

By: Patrick

S.B. No. 126

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the duty of a peace officer to inquire into the lawful  
3 presence of certain persons.

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

5 SECTION 1. Chapter 2, Code of Criminal Procedure, is  
6 amended by adding Article 2.251 to read as follows:

7 Art. 2.251. LAWFUL PRESENCE INQUIRY BY PEACE OFFICER. (a)

8 A peace officer shall inquire into the lawful presence of any person  
9 who is lawfully stopped, detained, or arrested on other grounds if  
10 the officer has a reasonable suspicion to believe the person has  
11 violated a criminal provision of the federal immigration laws.

12 (b) If a peace officer has probable cause to believe the  
13 person has committed a violation described by Subsection (a), the  
14 officer:

15 (1) may arrest the person for the violation; and

16 (2) shall identify and report the person to United  
17 States Immigration and Customs Enforcement after any arrest made by  
18 the officer under Subdivision (1) or on other grounds.

19 (c) A local ordinance, regulation, or policy that  
20 interferes with the ability of a peace officer to carry out a duty  
21 conferred by this article is void.

22 (d) A law enforcement agency, political subdivision, or  
23 other governmental entity and a peace officer or other employee of  
24 that agency, subdivision, or entity are immune from suit and

1 liability for any cause of action, claim, or damages arising from  
2 the performance of an action authorized or a duty mandated under  
3 this article or from a failure to perform a duty mandated under this  
4 article. This subsection does not limit the liability of the  
5 agency, subdivision, entity, or officer or other employee for any  
6 intentional misconduct, recklessness, or gross negligence  
7 committed in performing an action authorized or a duty mandated  
8 under this article or in failing to perform a duty mandated under  
9 this article.

10 SECTION 2. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2011.