

1 HB56
2 128074-6
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7 Baughn, Moore (B), Long and Canfield
8 RFD: Public Safety and Homeland Security
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1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to immigration laws; to provide for the
9 enforcement of immigration laws on the state and local level;
10 to make the entry, presence, and involvement in economic
11 activity of unauthorized aliens illegal in the state and to
12 provide penalties; to require the verification of the legal
13 status of persons; to prohibit the knowing or intentional
14 hiring of unauthorized aliens and to provide penalties; to
15 require participation in the federal E-verify program; to
16 provide for the impoundment of a vehicle under certain
17 conditions; to prohibit certain practices related to voting
18 and registration for voting and to provide criminal penalties;
19 to require proof of citizenship or legal residency in order to
20 access government benefits; to give the Alabama Department of
21 Homeland Security certain powers and duties; to require a
22 landlord to verify the lawful presence of a person before
23 entering into a rental agreement and to provide penalties; to
24 provide for distribution of certain fines; to provide for the
25 crimes of dealing in false identification documents and vital
26 records identity fraud and to provide penalties; and in
27 connection therewith would have as its purpose or effect the

1 requirement of a new or increased expenditure of local funds
2 within the meaning of Amendment 621 of the Constitution of
3 Alabama of 1901, now appearing as Section 111.05 of the
4 Official Recompilation of the Constitution of Alabama of 1901,
5 as amended.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. The Legislature declares that the intent
8 of this act is to make the attrition of unauthorized aliens
9 through enforcement the public policy of all state and local
10 government agencies in Alabama. The provisions of this act are
11 intended to discourage and deter the entry, presence, and
12 involvement in economic activity of unauthorized aliens in
13 Alabama, consistent with the intent of Congress expressed in
14 federal immigration law.

15 Section 2. (a) No official or agency of this state
16 or a county, city, town, or other political subdivision of
17 this state may limit or restrict the enforcement of federal
18 immigration laws to less than the full extent permitted by
19 federal law.

20 (b) When there is any lawful stop, detention, or
21 arrest made by a law enforcement officer or agency of this
22 state or a county, city, town, or other political subdivision
23 of this state in the enforcement of any other law or ordinance
24 of a county, city, town, or other political subdivision of
25 this state where reasonable suspicion exists that a person is
26 an unauthorized alien, a reasonable attempt shall be made to
27 determine the immigration status of the person, except if the

1 determination may hinder or obstruct an investigation. The
2 immigration status of the person shall be verified pursuant to
3 subsection (e). Any person who is arrested shall have his or
4 her immigration status determined before the person is
5 released. A person is presumed not to be an unauthorized alien
6 in the United States if the person provides to the law
7 enforcement officer or agency any of the following:

8 (1) A valid Alabama driver's license or an Alabama
9 nondriver identification card or a valid driver's license from
10 another state.

11 (2) A valid tribal enrollment card or other form of
12 tribal identification.

13 (3) Any valid United States federal or state
14 government issued identification.

15 (4) A valid passport and federal form I-94 or any
16 successor document.

17 (5) A valid Canadian federal or territorial
18 government issued identification.

19 (c) If an alien who is unlawfully present in the
20 United States is convicted of a violation of state or local
21 law, on discharge from imprisonment or assessment of any fine
22 that is imposed, the alien shall be transferred immediately to
23 the custody of the United States Immigration and Customs
24 Enforcement Agency or the United States Customs and Border
25 Protection Agency.

26 (d) Notwithstanding any other law, a law enforcement
27 agency may transport an alien who is verified as unlawfully

1 present in the United States and who is in the custody of the
2 agency to a federal facility in this state or to any other
3 point of transfer into federal custody that is outside of the
4 jurisdiction of the law enforcement agency. A law enforcement
5 agency shall obtain judicial authorization before transporting
6 an alien who is present in the United States unlawfully to a
7 point of transfer that is outside of this state.

8 (e) In the implementation of this section, the
9 immigration status of an alien shall be determined by either
10 of the following:

11 (1) A law enforcement officer who is authorized by
12 the federal government to verify or ascertain the immigration
13 status of an alien.

14 (2) The federal government pursuant to 8 U.S.C. §
15 1373(c) through the Alabama Department of Homeland Security.

16 (f) Except as provided by federal law, officials or
17 agencies of this state and counties, cities, towns, and other
18 political subdivisions of this state may not be prohibited or
19 in any way be restricted from sending, receiving, or
20 maintaining information relating to the immigration status,
21 lawful or unlawful, of any individual or exchanging that
22 information with any other federal, state, or local
23 governmental entity for the following official purposes:

24 (1) Determining eligibility for any public benefit,
25 service, or license provided by the federal government, the
26 state, or a county, city, town, or other political subdivision
27 of this state.

1 (2) Verifying any claim of residence or domicile if
2 determination of residence or domicile is required under the
3 laws of this state or a judicial order issued pursuant to a
4 civil or criminal proceeding in this state.

5 (3) Confirming the identify of any person who is
6 detained.

7 (4) If the person is an alien, determining whether
8 the person is in compliance with the federal registration laws
9 prescribed by Title II, Chapter 7 of the Federal Immigration
10 and Nationality Act pursuant to 8 U.S.C. § 1373 and 8 U.S.C. §
11 1644.

12 (g) A person may bring an action in circuit court to
13 challenge any official or head of an agency of this state that
14 adopts or implements a policy that limits or restricts the
15 enforcement of federal immigration laws to less than the full
16 extent permitted by federal law. Child protective services
17 and, adult protective services, and domestic violence services
18 workers are exempt from this subsection. If there is a
19 judicial finding that an official or head of an agency of this
20 state has violated this section, the court shall order any of
21 the following:

22 (1) That the person who brought the action recover
23 court costs and attorney fees.

24 (2) That the official or head of the agency pay a
25 civil penalty of not less than five hundred dollars (\$500) and
26 not more than five thousand dollars (\$5,000) for each day that

1 the policy has remained in effect after the filing of an
2 action pursuant to this subsection.

3 (h) A court shall collect the civil penalty
4 prescribed in subsection (g) and remit 50 percent of the civil
5 penalty to the Department of Public Safety and 50 percent of
6 the civil penalty to the Alabama Department of Homeland
7 Security. Both departments shall establish a special account
8 for the monies for the purpose of enforcement of this act.

9 (i) A law enforcement officer shall be indemnified
10 by the agency of the law enforcement officer against
11 reasonable costs and expenses, including attorney fees,
12 incurred by the officer in connection with any action, suit,
13 or proceeding brought pursuant to this section to which the
14 officer may be party by reason of the officer being or having
15 been a member of the law enforcement agency, except in
16 relation to matters in which the officer is adjudged to have
17 willfully and wantonly acted in bad faith outside the line and
18 scope of his or her duty.

19 (j) This section shall be implemented in a manner
20 consistent with federal laws regulating immigration,
21 protecting the civil rights of all persons, and respecting the
22 privileges and immunities of United States citizens.

23 (k) (1) If the Alabama Department of Homeland
24 Security creates a state verification system to verify the
25 lawful presence of a person, a law enforcement agency shall
26 utilize the state verification system to verify the lawful
27 presence of a person for the purposes of this section.

1 (2) A law enforcement agency that verifies the
2 lawful presence of a person in good faith utilizing the state
3 verification system pursuant to this section is immune from
4 liability for any actions taken as a result of the
5 notification from the state verification system that the
6 person is unlawfully present in the United States.

7 (1) A law enforcement official or agency of this
8 state or a county, city, town, or other political subdivision
9 of this state may not consider race, color, or national origin
10 in the enforcement of this section except to the extent
11 permitted by the United States Constitution or the
12 Constitution of Alabama of 1901.

13 (m) For the purpose of this section, the term
14 "official or head of an agency of this state" shall not
15 include a county law enforcement officer, sheriff, deputy, or
16 personnel in a county jail acting within the line and scope of
17 his or her duty.

18 Section 3. (a) In addition to any violation of
19 federal law, an alien is guilty of trespassing if the alien is
20 both (1) present on any public or private land in this state
21 and (2) in violation of 8 U.S.C. § 1304(e) or § 1306(a),
22 relating to the registration of aliens.

23 (b) In the implementation of this section, the
24 immigration status of an alien shall be determined by either
25 of the following:

1 (1) A law enforcement officer who is authorized by
2 the federal government to verify or ascertain the immigration
3 status of an alien.

4 (2) The federal government pursuant to 8 U.S.C. §
5 1373(c) through the Alabama Department of Homeland Security.

6 (c) (1) A person who is sentenced pursuant to this
7 section is not eligible for suspension or commutation of
8 sentence or release on any basis until the sentence imposed is
9 served.

10 (2) Notwithstanding the provisions of this act,
11 should an unauthorized alien be transferred to federal custody
12 pursuant to subsections (c) and (d) of Section 2, then any
13 charges pending pursuant to this section may be dismissed or
14 any sentence imposed pursuant to this section may be commuted.

15 (d) In addition to any other penalty prescribed by
16 law, the court shall order the person to pay court costs and
17 an additional assessment in the following amounts:

18 (1) At least five hundred dollars (\$500) for a first
19 violation.

20 (2) Twice the amount specified in subdivision (1) if
21 the person was previously subject to an assessment pursuant to
22 this subsection.

23 (e) A court shall collect the assessments prescribed
24 in subsection (d) and remit 50 percent of the assessments to
25 the Department of Public Safety and 50 percent of the
26 assessments to the Alabama Department of Homeland Security.

1 Both departments shall establish a special account for the
2 monies for the purpose of enforcement of this act.

3 (f) This section does not apply to an alien who
4 maintains authorization from the federal government to remain
5 in the United States.

6 (g) A violation of this section is a Class A
7 misdemeanor, except that a violation of this section is a
8 Class C felony if the person violates this section while in
9 possession of any of the following:

10 (1) A controlled substance, as defined in Section
11 20-2-2, Code of Alabama 1975.

12 (2) An immediate precursor, a substance as defined
13 in Section 20-2-2(12), Code of Alabama 1975, that is used in
14 the manufacturing of a controlled substance in violation of
15 Section 13A-12-217 or 13A-12-218, Code of Alabama 1975.

16 (3) A deadly weapon or a dangerous instrument as
17 defined in Section 13A-1-2, Code of Alabama 1975.

18 (4) Property that is used as material support or
19 resources, as defined in Section 13A-10-151, Code of Alabama
20 1975, for the purpose of committing or aiding in the
21 commission of an act of terrorism as prescribed in Sections
22 13A-10-152 and 13A-10-153, Code of Alabama 1975.

23 (h) Any record that relates to the immigration
24 status of a person is admissible in any court without further
25 foundation or testimony from a custodian of records if the
26 record is certified as authentic by the government agency that
27 is responsible for maintaining the record.

1 (i) (1) If the Alabama Department of Homeland
2 Security creates a state verification system to verify the
3 lawful presence of a person, a law enforcement agency shall
4 utilize the state verification system to verify the lawful
5 presence of a person for the purposes of this section.

6 (2) A law enforcement agency that verifies the
7 lawful presence of a person in good faith utilizing the state
8 verification system pursuant to this section is immune from
9 liability for any actions taken as a result of the
10 notification from the state verification system that the
11 person is unlawfully present in the United States.

12 (j) A law enforcement official or agency of this
13 state or a county, city, town, or other political subdivision
14 of this state may not consider race, color, or national origin
15 in the enforcement of this section except to the extent
16 permitted by the United States Constitution or the
17 Constitution of Alabama of 1901.

18 Section 4. (a) It is unlawful for a person to
19 intentionally engage in the smuggling of human beings for
20 profit or commercial purposes.

21 (b) A violation of this section is a Class B felony.

22 (c) Notwithstanding any other law, a law enforcement
23 officer may lawfully stop any person who is operating a motor
24 vehicle if the officer has reasonable suspicion to believe the
25 person is in violation of any traffic law and this section.

26 (d) For the purposes of this section, "smuggling of
27 human beings" means the transportation, procurement of

1 transportation, or use of real or personal property by a
2 person or an entity that knows or has reason to know that the
3 person or persons transported or to be transported are not
4 United States citizens, permanent resident aliens, or persons
5 otherwise allowed to enter or remain in the United States.

6 (e) (1) If the Alabama Department of Homeland
7 Security creates a state verification system to verify the
8 lawful presence of a person, a law enforcement agency shall
9 utilize the state verification system to verify the lawful
10 presence of a person for the purposes of this section.

11 (2) A law enforcement agency that verifies the
12 lawful presence of a person in good faith utilizing the state
13 verification system pursuant to this section is immune from
14 liability for any actions taken as a result of the
15 notification from the state verification system that the
16 person is unlawfully present in the United States.

17 (f) A law enforcement official or agency of this
18 state or a county, city, town, or other political subdivision
19 of this state may not consider race, color, or national origin
20 in the enforcement of this section except to the extent
21 permitted by the United States Constitution or the
22 Constitution of Alabama of 1901.

23 Section 5. (a) It is unlawful for an occupant of a
24 motor vehicle that is stopped on a street, roadway, or highway
25 to attempt to hire or hire and pick up passengers for work at
26 a different location if the motor vehicle blocks or impedes
27 the normal movement of traffic.

1 (b) It is unlawful for a person to enter a motor
2 vehicle that is stopped on a street, roadway, or highway in
3 order to be hired by an occupant of the motor vehicle and to
4 be transported to work at a different location if the motor
5 vehicle blocks or impedes the normal movement of traffic.

6 (c) It is unlawful for a person who is an
7 unauthorized alien to knowingly apply for work, solicit work
8 in a public place, or perform work as an employee or
9 independent contractor in this state.

10 (d) A law enforcement official or agency of this
11 state or a county, city, town, or other political subdivision
12 of this state may not consider race, color, or national origin
13 in the enforcement of this section except to the extent
14 permitted by the United States Constitution or the
15 Constitution of Alabama of 1901.

16 (e) In the implementation of this section, the
17 immigration status of an alien shall be determined by either
18 of the following:

19 (1) A law enforcement officer who is authorized by
20 the federal government to verify or ascertain the immigration
21 status of an alien.

22 (2) The federal government pursuant to 8 U.S.C. §
23 1373(c) through the Alabama Department of Homeland Security.

24 (f) A violation of this section is a Class A
25 misdemeanor.

26 (g) (1) If the Alabama Department of Homeland
27 Security creates a state verification system to verify the

1 lawful presence of a person, a law enforcement agency shall
2 utilize the state verification system to verify the lawful
3 presence of a person for the purposes of this section.

4 (2) A law enforcement agency that verifies the
5 lawful presence of a person in good faith utilizing the state
6 verification system pursuant to this section is immune from
7 liability for any actions taken as a result of the
8 notification from the state verification system that the
9 person is unlawfully present in the United States.

10 (h) For the purposes of this section, the following
11 terms shall have the following meanings:

12 (1) SOLICIT. To exhibit verbal or nonverbal
13 communication by a gesture or a nod that would indicate to a
14 reasonable person that a person is willing to be employed.

15 (2) UNAUTHORIZED ALIEN. An alien who does not have
16 the legal right or authorization under federal law to work in
17 the United States as specified in 8 U.S.C. § 1324a(h)(3).

18 Section 6. (a) It is unlawful for a person to do any
19 of the following:

20 (1) Transport or move or attempt to transport or
21 move an unauthorized alien in this state in furtherance of the
22 presence of the unauthorized alien in the United States in a
23 means of transportation if the person knows or recklessly
24 disregards the fact that the alien has come to, has entered,
25 or remains in the United States in violation of law.

26 (2) Conceal, harbor, or shield or attempt to
27 conceal, harbor, or shield an alien from detection in any

1 place in this state, including any building or any means of
2 transportation, if the person knows or recklessly disregards
3 the fact that the alien has come to, has entered, or remains
4 in the United States in violation of law.

5 (3) Encourage or induce an alien to come to or
6 reside in this state if the person knows or recklessly
7 disregards the fact that the alien coming to, entering, or
8 residing in this state is or will be in violation of law.

9 (4) Enter into a rental agreement, as defined by
10 Section 35-9A-141 of the Code of Alabama 1975, with an alien
11 if the person knows or recklessly disregards the fact that the
12 alien has come to, has entered, or remains in the United
13 States in violation of law.

14 (b) A means of transportation that is used in the
15 commission of a violation of this section is subject to
16 mandatory vehicle impoundment procedures as provided for by
17 state law. A person who violates this section is guilty of a
18 Class A misdemeanor except that a violation of this section
19 that involves 10 or more unauthorized aliens is a Class C
20 felony.

21 (c) A law enforcement official or agency of this
22 state or a county, city, town, or other political subdivision
23 of this state may not consider race, color, or national origin
24 in the enforcement of this section except to the extent
25 permitted by the United States Constitution or the
26 Constitution of Alabama of 1901.

1 (d) In the implementation of this section, the
2 immigration status of an alien shall be determined by either
3 of the following:

4 (1) A law enforcement officer who is authorized by
5 the federal government to verify or ascertain the immigration
6 status of an alien.

7 (2) The federal government pursuant to 8 U.S.C. §
8 1373(c) through the Alabama Department of Homeland Security.

9 (e) This section does not apply to a child
10 protective services or adult protective services worker or a
11 domestic violence services worker acting in the official
12 capacity of the worker or a person who is acting in the
13 capacity of a first responder, an ambulance attendant, or an
14 emergency medical technician and who is transporting or moving
15 an alien in this state pursuant to state law.

16 (f) (1) If the Alabama Department of Homeland
17 Security creates a state verification system to verify the
18 lawful presence of a person, a law enforcement agency shall
19 utilize the state verification system to verify the lawful
20 presence of a person for the purposes of this section.

21 (2) A law enforcement agency that verifies the
22 lawful presence of a person in good faith utilizing the state
23 verification system pursuant to this section is immune from
24 liability for any actions taken as a result of the
25 notification from the state verification system that the
26 person is unlawfully present in the United States.

1 Section 7. (a) An employer may not knowingly or
2 intentionally employ an unauthorized alien. ~~An employer~~
3 ~~knowingly or intentionally contracts with an unauthorized~~
4 ~~alien or with a person who employs or contracts with an~~
5 ~~unauthorized alien to perform the labor, if the employer uses~~
6 ~~a contract, subcontract, or other independent contractor~~
7 ~~agreement to obtain the labor of a person the employer knows~~
8 ~~is an unauthorized alien.~~

9 (b) On receipt of an allegation on a prescribed
10 complaint form that an employer knowingly or intentionally
11 employs an unauthorized alien, a local law enforcement agency
12 shall investigate whether the employer has violated subsection
13 (a).

14 (c) In the implementation of this section, the
15 immigration status or work authorization status of an alien
16 shall be determined by either of the following:

17 (1) A law enforcement officer who is authorized by
18 the federal government to verify or ascertain the immigration
19 status of an alien.

20 (2) The federal government pursuant to 8 U.S.C. §
21 1373(c) through the Alabama Department of Homeland Security.

22 (d) (1) If the Alabama Department of Homeland
23 Security creates a state verification system to verify the
24 lawful presence of a person, an employer may utilize the state
25 verification system in lieu of the E-verify program to verify
26 the lawful presence of a person for the purposes of this
27 section.

1 (2) An employer that verifies the lawful presence of
2 a person in good faith utilizing the state verification system
3 pursuant to this section is immune from liability, including
4 liability from any action by an employee or prospective
5 employee for failure to hire, wrongful discharge, or
6 retaliation based on a notification from the state
7 verification system that the person is an unauthorized alien.

8 (e) A person who knowingly or intentionally files a
9 false or frivolous complaint under this section is guilty of a
10 Class C misdemeanor.

11 (f) The local law enforcement agency, after a
12 determination that the complaint is not false or frivolous,
13 shall do all of the following:

14 (1) Notify the United States Immigration and Customs
15 Enforcement Agency of the unauthorized alien.

16 (2) Notify the Alabama Department of Homeland
17 Security of the unauthorized alien.

18 (3) Refer the matter to the local district attorney
19 for the local district attorney to bring an action for the
20 enforcement of this section.

21 (g) A law enforcement official or agency of this
22 state or a county, city, town, or other political subdivision
23 of this state may not consider race, color, or national origin
24 in the enforcement of this section except to the extent
25 permitted by the United States Constitution or the
26 Constitution of Alabama of 1901.

1 Section 8. (a) On a finding of a first violation of
2 Section 7, a court shall do all of the following:

3 (1) Order the employer to terminate the employment
4 of all unauthorized aliens.

5 (2) Subject the employer to a three-year
6 probationary period throughout the state. During the
7 probationary period, the employer shall file quarterly reports
8 with the local district attorney of each new employee who is
9 hired by the employer in the state.

10 (3) Order the employer to file a signed, sworn
11 affidavit with the local district attorney within three days
12 after the order is issued stating that the employer has
13 terminated the employment of all unauthorized aliens and the
14 employer will not knowingly or intentionally employ an
15 unauthorized alien in this state.

16 (b) The court shall order the appropriate agencies
17 to suspend for up to 10 days all licenses subject to this
18 section that are held by the employer if the employer fails to
19 file a signed, sworn affidavit with the appropriate district
20 attorney within three business days after the order is issued.

21 (c) The court shall send a copy of the order to the
22 Attorney General and the local district attorney, who shall
23 maintain the copy pursuant to this section.

24 (d) (1) All licenses that are suspended under this
25 section shall remain suspended until the employer files a
26 signed sworn affidavit with the local district attorney.
27 Notwithstanding any other law, on the filing of the affidavit,

1 the suspended licenses shall be reinstated immediately by the
2 appropriate agencies.

3 (2) For the purposes of this section, the licenses
4 subject to suspension are all licenses held by the employer
5 specific to the county where the unauthorized alien performed
6 work.

7 (e) For a second violation, the court shall order
8 the appropriate agencies to permanently revoke all licenses
9 held by the employer specific to the county where the
10 unauthorized alien performed work. On receipt of the order,
11 and notwithstanding any other law, the appropriate agencies
12 shall immediately revoke the licenses held by the employer.

13 (f) For a third violation, the court shall order the
14 appropriate agencies to permanently revoke all licenses held
15 by the employer throughout the state.

16 (g) It is an affirmative defense to a violation of
17 subsection (a) of this section that the employer was
18 entrapped.

19 (1) To claim entrapment, the employer must admit by
20 testimony or other evidence the substantial elements of the
21 violation.

22 (2) An employer who asserts an entrapment defense
23 has the burden of proving by clear and convincing evidence the
24 following:

25 a. The idea of committing the violation started with
26 law enforcement officers or their agents rather than with the
27 employer.

1 b. The law enforcement officers or their agents
2 urged and induced the employer to commit the violation.

3 c. The employer was not already predisposed to
4 commit the violation before the law enforcement officers or
5 their agents urged and induced the employer to commit the
6 violation.

7 (h) Any employer found in violation of Section 7
8 shall have the right to contest any finding on appeal.

9 Section 9. (a) For the purposes of this section, the
10 following words shall have the following meanings:

11 (1) ECONOMIC DEVELOPMENT INCENTIVE. Any grant, loan,
12 or performance-based incentive from any governmental entity
13 that is awarded after September 30, 2011. Economic development
14 incentive does not include any tax provision.

15 (2) GOVERNMENTAL ENTITY. This state and any
16 political subdivision of this state that receives and uses tax
17 revenues.

18 (b) Except as provided in subsection (c), beginning
19 January 1, 2012, every employer shall verify the employment
20 eligibility of an employee through the E-verify program and
21 shall keep a record of the verification for the duration of
22 the employment of the employee or at least three years,
23 whichever is longer.

24 (c) (1) The Department of Industrial Relations shall
25 establish and maintain a telephone verification system to be
26 approved by the Alabama Department of Homeland Security for an

1 employer with 25 or less employees to utilize in lieu of the
2 E-verify program.

3 ~~(2) An employer with 25 or less employees shall be~~
4 ~~required to utilize the E-verify program until the telephone~~
5 ~~verification system is established.~~

6 (2) The telephone verification system shall be in
7 place within 90 days after the effective date of this act.

8 (d) Before receiving any economic development
9 incentive, the employer shall provide proof to the
10 governmental entity that the employer is registered with and
11 is participating in the E-verify program or the telephone
12 verification system.

13 (e) Every three months, the Alabama Department of
14 Homeland Security shall request from the U.S. Department of
15 Homeland Security a list of employers from this state who are
16 registered with the E-verify program. On receipt of the list
17 of employers, the Alabama Department of Homeland Security
18 shall make the list available on its website.

19 (f) An employer that verifies the employment
20 eligibility of an employee in good faith pursuant to this
21 section is immune from liability, including liability from any
22 action by an employee or prospective employee for failure to
23 hire, wrongful discharge, or retaliation based on a
24 notification from the E-verify program or the telephone
25 verification system that the person is an unauthorized alien.

26 (g) (1) If the Alabama Department of Homeland
27 Security creates a state verification system to verify the

1 lawful presence of a person, an employer may utilize the state
2 verification system in lieu of the E-verify program to verify
3 the lawful presence of a person for the purposes of this
4 section.

5 (2) An employer that verifies the lawful presence of
6 a person in good faith utilizing the state verification system
7 pursuant to this section is immune from liability, including
8 liability from any action by an employee or prospective
9 employee for failure to hire, wrongful discharge, or
10 retaliation based on a notification from the state
11 verification system that the person is an unauthorized alien.

12 (h) A law enforcement official or agency of this
13 state or a county, city, town, or other political subdivision
14 of this state may not consider race, color, or national origin
15 in the enforcement of this section except to the extent
16 permitted by the United States Constitution or the
17 Constitution of Alabama of 1901.

18 Section 10. (a) No unauthorized alien may register
19 to vote or attempt to register to vote.

20 (b) No person may knowingly assist or conspire to
21 allow an unauthorized alien to vote.

22 (c) No person may knowingly assist or conspire with
23 an unauthorized alien to register the unauthorized alien for
24 voting.

25 (d) A violation of this section is a Class C felony.

26 (e) (1) If the Alabama Department of Homeland
27 Security creates a state verification system to verify the

1 lawful presence of a person, the state or local agency that
2 handles voter registration shall utilize the state
3 verification system to verify the lawful presence of a person
4 for the purposes of this section.

5 (2) A state or local agency that handles voter
6 registration that verifies the lawful presence of a person in
7 good faith utilizing the state verification system pursuant to
8 this section is immune from liability for any actions taken as
9 a result of the notification from the state verification
10 system that the person is unlawfully present in the United
11 States.

12 (f) An agency of this state or a county, city, town,
13 or other political subdivision of this state may not consider
14 race, color, or national origin in the enforcement of this
15 section except to the extent permitted by the United States
16 Constitution or the Constitution of Alabama of 1901.

17 Section 11. (a) As used in this section, the
18 following terms have the following meanings:

19 (1) EMERGENCY MEDICAL CONDITION. The same meaning as
20 provided in 42 U.S.C. § 1396b(v) (3).

21 (2) FEDERAL PUBLIC BENEFITS. The same meaning as
22 provided in 8 U.S.C. § 1611.

23 (3) STATE OR LOCAL PUBLIC BENEFITS. The same meaning
24 as provided in 8 U.S.C. § 1621.

25 (b) Any person who applies for federal public
26 benefits administered by this state or a political subdivision
27 of this state or for state or local public benefits shall

1 provide proof that he or she is lawfully present in the United
2 States before receiving those public benefits.

3 (c) Except as otherwise provided in subsection (e)
4 or where exempted by federal law, commencing on the effective
5 date of this act, each agency or political subdivision of the
6 state shall verify the lawful presence in the United States of
7 each natural person who applies for federal public benefits
8 administered by this state or a political subdivision of this
9 state or for state or local public benefits.

10 (d) An agency of this state or a county, city, town,
11 or other political subdivision of this state may not consider
12 race, color, or national origin in the enforcement of this
13 section except to the extent permitted by the United States
14 Constitution or the Constitution of Alabama of 1901.

15 (e) Verification of lawful presence in the United
16 States shall not be required for any of the following:

17 (1) For any purpose for which lawful presence in the
18 United States is not required by law, ordinance, or rule.

19 (2) For obtaining health care items and services
20 that are necessary for the treatment of an emergency medical
21 condition of the person involved and are not related to an
22 organ transplant procedure.

23 (3) For short-term, noncash, in-kind emergency
24 disaster relief.

25 (4) For public health assistance for immunizations
26 with respect to immunizable diseases, for family planning
27 services, for the Special Supplemental Nutrition Program for

1 Women, Infants, and Children, and for testing and treatment of
2 symptoms of communicable diseases, whether or not such
3 symptoms are caused by a communicable disease.

4 (5) For programs, services, or assistance, such as
5 soup kitchens, crisis counseling and intervention, and
6 short-term shelter specified by federal law or regulation that
7 satisfy all of the following:

8 a. Deliver in-kind services at the community level,
9 including services through public or private nonprofit
10 agencies.

11 b. Do not condition the provision of assistance, the
12 amount of assistance provided, or the cost of assistance
13 provided on the income or resources of the individual
14 recipient.

15 c. Are necessary for the protection of life or
16 safety.

17 (6) For prenatal care.

18 (7) For child protective services and adult
19 protective services and domestic violence services workers.

20 (f) An agency or a political subdivision of this
21 state shall verify the lawful presence in the United States of
22 each applicant who applies for federal public benefits
23 administered by this state or a political subdivision of this
24 state or for state or local public benefits by requiring the
25 applicant to do either of the following:

26 (1) Produce any of the following documents:

1 a. A valid Alabama driver's license or an Alabama
2 nondriver identification card or a valid driver's license from
3 another state.

4 b. A valid tribal enrollment card or other form of
5 tribal identification.

6 c. Any valid United States federal or state
7 government issued identification.

8 d. A valid passport and federal form I-94 or any
9 successor document.

10 e. A valid Canadian federal or territorial
11 government issued identification.

12 (2) Execute an affidavit stating that he or she is
13 either of the following:

14 a. A United States citizen or legal permanent
15 resident.

16 b. Otherwise lawfully present in the United States
17 pursuant to federal law.

18 (g) Notwithstanding the requirements of subdivision
19 (1) of subsection (f), the Alabama Department of Public Health
20 may issue emergency rules, to be effective until the first day
21 of the sixth month after the effective date of this act,
22 providing for additional forms of identification or a waiver
23 process to ensure that an individual seeking public benefits
24 pursuant to this section proves lawful presence in the United
25 States. The rules are necessary to ensure that certain
26 individuals, including, but not limited to, homeless state

1 citizens, lawfully present in the United States receive
2 authorized benefits.

3 (h) All emergency rules authorized under this
4 section shall terminate on the first day of the sixth month
5 after the effective date of this act.

6 (i) Any person who knowingly makes a false,
7 fictitious, or fraudulent statement or representation in an
8 affidavit executed pursuant to subsection (f) shall be guilty
9 of perjury in the second degree pursuant to Section
10 13A-10-102, Code of Alabama 1975. Each time that a person
11 receives a public benefit based upon such a statement or
12 representation shall constitute a separate violation of
13 Section 13A-10-102, Code of Alabama 1975.

14 (j) Beginning January 1, 2012, verification of
15 lawful presence for federal public benefits administered by
16 this state or a political subdivision of this state or for
17 state or local public benefits shall be made through the
18 Systematic Alien Verification for Entitlements (SAVE) program,
19 operated by the United States Department of Homeland Security,
20 or a successor program designated by the Alabama Department of
21 Homeland Security. Until verification of lawful presence is
22 made, the identification required under subsection (f)(1) or
23 the affidavit required under subsection (f)(2) may be presumed
24 to be proof of lawful presence for purposes of this section.

25 (k) It shall be unlawful for an agency or a
26 political subdivision of this state to provide federal public
27 benefits administered by this state or a political subdivision

1 of this state or state or local public benefits in violation
2 of this section. Each state agency or department that
3 administers a program that provides state or local public
4 benefits shall provide an annual report with respect to its
5 compliance with this section to the Government Affairs
6 Committee of the Senate and the Government Operations
7 Committee of the House of Representatives, or any successor
8 committees.

9 (l) Errors and significant delays by the SAVE
10 program shall be reported to the United States Department of
11 Homeland Security and to the Alabama Department of Homeland
12 Security, both of which monitor the SAVE program and its
13 verification application errors and significant delays and
14 report yearly on such errors and delays, to ensure that the
15 application of the SAVE program is not wrongfully denying
16 benefits to legal residents of the state.

17 (m) For the purposes of administering the Alabama
18 Child Health Insurance Program, verification and documentation
19 of citizenship or lawful presence through means authorized by
20 federal law shall satisfy the requirements of this section.

21 (n) For the purposes of administering the Alabama
22 Medicaid Program, the requirements of subsection (j) shall
23 apply.

24 (o) (1) If the Alabama Department of Homeland
25 Security creates a state verification system to verify the
26 lawful presence of a person, an agency or political
27 subdivision of this state may utilize the state verification

1 system in lieu of the SAVE program to verify the lawful
2 presence of a person for the purposes of this section.

3 (2) An agency or political subdivision of this state
4 that verifies the lawful presence of a person in good faith
5 utilizing the state verification system pursuant to this
6 section is immune from liability for any actions taken as a
7 result of the notification from the state verification system
8 that the person is unlawfully present in the United States.

9 Section 12. (a) Notwithstanding the provisions of
10 Section 31-9A-9 of the Code of Alabama 1975, the Alabama
11 Department of Homeland Security may hire, appoint, and
12 maintain APOST certified state police officers and special
13 agents to assist with the implementation and enforcement of
14 the laws to fulfill the mission of the Alabama Department of
15 Homeland Security.

16 (b) The Alabama Department of Homeland Security, its
17 officers, and special agents shall have the same powers and
18 authority and receive the same benefits and compensation as
19 those prescribed to officers and special agents employed by
20 the Alabama Department of Public Safety under Chapter 2 of
21 Title 32 of the Code of Alabama 1975, except for the purposes
22 of retirement, the officers or special agents shall have the
23 same retirement benefits as a law enforcement officer as
24 defined under Section 36-27-59 of the Code of Alabama 1975.

25 (c) The officers and special agents shall be subject
26 to the same Peace Officers' Standards and Training as those
27 prescribed to officers and special agents employed by the

1 Alabama Department of Public Safety under Article 3 of Chapter
2 21 of Title 36 of the Code of Alabama 1975.

3 (d) The Director of the Alabama Department of
4 Homeland Security may promulgate rules necessary for the
5 implementation of this act.

6 (e) The Alabama Department of Homeland Security
7 shall have the authority to direct which verification program
8 is used to determine the immigration status of an alien as
9 required by this act.

10 Section 13. (a) For the purposes of this section,
11 "business transaction" includes any transaction between a
12 person and the state or a political subdivision of the state,
13 including, but not limited to, a person applying for or
14 renewing a motor vehicle license plate, applying for a
15 marriage license, applying for or renewing a driver's license
16 or nondriver identification card, or applying for or renewing
17 a business license.

18 (b) No unauthorized alien may enter into or attempt
19 to enter into a business transaction with the state or a
20 political subdivision of the state and no person shall enter
21 into a business transaction or attempt to enter into a
22 business transaction on behalf of an unauthorized alien.

23 (c) Any person entering into a business transaction
24 or attempting to enter into a business transaction with this
25 state or a political subdivision of this state shall be
26 required to show proof of his or her lawful presence in the
27 United States by providing to the person conducting the

1 business transaction on behalf of the state or a political
2 subdivision of the state any of the following:

3 (1) A valid Alabama driver's license or an Alabama
4 nondriver identification card or a valid driver's license from
5 another state.

6 (2) A valid tribal enrollment card or other form of
7 tribal identification.

8 (3) Any valid United States federal or state
9 government issued identification.

10 (4) A valid passport and federal form I-94 or any
11 successor document.

12 (5) A valid Canadian federal or territorial
13 government issued identification.

14 (d) A violation of this section is a Class C felony.

15 (e) (1) If the Alabama Department of Homeland
16 Security creates a state verification system to verify the
17 lawful presence of a person, the state or a political
18 subdivision of this state shall utilize the state verification
19 system to verify the lawful presence of a person for the
20 purposes of this section.

21 (2) The state or a political subdivision of this
22 state that verifies the lawful presence of a person in good
23 faith utilizing the state verification system pursuant to this
24 section is immune from liability for any actions taken as a
25 result of the notification from the state verification system
26 that the person is unlawfully present in the United States.

1 (f) An agency of this state or a county, city, town,
2 or other political subdivision of this state may not consider
3 race, color, or national origin in the enforcement of this
4 section except to the extent permitted by the United States
5 Constitution or the Constitution of Alabama of 1901.

6 Section 14. (a) For the purposes of this section,
7 the following terms shall have the following meanings:

8 (1) LANDLORD. As defined by Section 35-9A-141 of the
9 Code of Alabama 1975.

10 (2) RENTAL AGREEMENT. As defined by Section
11 35-9A-141 of the Code of Alabama 1975.

12 (b) No landlord shall enter into a rental agreement
13 with any person unless the person provides proof of his or her
14 legal presence in the United States by providing to the
15 landlord any of the following:

16 (1) A valid Alabama driver's license or an Alabama
17 nondriver identification card or a valid driver's license from
18 another state.

19 (2) A valid tribal enrollment card or other form of
20 tribal identification.

21 (3) Any valid United States federal or state
22 government issued identification.

23 (4) A valid passport and federal form I-94 or any
24 successor document.

25 (5) A valid Canadian federal or territorial
26 government issued identification.

1 (c) On a finding of a first violation of this
2 section, the court shall do all of the following:

3 (1) Order the landlord to terminate the rental
4 agreement of any unauthorized alien as defined by 8 U.S.C.
5 §1324a(h) (3).

6 (2) Order the landlord to file a signed, sworn
7 affidavit with the district attorney within three days after
8 the order is issued stating the landlord has terminated the
9 rental agreement of all unauthorized aliens and stating that
10 the landlord will not knowingly or intentionally enter into a
11 rental agreement with an unauthorized alien in this state.

12 (3) Order the appropriate agencies to suspend for up
13 to 10 days all licenses held by the landlord if the landlord
14 fails to file a signed, sworn affidavit with the appropriate
15 district attorney within three business days after the order
16 is issued.

17 (4) Order the licenses of the landlord subject to
18 this section to remain suspended until the landlord files the
19 signed, sworn affidavit with the appropriate district
20 attorney. Notwithstanding any other law, on the filing of the
21 affidavit, the suspended licenses shall be reinstated
22 immediately by the appropriate authorities.

23 (d) For the purposes of this section, the licenses
24 subject to suspension are all licenses held by the landlord
25 specific to the county where the landlord entered into a
26 rental agreement with an unauthorized alien.

1 (e) On a finding of a second violation of this
2 section, the court shall order the appropriate agencies to
3 permanently revoke all licenses held by the landlord specific
4 to the county where the landlord entered into a rental
5 agreement with an unauthorized alien. On receipt of the order,
6 and notwithstanding any other law, the appropriate agencies
7 shall immediately revoke the licenses held by the landlord
8 subject to this section.

9 (f) For a third violation, the court shall order the
10 appropriate agencies to permanently revoke all licenses held
11 by the landlord throughout the state.

12 (g) It is an affirmative defense to a violation of
13 this section that the landlord was entrapped.

14 (h) To claim entrapment, the landlord must admit by
15 testimony or other evidence the substantial elements of the
16 violation.

17 (i) A landlord who asserts an entrapment defense has
18 the burden of proving by clear and convincing evidence the
19 following:

20 (1) The idea of committing the violation started
21 with law enforcement officers or their agents rather than with
22 the landlord.

23 (2) The law enforcement officers or their agents
24 urged and induced the landlord to commit the violation.

25 (3) The landlord was not already predisposed to
26 commit the violation before the law enforcement officers or

1 their agents urged and induced the landlord to commit the
2 violation.

3 (j) (1) If the Alabama Department of Homeland
4 Security creates a state verification system to verify the
5 lawful presence of a person, a landlord shall utilize the
6 state verification system to verify the lawful presence of a
7 person for the purposes of this section.

8 (2) A landlord that verifies the lawful presence of
9 a person in good faith utilizing the state verification system
10 pursuant to this section is immune from liability for any
11 actions taken as a result of the notification from the state
12 verification system that the person is unlawfully present in
13 the United States.

14 (k) A law enforcement official or agency of this
15 state or a county, city, town, or other political subdivision
16 of this state may not consider race, color, or national origin
17 in the enforcement of this section except to the extent
18 permitted by the United States Constitution or the
19 Constitution of Alabama of 1901.

20 Section 15. All fines levied under the provisions of
21 this bill in those instances where the arrested individual is
22 placed in a county jail, shall be shared equally with the
23 county in which the individual was jailed.

24 Section 16. (a) A person commits the crime of
25 dealing in false identification documents if he or she
26 knowingly reproduces, manufactures, sells, or offers for sale
27 any identification document which does both of the following:

1 (1) Simulates, purports to be, or is designed so as
2 to cause others reasonably to believe it to be an
3 identification document.

4 (2) Bears a fictitious name or other false
5 information.

6 (b) A person commits the crime of vital records
7 identity fraud related to birth, death, marriage, and divorce
8 certificates if he or she does any of the following:

9 (1) Supplies false information intending that the
10 information be used to obtain a certified copy of a vital
11 record.

12 (2) Makes, counterfeits, alters, amends, or
13 mutilates any certified copy of a vital record without lawful
14 authority and with the intent to deceive.

15 (3) Obtains, possesses, uses, sells, or furnishes,
16 or attempts to obtain, possess, or furnish to another a
17 certified copy of a vital record, with the intent to deceive.

18 (c) (1) Dealing in false identification documents is
19 a Class C felony.

20 (2) Vital records identity fraud is a Class C
21 felony.

22 (d) The provisions of this section shall not apply
23 to any of the following:

24 (1) A person less than 21 years of age who uses the
25 identification document of another person to acquire an
26 alcoholic beverage.

1 (2) A person less than 18 years of age who uses the
2 identification documents of another person to acquire any of
3 the following:

4 a. Cigarettes or tobacco products.

5 b. A periodical, videotape, or other communication
6 medium that contains or depicts nudity.

7 c. Admittance to a performance, live or film, that
8 prohibits the attendance of the person based on age.

9 d. An item that is prohibited by law for use or
10 consumption by such person.

11 (e) As used in this section, "identification
12 document" means any card, certificate, or document or banking
13 instrument, including, but not limited to, a credit or debit
14 card, which identifies or purports to identify the bearer of
15 such document, whether or not intended for use as
16 identification, and includes, but is not limited to, documents
17 purporting to be drivers' licenses, nondriver identification
18 cards, certified copies of birth, death, marriage, and divorce
19 certificates, Social Security cards, and employee
20 identification cards.

21 (f) Any person convicted of dealing in false
22 identification documents as defined in this section shall be
23 fined five thousand dollars (\$5,000) for every card or
24 document he or she creates or possesses and be subject to any
25 and all other state laws that may apply.

1 Section 17. The Alabama Department of Homeland
2 Security shall report to the Legislature every two years all
3 of the following:

4 (1) The total number of unauthorized aliens that
5 have been convicted of a crime under this act.

6 (2) The total number of unauthorized aliens that
7 have been deported pursuant to this act.

8 (3) A list of all employers that have been found
9 guilty pursuant to this act.

10 Section 18. For the purposes of this act,
11 "unauthorized alien" means an alien who does not have the
12 legal right or authorization to be present in the United
13 States or the legal right or authorization under federal law
14 to work in the United States as specified in 8 U.S.C. §1324a
15 (h) (3).

16 Section 19. The Department of Public Safety and the
17 Alabama Department of Homeland Security shall provide an
18 annual report to the Legislature to include data showing the
19 number of offenders arrested pursuant to this act by race.

20 Section 20. The provisions of this act are
21 severable. If any part of this act is declared invalid or
22 unconstitutional, that declaration shall not affect the part
23 which remains.

24 Section 21. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621 because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 22. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Public Safety
and Homeland Security..... 01-MAR-11

Read for the second time and placed
on the calendar with 1 substitute
and 4 amendments..... 08-MAR-11

Read for the third time and passed
as amended..... 05-APR-11

Yeas 73, Nays 28, Abstains 1

Greg Pappas
Clerk