

SB53 ENGROSSED



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2 JD3VFYN-2
3 By Senators Kitchens, Kelley, Bell, Elliott, Weaver,
4 Smitherman
5 RFD: County and Municipal Government
6 First Read: 04-Feb-25



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A BILL
TO BE ENTITLED
AN ACT

Relating to immigration; to amend Sections 31-13-3, 31-13-12, and 31-13-18, Code of Alabama 1975, to further provide for definitions; to require an administrator of a state, county, or municipal jail, or his or her designee, to attempt to determine whether an individual arrested and detained in the jail is an illegal alien under certain circumstances; to further provide the process for verification; to further provide the process for response to a federal detainer and administrative warrant; to add Section 31-13-13.1 to the Code of Alabama 1975, to establish the crime of human smuggling; and to provide penalties for violations; and to repeal Section 31-13-13, Code of Alabama 1975, relating to illegal aliens.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 31-13-3, 31-13-12, and 31-13-18, Code of Alabama 1975, are amended to read as follows:

"§31-13-3

For the purposes of this chapter, the following words ~~shall~~ have the following meanings:

(1) ALIEN. Any ~~person~~ individual who is not a citizen



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29 or national of the United States, as described in 8 U.S.C. §
30 1101, et seq., and any amendments thereto.

31 (2) BUSINESS ENTITY. Any person or group of persons
32 employing one or more persons performing or engaging in any
33 activity, enterprise, profession, or occupation for gain,
34 benefit, advantage, or livelihood, whether for profit or not
35 for profit. Business entity shall include, but not be limited
36 to, the following:

37 a. Self-employed individuals, business entities filing
38 articles of incorporation, partnerships, limited partnerships,
39 limited liability companies, foreign corporations, foreign
40 limited partnerships, foreign limited liability companies
41 authorized to transact business in this state, business
42 trusts, and any business entity that registers with the
43 Secretary of State.

44 b. Any business entity that possesses a business
45 license, permit, certificate, approval, registration, charter,
46 or similar form of authorization issued by the state, any
47 business entity that is exempt by law from obtaining such a
48 business license, and any business entity that is operating
49 unlawfully without a business license.

50 (3) CONTRACTOR. A person, employer, or business entity
51 that enters into an agreement to perform any service or work
52 or to provide a certain product in exchange for valuable
53 consideration. This definition shall include, but not be
54 limited to, a general contractor, subcontractor, independent
55 contractor, contract employee, project manager, or a
56 recruiting or staffing entity.



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57 (4) EMPLOYEE. Any person directed, allowed, or
58 permitted to perform labor or service of any kind by an
59 employer. The employees of an independent contractor working
60 for a business entity shall not be regarded as the employees
61 of the business entity, for the purposes of this chapter. This
62 term does not include any inmate in the legal custody of the
63 state, a county, or a municipality.

64 (5) EMPLOYER. Any person, firm, corporation,
65 partnership, joint stock association, agent, manager,
66 representative, foreman, or other person having control or
67 custody of any employment, place of employment, or of any
68 employee, including any person or entity employing any person
69 for hire within the State of Alabama, including a public
70 employer. This term shall not include the occupant of a
71 household contracting with another person to perform casual
72 domestic labor within the household.

73 (6) EMPLOYMENT. The act of employing or state of being
74 employed, engaged, or hired to perform work or service of any
75 kind or character within the State of Alabama, including any
76 job, task, work, labor, personal services, or any other
77 activity for which compensation is provided, expected, or due,
78 including, but not limited to, all activities conducted by a
79 business entity or employer. This term shall not include
80 casual domestic labor performed in a household on behalf of
81 the occupant of the household or the relationship between a
82 contractor and the employees of a subcontractor performing
83 work for the contractor.

84 (7) E-VERIFY. The electronic verification of federal



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85 employment authorization program of the Illegal Immigration
86 Reform and Immigrant Responsibility Act of 1996, P.L. 104-208,
87 Division C, Section 403(a); 8 U.S.C. § 1324(a), and operated
88 by the United States Department of Homeland Security, or its
89 successor program.

90 (8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the
91 electronic verification of work authorization programs
92 operated by the United States Department of Homeland Security
93 or an equivalent federal work authorization program operated
94 by the United States Department of Homeland Security to verify
95 information of newly hired employees, under the Immigration
96 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the
97 Illegal Immigration Reform and Immigrant Responsibility Act of
98 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C. §
99 1324(a).

100 (9) ILLEGAL ALIEN. An alien who is not lawfully present
101 in the United States under any federal law, regulation, order,
102 or directive.

103 ~~(9)~~ (10) KNOWS or KNOWINGLY. A person acts knowingly or
104 with knowledge with respect to either of the following:

105 a. The person's conduct or to attendant circumstances
106 when the person is aware of the nature of the person's conduct
107 or that those circumstances exist.

108 b. A result of the person's conduct when the person is
109 reasonably aware that the person's conduct is likely to cause
110 that result.

111 ~~(10)~~ (11) LAWFUL PRESENCE or LAWFULLY PRESENT. ~~A person~~
112 An individual shall be regarded as an illegal alien unlawfully



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113 ~~present in the United States~~ only if the ~~person's~~ individual's
114 unlawful immigration status has been verified by the federal
115 government pursuant to 8 U.S.C. § 1373(c). No officer of this
116 state or any political subdivision of this state shall attempt
117 to independently make a final determination of an alien's
118 immigration status. An alien possessing self-identification in
119 any of the following forms is entitled to the presumption that
120 he or she is an alien lawfully present in the United States:

121 a. A valid, unexpired Alabama ~~driver's~~ driver license.

122 b. A valid, unexpired Alabama nondriver identification
123 card.

124 c. A valid tribal enrollment card or other form of
125 tribal identification bearing a photograph or other biometric
126 identifier.

127 d. Any valid United States federal or state government
128 issued identification document bearing a photograph or other
129 biometric identifier, including a valid Uniformed Services
130 Privileges and Identification Card if issued by an entity that
131 requires proof of lawful presence in the United States before
132 issuance.

133 e. A foreign passport with an unexpired United States
134 Visa and a corresponding stamp or notation by the United
135 States Department of Homeland Security indicating the bearer's
136 admission to the United States.

137 f. A foreign passport issued by a visa waiver country
138 with the corresponding entry stamp and unexpired duration of
139 stay annotation or an I-94W form by the United States
140 Department of Homeland Security indicating the bearer's



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141 admission to the United States.

142 ~~(11)~~(12) POLICY OR PRACTICE. A guiding principle or
143 rule that may be written or adopted through repeated actions
144 or customs.

145 ~~(12)~~(13) PROTECTIVE SERVICES PROVIDER. A child
146 protective services worker; adult protective services worker;
147 protective services provider; or provider of services to
148 victims of domestic violence, stalking, sexual assault, or
149 human trafficking that receives federal grants under the
150 Victim of Crimes Act, the Violence Against Women Act, or the
151 Family Violence Prevention and Services Act.

152 ~~(13)~~(14) PUBLIC EMPLOYER. Every department, agency, or
153 instrumentality of the state or a political subdivision of the
154 state including counties and municipalities.

155 ~~(14)~~(15) STATE-FUNDED ENTITY. Any governmental entity
156 of the state or a political subdivision thereof or any other
157 entity that receives any monies from the state or a political
158 subdivision thereof; provided, however, an entity that merely
159 provides a service or a product to any governmental entity of
160 the state or a political subdivision thereof, and receives
161 compensation for the same, shall not be considered a
162 state-funded entity.

163 ~~(15)~~(16) SUBCONTRACTOR. A person, business entity, or
164 employer who is awarded a portion of an existing contract by a
165 contractor, regardless of its tier.

166 ~~(16)~~(17) UNAUTHORIZED ALIEN. An alien who is not
167 authorized to work in the United States as defined in 8 U.S.C.
168 § 1324a(h)(3)."



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169 "§31-13-12

170 (a) Upon any lawful stop, detention, or arrest made by
171 a state, county, or municipal law enforcement officer of this
172 state in the enforcement of any state law or ordinance of any
173 political subdivision thereof, where reasonable suspicion
174 exists that the ~~person~~ individual is an illegal alien ~~who is~~
175 ~~unlawfully present in the United States~~, a reasonable attempt
176 shall be made, when practicable, to determine the citizenship
177 and immigration status of the ~~person~~ individual, except if the
178 determination may hinder or obstruct an investigation. ~~Such~~
179 The determination shall be made by contacting the federal
180 government pursuant to 8 U.S.C. § 1373(c) and relying upon any
181 verification provided by the federal government.

182 (b) Any alien who is arrested and booked into custody
183 shall ~~have his or her immigration status determined pursuant~~
184 ~~to 8 U.S.C. § 1373(c). The alien's immigration status shall be~~
185 ~~verified by contacting the federal government pursuant to 8~~
186 ~~U.S.C. § 1373(c) within 24 hours of the time of the alien's~~
187 ~~arrest. If for any reason federal verification pursuant to 8~~
188 ~~U.S.C. § 1373(c) is delayed beyond the time that the alien~~
189 ~~would otherwise be released from custody, the alien shall be~~
190 ~~released from custody~~ be subject to Section 31-13-18.

191 (c) A law enforcement officer shall not attempt to
192 independently make a final determination of whether an
193 individual is an illegal alien ~~is lawfully present in the~~
194 ~~United States~~. A law enforcement officer may not consider
195 race, color, or national origin in implementing the
196 requirements of this section except to the extent permitted by



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197 the United States Constitution or the Constitution of Alabama
198 of ~~1901~~2022.

199 (d) ~~A person~~An individual is presumed to not be an
200 illegal alien ~~who is unlawfully present in the United States~~
201 if the ~~person~~individual provides to the law enforcement
202 officer any of the following:

203 (1) A valid, unexpired Alabama ~~driver's~~driver license.

204 (2) A valid, unexpired Alabama nondriver identification
205 card.

206 (3) A valid tribal enrollment card or other form of
207 tribal identification bearing a photograph or other biometric
208 identifier.

209 (4) Any valid United States federal or state government
210 issued identification document bearing a photograph or other
211 biometric identifier, if issued by an entity that requires
212 proof of lawful presence in the United States before issuance.

213 (5) A foreign passport with an unexpired United States
214 Visa and a corresponding stamp or notation by the United
215 States Department of Homeland Security indicating the bearer's
216 admission to the United States.

217 (6) A foreign passport issued by a visa waiver country
218 with the corresponding entry stamp and unexpired duration of
219 stay annotation or an I-94W form by the United States
220 Department of Homeland Security indicating the bearer's
221 admission to the United States.

222 (e) If ~~an alien~~an individual is determined by the
223 federal government to be an illegal alien ~~who is unlawfully~~
224 ~~present in the United States~~ pursuant to 8 U.S.C. § 1373(c),



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225 the law enforcement agency shall cooperate in the transfer of
226 the ~~alien~~individual to the custody of the federal government,
227 if the federal government so requests."

228 "§31-13-18

229 (a) When ~~a person~~ an individual is ~~charged with a crime~~
230 ~~for which bail is required, or is confined~~ for any period in a
231 state, county, or municipal jail, the administrator of the
232 facility, or his or her designee, shall make a reasonable
233 ~~effort shall be made to~~ determine if the ~~person~~ individual is
234 an illegal alien unlawfully present in the United States by
235 ~~verification with the federal government pursuant to 8 U.S.C.~~
236 ~~§ 1373(c)~~ an inquiry of the individual, by examination of any
237 relevant documents, or both, if the individual is charged with
238 any of the following:

239 (1) A felony under Article 1, 3, 4, 4A, 4B, 8, or 12 of
240 Chapter 6 of Title 13A.

241 (2) A felony or Class A misdemeanor under Article 2, 7,
242 or 9 of Chapter 6 of Title 13A or Chapter 15 of Title 26.

243 (3) A violation of Sections 13A-12-211, 13A-12-212,
244 13A-12-217, or 13A-12-218.

245 (b) ~~A~~ If a verification inquiry, ~~pursuant to 8 U.S.C. §~~
246 ~~1373(c), shall be made within 48 hours to the Law Enforcement~~
247 ~~Support Center of the United States Department of Homeland~~
248 ~~Security or other office or agency designated for that purpose~~
249 ~~by the federal government. If the person is determined to be~~
250 ~~an alien unlawfully present in the United States, the person~~
251 ~~shall be considered a flight risk and shall be detained until~~
252 ~~prosecution or until handed over to federal immigration~~



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253 authorities is unable to determine whether the individual is
254 an illegal alien, the administrator of the facility, or his or
255 her designee, holding the individual shall make a query to the
256 Immigration and Customs Enforcement of the United States
257 Department of Homeland Security.

258 (c) When the administrator in charge of the facility,
259 or his or her designee, has been notified that Immigration and
260 Customs Enforcement of the United States Department of
261 Homeland Security has issued a detainer and administrative
262 warrant that reasonably appears to be for the individual in
263 custody, the administrator in charge of the facility, or his
264 or her designee, shall hold the individual in custody until
265 the first of the following conditions occurs:

266 (1) The passage of 48 hours from receipt of the
267 detainer and administrative warrant by the administrator in
268 charge of the facility, or his or her designee.

269 (2) Immigration and Customs Enforcement of the United
270 States Department of Homeland Security takes custody of the
271 individual.

272 (3) The detainer is rescinded by Immigration and
273 Customs Enforcement of the United States Department of
274 Homeland Security.

275 (d) No state or local law enforcement agency, employee
276 of a state or local law enforcement agency, jail
277 administrator, or state or local law enforcement officer shall
278 be subject to criminal or civil liability for action taken
279 pursuant to subsection (c).

280 (e) Except as provided in subsection (c), nothing in



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281 this section shall be construed to deny bond to an individual
282 or prevent an individual from being released from confinement
283 when that individual is otherwise eligible for release."

284 Section 2. Section 31-13-13.1 is added to the Code of
285 Alabama 1975 to read as follows:

286 §31-13-13.1

287 (a) A person commits the crime of human smuggling if he
288 or she knowingly transports into this state another individual
289 if he or she knows is an illegal alien.

290 (b) Human smuggling is a Class C felony.

291 (c) It shall not be a violation of this section for an
292 attorney to transport a client to or from a federal
293 immigration facility or other federal, state, or local
294 government facility.

295 (d) It shall not be a violation of this section for any
296 educator or other employee of an educational entity to
297 transport a student as part of an official educational
298 excursion.

299 Section 3. Section 31-13-13, Code of Alabama 1975,
300 providing for the crime of concealing, harboring, or shielding
301 illegal aliens, is repealed.

302 Section 4. This act shall become effective on October
303 1, 2025.



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306 Senate

307 Read for the first time and referred04-Feb-25
308 to the Senate committee on County
309 and Municipal Government
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311 Read for the second time and placed05-Feb-25
312 on the calendar:
313 0 amendments
314
315 Read for the third time and passed13-Feb-25
316 as amended
317 Yeas 24
318 Nays 8
319 Abstains 0
320

321
322 Patrick Harris,
323 Secretary.
324