



### MEMORANDUM

To: House Insurance Committee  
From: Representative Larry Householder, Representative Bill Seitz  
Date: November 1, 2017  
Re: HB 380 Sponsor Testimony

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Thank you, Mr. Chairman, and members of the committee, for the opportunity to present House Bill 380 today.

This legislation requires every injured worker to certify to the Ohio Bureau of Workers' Compensation (BWC) that they are authorized to work in this country. Under our legislation, illegal aliens will no longer be entitled to receive workers' compensation benefits, and may be prosecuted for fraud on the Bureau if they are caught misrepresenting their authorization to work status. I introduced similar legislation in previous General Assemblies (SB 238, SB 323, and SB 176). SB 238 (128<sup>th</sup> GA) passed the Senate on May 27, 2010 but did not receive House hearings; SB 323 (129<sup>th</sup> GA) ran out of time, and SB 176 (130<sup>th</sup> GA). Most recently, this language was a part of the House's BWC Budget (HB 27) which passed 66 to 31 earlier this year.

During fall 2009 oversight hearings on BWC rates, Senate Insurance Committee members learned that BWC does not currently check employment authorization status and, in fact, views current state law as prohibiting it from doing so. BWC admitted, however, that no federal law requires payment of illegal aliens' workers' compensation claims and that the General Assembly is free to change state law to require proof of authorized employment status, as several states have already done. Because BWC is mainly funded by charges to Ohio employers, and because employers constantly complain to us about the price of payments, every dollar paid out by BWC to illegal alien workers is money that would otherwise go to reduce employer charges and make Ohio more competitive.

Under our legislation, every injured worker must certify to BWC that he or she is authorized to work in the USA. They will make this certification on their claim form under penalty of criminal violation if the certification is false. This will be the same certification process currently used to process unemployment compensation claims in Ohio. If the injured claimant does not certify proper work authorization, or falsely does so, then their claim will not be paid and the incident

will not count against the employer's claims experience (this is a principal variable in employer BWC rates).

Under the legislation, illegal aliens whose claims are denied by BWC will be able to sue their employer for their injuries, if the employer committed an intentional tort against the employee (current law allows this) or if the illegal alien can prove by clear and convincing evidence that the employer hired the injured worker knowing that the employee was not authorized to work in the US (this is the same standard of liability as federal immigration law establishes for all US employers).

Legal workers have every reason to be concerned that our workers' compensation system will have enough money to pay their injury claims and law abiding employers have every reason to pay their BWC premiums only on the workers who are legally authorized to work in Ohio. Through this bill, we will disincentivize illegal aliens from working in Ohio when they have no legal status to be in the United States at all, but we will also disincentivize unscrupulous employers who violate the federal law that prevents them from hiring illegal aliens knowing of their status as illegal aliens. In this way we attack the illegal immigration problem from both the supply and demand angles.

I have been worked closely with BWC to refine our proposal over the past several General Assemblies and during the budget process to ensure that it is workable and as least burdensome as possible. We are confident that this has been achieved. The legislation before you also incorporates changes requested by the NFIB and Farm Bureau.

I urge your favorable consideration of the bill. At this time we would be happy to entertain questions from the committee. Thank you, Mr. Chairman.