

By: Hinojosa

S.B. No. 1677

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of immigration assistance services;
providing civil and criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Business & Commerce Code, is amended by
adding Chapter 57 to read as follows:

CHAPTER 57. REGULATION OF IMMIGRATION ASSISTANCE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 57.001. SHORT TITLE. This chapter may be cited as the
Immigration Assistance Services Act.

Sec. 57.002. DEFINITIONS. In this chapter:

(1) "Compensation" means money, property, services, a
promise of payment, or another thing of value.

(2) "Employed by" means that:

(A) a person is on the payroll of an employer and
the employer deducts from the person's paycheck social security and
withholding taxes; or

(B) a person receives compensation from an
employer on a commission basis or as an independent contractor.

(3) "Immigration assistance service" means any
service related to an immigration matter provided or offered to a
customer or prospective customer for compensation.

(4) "Immigration matter" means any proceeding,
filing, or action affecting the nonimmigrant, immigrant, or

1 citizenship status of a person that arises under:

2 (A) immigration and naturalization law,
3 executive order, or presidential proclamation of the United States
4 or any foreign country; or

5 (B) an action of the United States Department of
6 Labor, United States Department of State, United States Department
7 of Homeland Security, or United States Department of Justice.

8 Sec. 57.003. APPLICABILITY OF CHAPTER. This chapter does
9 not apply to:

10 (1) an attorney licensed to practice law and in good
11 standing in:

12 (A) this state; or

13 (B) another state of the United States or a
14 foreign country, if the attorney is acting with the approval of a
15 judge having jurisdiction over the matter;

16 (2) a legal intern, clerk, paralegal, or person in a
17 similar position:

18 (A) employed by and under the direct supervision
19 of a licensed attorney who meets the requirements of Subdivision
20 (1); and

21 (B) providing immigration assistance services in
22 the course of employment;

23 (3) a nonprofit organization recognized by the Board
24 of Immigration Appeals under 8 C.F.R. Section 292.2(a) or an
25 employee of an organization accredited under 8 C.F.R. Section
26 292.2(d); or

27 (4) an organization that employs or desires to employ

1 an immigrant, if the organization or the organization's employees
2 or agents provide advice or assistance in immigration matters to
3 immigrant employees or potential employees, and the advice or
4 assistance is provided without compensation from the individual who
5 receives the advice or assistance.

6 Sec. 57.004. EFFECT ON FEDERAL LAW. Nothing in this chapter
7 may be construed to impose a regulation that is prohibited or
8 preempted by federal law.

9 [Sections 57.005-57.050 reserved for expansion]

10 SUBCHAPTER B. IMMIGRATION ASSISTANCE SERVICES

11 Sec. 57.051. IMMIGRATION ASSISTANCE SERVICES A PERSON MAY
12 PROVIDE. A person who provides immigration assistance services may
13 only:

14 (1) complete a government agency form that is
15 requested by the customer and appropriate to the customer's needs,
16 if the completion of the form does not involve a legal judgment;

17 (2) transcribe a response to a government agency form
18 that is related to an immigration matter;

19 (3) translate information on a form to a customer and
20 translate the customer's answers to questions asked on the form;

21 (4) obtain for the customer supporting documents
22 currently in existence, including a birth or marriage certificate,
23 that may be needed for submission with a government agency form;

24 (5) translate a document from a foreign language into
25 English;

26 (6) notarize a signature on a government agency form,
27 if the person performing the service is a notary public:

1 (A) commissioned in this state; and

2 (B) lawfully present in the United States;

3 (7) make a referral, without a fee, to an attorney
4 authorized to undertake legal representation for a person in an
5 immigration matter;

6 (8) prepare or arrange for the preparation of
7 photographs and fingerprints;

8 (9) arrange for the performance of medical testing,
9 including x-rays and AIDS tests, and obtain reports of the test
10 results;

11 (10) conduct English language and civics courses; and

12 (11) perform any other service that the secretary of
13 state determines by rule may be appropriately performed by the
14 person in accordance with the purposes of this chapter.

15 Sec. 57.052. PROHIBITED SERVICES. (a) A person who
16 provides immigration assistance services may not:

17 (1) provide legal advice, recommend a specific course
18 of legal action, or provide any other assistance that requires
19 legal analysis, legal judgment, or interpretation of the law;

20 (2) refuse to return documents supplied by, prepared
21 on behalf of, or paid for by the customer if the customer requests
22 the return of the documents, regardless of whether there is a fee
23 dispute between the person and the customer;

24 (3) represent or advertise that the person is a
25 "notary public" or "immigration consultant" or use any other title
26 or credential that would cause a reasonable customer to believe
27 that the person possesses special professional skills or is

1 authorized to provide advice on an immigration matter;

2 (4) make a misrepresentation or false statement,
3 directly or indirectly, to influence, persuade, or induce
4 patronage; or

5 (5) advise a customer as to the customer's answers on a
6 government agency form related to an immigration matter.

7 (b) Notwithstanding Subsection (a)(3), a certified notary
8 public may use the term "notary public" if the use is accompanied by
9 a statement that the person is not an attorney.

10 Sec. 57.053. REGISTRATION OF PROVIDERS REQUIRED. (a) A
11 person who provides immigration assistance services shall register
12 with the secretary of state.

13 (b) The secretary of state shall adopt:

14 (1) a registration form to implement this section; and

15 (2) rules to administer this section.

16 [Sections 57.054-57.100 reserved for expansion]

17 SUBCHAPTER C. ADVERTISEMENT PROVISIONS

18 Sec. 57.101. SIGNS REQUIRED AT PLACE OF BUSINESS. (a) A
19 person who provides or offers to provide immigration assistance
20 services shall post at the person's place of business signs at least
21 12 inches by 17 inches in size and containing the following
22 statement:

23 "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT
24 GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

25 (b) The signs required by Subsection (a) must be in English
26 and in every other language in which the person provides or offers
27 to provide immigration assistance services. Each statement

1 translated into a different language must be on a separate sign.

2 (c) The person shall post the signs required by this section
3 at a location where the signs will be visible to customers.

4 Sec. 57.102. RADIO, TELEVISION, OR WRITTEN ADVERTISEMENTS.

5 (a) A person who advertises immigration assistance services in a
6 language other than English by radio, television, signs, pamphlets,
7 newspapers, business cards, stationery, letterhead, or other
8 written communication shall include in the advertisement the
9 following notice in English and the language used by the
10 advertisement:

11 "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT
12 GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

13 (b) Subsection (a) does not apply to a single desk plaque.

14 (c) If the advertisement is by radio or television, the
15 statement required by Subsection (a) may be modified but must
16 include substantially the same message.

17 (d) If in writing, the statement required by Subsection (a)
18 must be printed in a conspicuous size.

19 Sec. 57.103. TRANSLATING CERTAIN TITLES PROHIBITED. A
20 person who provides or offers to provide immigration assistance
21 services may not, in any written material, literally translate from
22 English into another language:

23 (1) notary public;

24 (2) notary;

25 (3) licensed;

26 (4) attorney;

27 (5) lawyer; or

1 (6) another term that implies the person is an
2 attorney.

3 [Sections 57.104-57.150 reserved for expansion]

4 SUBCHAPTER D. REMEDIES AND OFFENSES

5 Sec. 57.151. CIVIL PENALTY. (a) A person who violates this
6 chapter is liable to this state for a civil penalty in an amount not
7 to exceed \$1,000 for each violation. The attorney general or the
8 prosecuting attorney in the county in which the violation occurs
9 may bring suit to recover the civil penalty imposed under this
10 section.

11 (b) A penalty collected under this section does not preempt
12 or preclude a civil or criminal penalty under other law.

13 Sec. 57.152. CRIMINAL PENALTY. (a) A person commits an
14 offense if the person violates a provision of this chapter.

15 (b) An offense under this section is a Class B misdemeanor,
16 except that the offense is a Class A misdemeanor if it is shown on
17 the trial of the offense that:

18 (1) the person has previously been convicted under
19 this section; and

20 (2) the instant offense occurred before the fifth
21 anniversary of the conviction for the previous offense.

22 SECTION 2. This Act takes effect September 1, 2009.