

112TH CONGRESS  
1ST SESSION

# H. R. 1459

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

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2011

Mrs. MYRICK (for herself 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, to improve State and local enforcement of immigration laws, 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.”.

8 **SEC. 3. ELIGIBILITY REQUIREMENT FOR STATE CRIMINAL**  
9 **ALIEN ASSISTANCE PROGRAM (SCAAP) FUND-**  
10 **ING.**

11       Section 241(i) of the Immigration and Nationality  
12 Act (8 U.S.C. 1231(i)) is amended by adding at the end  
13 the following:

14           “(7) A State (or a political subdivision of a  
15 State) shall not be eligible to enter into a contrac-  
16 tual arrangement under paragraph (1) unless the  
17 State (or political subdivision), not later than Janu-  
18 ary 1, 2014, is participating in either or both of the  
19 following (or any appropriate successor):

20           “(A) the program under section 287(g) of  
21 the Immigration and Nationality Act (8 U.S.C.  
22 1357(g)); or

23           “(B) the Secure Communities initiative of  
24 the Department of Homeland Security.”.

1 **SEC. 4. STATE AND LOCAL ENFORCEMENT OF FEDERAL IM-**  
2 **MIGRATION LAWS.**

3 (a) IN GENERAL.—Section 287(g) of the Immigra-  
4 tion and Nationality Act (8 U.S.C. 1357(g)) is amended—

5 (1) in paragraph (1), by striking “may” and in-  
6 serting “shall” the first place it appears;

7 (2) in paragraph (2), by adding at the end the  
8 following new sentence: “If such training is provided  
9 by a State or political subdivision of a State to an  
10 officer or employee of such State or political subdivi-  
11 sion of a State, the cost of such training (including  
12 applicable cost of overtime) shall be reimbursed by  
13 the Secretary of Homeland Security.”; and

14 (3) by striking paragraph (9) and redesignating  
15 paragraph (10) as paragraph (9).

16 (b) EFFECTIVE DATES.—

17 (1) REQUIREMENT FOR AGREEMENT.—The  
18 amendments made by paragraphs (1) and (3) of  
19 subsection (a) shall take effect on such date (not  
20 later than one year after the date of the enactment  
21 of this Act) as the Secretary of Homeland Security  
22 shall specify.

23 (2) PAYMENT FOR TRAINING COSTS.—The  
24 amendment made by subsection (a)(2) shall take ef-

1        feet on the first day of the first fiscal year beginning  
2        after the date of the enactment of this Act.

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