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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

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Scott Gardner Act''.

SEC. 2. DETENTION AND REMOVAL OF ALIENS APPREHENDED FOR DRIVING WHILE INTOXICATED (DWI).

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

(1) in subsection (c)(1)—

(A) in subparagraph (C), by striking ''or'' at the end;

(B) in subparagraph (D), by adding ''or'' at the end; and

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

''(E) is unlawfully present in the United States and is apprehended for driving while intoxicated, driving under the influence, or similar violation of State law (as determined by the Secretary of Homeland Security) by a State or local law enforcement officer,'';

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection:

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

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

''(1) the officer shall verify with the databases of the Federal Government, including the National Criminal Information Center and the Law Enforcement Support Center, whether the individual is an alien and whether such alien is unlawfully present in the United States; and

''(2) if any such database indicates that the individual is an alien unlawfully present in the United States—

''(A) a State or local law enforcement officer is authorized to issue a Federal detainer to maintain the alien in custody in accordance with such agreement until the alien is convicted for such offense or the alien is transferred to Federal custody;

''(B) the officer is authorized to transport the alien to a location where the alien can be transferred to Federal custody and shall be removed from the United States in accordance with applicable law; and

''(C) the Secretary of Homeland Security shall—

"(i) reimburse the State and local law enforcement agencies involved for the costs of transporting aliens when such transportation is not done in the course of their normal duties; and

"(ii) prioritize removal of such aliens.".

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