

112TH CONGRESS
2D SESSION

H. R. 3808

To amend the Immigration and Nationality Act with respect to detention of unlawfully present aliens who are apprehended for driving while intoxicated, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2012

Mrs. MYRICK (for herself, Mr. COBLE, and Mr. MCINTYRE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act with respect to detention of unlawfully present aliens who are apprehended for driving while intoxicated, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Scott Gardner Act”.

1 **SEC. 2. DETENTION AND REMOVAL OF ALIENS APPRE-**
2 **HENDED FOR DRIVING WHILE INTOXICATED**
3 **(DWD).**

4 Section 236 of the Immigration and Nationality Act
5 (8 U.S.C. 1226) is amended—

6 (1) in subsection (c)(1)—

7 (A) in subparagraph (C), by striking “or”
8 at the end;

9 (B) in subparagraph (D), by adding “or”
10 at the end; and

11 (C) by adding after subparagraph (D) the
12 following:

13 “(E) is unlawfully present in the United
14 States and is apprehended for driving while in-
15 toxicated, driving under the influence, or simi-
16 lar violation of State law (as determined by the
17 Secretary of Homeland Security) by a State or
18 local law enforcement officer,”;

19 (2) by redesignating subsection (e) as sub-
20 section (f); and

21 (3) by inserting after subsection (d) the fol-
22 lowing new subsection:

23 “(e) DRIVING WHILE INTOXICATED.—If a State or
24 local law enforcement officer apprehends an individual for
25 an offense described in subsection (c)(1)(E) and the offi-

1 cer has reasonable ground to believe that the individual
2 is an alien—

3 “(1) the officer shall verify with the databases
4 of the Federal Government, including the National
5 Criminal Information Center and the Law Enforce-
6 ment Support Center, whether the individual is an
7 alien and whether such alien is unlawfully present in
8 the United States; and

9 “(2) if any such database indicates that the in-
10 dividual is an alien unlawfully present in the United
11 States—

12 “(A) a State or local law enforcement offi-
13 cer is authorized to issue a Federal detainer to
14 maintain the alien in custody in accordance
15 with such agreement until the alien is convicted
16 for such offense or the alien is transferred to
17 Federal custody;

18 “(B) the officer is authorized to transport
19 the alien to a location where the alien can be
20 transferred to Federal custody and shall be re-
21 moved from the United States in accordance
22 with applicable law; and

23 “(C) the Secretary of Homeland Security
24 shall—

1 “(i) reimburse the State and local law
2 enforcement agencies involved for the costs
3 of transporting aliens when such transpor-
4 tation is not done in the course of their
5 normal duties; and

6 “(ii) prioritize removal of such
7 aliens.”.

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