

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0486.01 Kristen Forrestal

HOUSE BILL 06-1082

HOUSE SPONSORSHIP

Stengel,

SENATE SPONSORSHIP

McElhany,

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ACTIONS AGAINST THE EMPLOYER OF AN UNAUTHORIZED**
102 **ALIEN FOR THE TORTIOUS CONDUCT OF THE UNAUTHORIZED**
103 **ALIEN EMPLOYEE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

States that an employer has a duty of care for an unauthorized alien within his or her employ and that any tortious act or omission by the unauthorized alien is deemed foreseeable by the employer. Allows a person who has been aggrieved by a tortious act of the employee to bring a civil action against the employer for damages.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 (2) "UNAUTHORIZED ALIEN" MEANS A PERSON WHO IS NOT
2 LEGALLY AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

3 **13-20-1103. Duty of care - cause of action - penalties -**
4 **preemption by federal law.** (1) (a) AN EMPLOYER HAS A DUTY OF CARE
5 FOR AN UNAUTHORIZED ALIEN IN HIS OR HER EMPLOY, AND ANY TORTIOUS
6 ACT OR OMISSION BY SUCH UNAUTHORIZED ALIEN, WITHIN OR OUTSIDE OF
7 THE SCOPE OF EMPLOYMENT, SHALL BE DEEMED FORESEEABLE BY THE
8 EMPLOYER.

9 (b) AN INDIVIDUAL AGGRIEVED BY THE TORTIOUS ACT OR
10 OMISSION OF AN UNAUTHORIZED ALIEN MAY BRING A CIVIL ACTION IN A
11 COURT OF COMPETENT JURISDICTION AGAINST THE EMPLOYER OF THE
12 UNAUTHORIZED ALIEN TO RECOVER ACTUAL DAMAGE TO REAL OR
13 PERSONAL PROPERTY, EXEMPLARY DAMAGES, DAMAGES FOR
14 NONECONOMIC LOSS OR INJURY, AND REASONABLE ATTORNEYS FEES AND
15 COURT COSTS.

16 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO VIOLATE
17 THE FEDERAL PREEMPTION CLAUSE IN 8 U.S.C. SEC. 1324a (h) (2).

18 **SECTION 2. Applicability.** This act shall apply to acts or
19 omissions on or after the effective date of this act.

20 **SECTION 3. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.