented only if, and to the extent~~
5 ~~that, funds are appropriated by the Legislature for purposes of this~~
6 ~~section in the annual Budget Act or in another statute.~~

7 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
8 ~~Section 6 of Article XIII B of the California Constitution for certain~~
9 ~~costs that may be incurred by a local agency or school district~~
10 ~~because, in that regard, this act creates a new crime or infraction,~~
11 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
12 ~~or infraction, within the meaning of Section 17556 of the~~
13 ~~Government Code, or changes the definition of a crime within the~~
14 ~~meaning of Section 6 of Article XIII B of the California~~
15 ~~Constitution.~~

16 ~~However, if the Commission on State Mandates determines that~~
17 ~~this act contains other costs mandated by the state, reimbursement~~
18 ~~to local agencies and school districts for those costs shall be made~~
19 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
20 ~~4 of Title 2 of the Government Code.~~

21 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
22 ~~Section 6 of Article XIII B of the California Constitution because~~
23 ~~the only costs that may be incurred by a local agency or school~~
24 ~~district will be incurred because this act creates a new crime or~~
25 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
26 ~~for a crime or infraction, within the meaning of Section 17556 of~~
27 ~~the Government Code, or changes the definition of a crime within~~
28 ~~the meaning of Section 6 of Article XIII B of the California~~
29 ~~Constitution.~~

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32 **CORRECTIONS:**

33 **Digest—Page 1.**

34 **Digest—Vote key line.**

35 **Text—Page 4.**

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