

ACT No. 2011 - 535

1 HB56  
2 132433-8  
3 By Representatives Hammon, Collins, Patterson, Rich, Nordgren,  
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8 RFD: Public Safety and Homeland Security  
9 First Read: 01-MAR-11  
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1  
2 ENROLLED, An Act,

3           Relating to illegal immigration; to define terms; to  
4 require the Attorney General to attempt to negotiate a  
5 Memorandum of Agreement under certain conditions; to require a  
6 person to present proof of citizenship and residency before  
7 voting; to preclude any state or local government or official  
8 from refusing to assist the federal government in the  
9 enforcement of federal immigration laws; to prohibit an alien  
10 unlawfully present in the United States from receiving any  
11 state or local public benefits; to prohibit a person not  
12 lawfully present from being eligible on the basis of residence  
13 for education benefits; to require business entities or  
14 employers seeking economic incentives to verify the employment  
15 eligibility of their employees and to provide penalties; to  
16 require an illegal alien to possess certain documents already  
17 required by federal law and to provide penalties; to prohibit  
18 an unauthorized alien from seeking employment in this state  
19 and to provide penalties; to require the verification of the  
20 legal status of persons by law enforcement officers under  
21 certain circumstances; to criminalize certain behavior  
22 relating to concealing, harboring, shielding, or attempting to  
23 conceal, harbor, or shield unauthorized aliens and to provide  
24 penalties; to create the crime of dealing in false  
25 identification documents and the crime of vital records

1 identity fraud and to provide penalties; to prohibit a  
2 business entity, employer, or public employer from knowingly  
3 employing an unauthorized alien and to provide penalties; to  
4 prohibit certain deductible business expenses; to make it a  
5 discriminatory practice for a business entity or employer to  
6 fail to hire a legally present job applicant or discharge an  
7 employee while retaining an employee who is an unauthorized  
8 alien under certain conditions; to require the verification of  
9 legal status of every alien charged with a crime for which  
10 bail is required; to amend Section 32-6-9 of the Code of  
11 Alabama 1975, relating to driver's licenses; to require law  
12 enforcement to detain any alien whose lawful immigration  
13 status cannot be verified under certain conditions; to require  
14 notification of the United States Bureau of Immigration and  
15 Customs Enforcement and the Alabama Department of Homeland  
16 Security when an unlawfully present alien is convicted of  
17 state law; to provide for a stay of the provisions of this act  
18 when an alien unlawfully present is a victim or critical  
19 witness of a crime under certain conditions; to authorize the  
20 Alabama Department of Homeland Security to hire state police  
21 officers and give the department enforcement power under  
22 certain conditions; to provide penalties for solicitation,  
23 attempt, or conspiracy to violate this act; to require the  
24 Alabama Department of Homeland Security to file a quarterly  
25 report with the Legislature under certain conditions; to

1 require the Alabama Department of Homeland Security to  
2 establish and maintain an E-Verify employer agent service  
3 under certain conditions; to prohibit the enforcement of  
4 certain contracts under certain conditions; to require public  
5 schools to determine the citizenship and immigration status of  
6 students enrolling; to require school districts to compile  
7 certain data and submit reports to the State Board of  
8 Education; to require the State Board of Education to submit  
9 an annual report to the Legislature; to further provide for  
10 eligibility and requirements for voter registration; to  
11 establish a state election board; to provide duties of the  
12 board; to provide that a person may obtain a certified copy of  
13 a birth certificate from the Department of Public Health free  
14 of charge under certain conditions; to prohibit an alien not  
15 lawfully present from entering into a business transaction  
16 under certain conditions and provide penalties; to prohibit a  
17 landlord from knowingly entering into a rental agreement to  
18 harbor an illegal alien and provide penalties; and in  
19 connection therewith would have as its purpose or effect the  
20 requirement of a new or increased expenditure of local funds  
21 within the meaning of Amendment 621 of the Constitution of  
22 Alabama of 1901, now appearing as Section 111.05 of the  
23 Official Recompilation of the Constitution of Alabama of 1901,  
24 as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. This act shall be known and may be cited  
2 as the Beason-Hammon Alabama Taxpayer and Citizen Protection  
3 Act.

4           Section 2. The State of Alabama finds that illegal  
5 immigration is causing economic hardship and lawlessness in  
6 this state and that illegal immigration is encouraged when  
7 public agencies within this state provide public benefits  
8 without verifying immigration status. Because the costs  
9 incurred by school districts for the public elementary and  
10 secondary education of children who are aliens not lawfully  
11 present in the United States can adversely affect the  
12 availability of public education resources to students who are  
13 United States citizens or are aliens lawfully present in the  
14 United States, the State of Alabama determines that there is a  
15 compelling need for the State Board of Education to accurately  
16 measure and assess the population of students who are aliens  
17 not lawfully present in the United States, in order to  
18 forecast and plan for any impact that the presence such  
19 population may have on publicly funded education in this  
20 state. The State of Alabama further finds that certain  
21 practices currently allowed in this state impede and obstruct  
22 the enforcement of federal immigration law, undermine the  
23 security of our borders, and impermissibly restrict the  
24 privileges and immunities of the citizens of Alabama.  
25 Therefore, the people of the State of Alabama declare that it

1 is a compelling public interest to discourage illegal  
2 immigration by requiring all agencies within this state to  
3 fully cooperate with federal immigration authorities in the  
4 enforcement of federal immigration laws. The State of Alabama  
5 also finds that other measures are necessary to ensure the  
6 integrity of various governmental programs and services.

7 Section 3. For the purposes of this act, the  
8 following words shall have the following meanings:

9 (1) ALIEN. Any person who is not a citizen or  
10 national of the United States, as described in 8 U.S.C. §  
11 1101, et seq., and any amendments thereto.

12 (2) BUSINESS ENTITY. Any person or group of persons  
13 performing or engaging in any activity, enterprise,  
14 profession, or occupation for gain, benefit, advantage, or  
15 livelihood, whether for profit or not for profit. "Business  
16 entity" shall include, but not be limited to the following:

17 a. Self-employed individuals, business entities  
18 filing articles of incorporation, partnerships, limited  
19 partnerships, limited liability companies, foreign  
20 corporations, foreign limited partnerships, foreign limited  
21 liability companies authorized to transact business in this  
22 state, business trusts, and any business entity that registers  
23 with the Secretary of State.

24 b. Any business entity that possesses a business  
25 license, permit, certificate, approval, registration, charter,

1 or similar form of authorization issued by the state, any  
2 business entity that is exempt by law from obtaining such a  
3 business license, and any business entity that is operating  
4 unlawfully without a business license.

5 (3) CONTRACTOR. A person, employer, or business  
6 entity that enters into an agreement to perform any service or  
7 work or to provide a certain product in exchange for valuable  
8 consideration. This definition shall include, but not be  
9 limited to, a general contractor, subcontractor, independent  
10 contractor, contract employee, project manager, or a  
11 recruiting or staffing entity.

12 (4) EMPLOYEE. Any person directed, allowed, or  
13 permitted to perform labor or service of any kind by an  
14 employer. The employees of an independent contractor working  
15 for a business entity shall not be regarded as the employees  
16 of the business entity, for the purposes of this act.

17 (5) EMPLOYER. Any person, firm, corporation,  
18 partnership, joint stock association, agent, manager,  
19 representative, foreman, or other person having control or  
20 custody of any employment, place of employment, or of any  
21 employee, including any person or entity employing any person  
22 for hire within the State of Alabama, including a public  
23 employer. This term shall not include the occupant of a  
24 household contracting with another person to perform casual  
25 domestic labor within the household.

1           (6) EMPLOYMENT. The act of employing or state of  
2 being employed, engaged, or hired to perform work or service  
3 of any kind or character within the State of Alabama,  
4 including any job, task, work, labor, personal services, or  
5 any other activity for which compensation is provided,  
6 expected, or due, including, but not limited to, all  
7 activities conducted by a business entity or employer. This  
8 term shall not include casual domestic labor performed in a  
9 household on behalf of the occupant of the household or the  
10 relationship between a contractor and the employees of a  
11 subcontractor performing work for the contractor.

12           (7) E-VERIFY. The electronic verification of federal  
13 employment authorization program of the Illegal Immigration  
14 Reform and Immigrant Responsibility Act of 1996, P.L. 104-208,  
15 Division C, Section 403(a); 8 U.S.C. §1324(a), and operated by  
16 the United States Department of Homeland Security, or its  
17 successor program.

18           (8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the  
19 electronic verification of work authorization programs  
20 operated by the United States Department of Homeland Security  
21 or an equivalent federal work authorization program operated  
22 by the United States Department of Homeland Security to verify  
23 information of newly hired employees, under the Immigration  
24 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the  
25 Illegal Immigration Reform and Immigrant Responsibility Act of



1 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C.  
2 §1324(a).

3 (9) KNOWS or KNOWINGLY. A person acts knowingly or  
4 with knowledge with respect to either of the following:

5 a. The person's conduct or to attendant  
6 circumstances when the person is aware of the nature of the  
7 person's conduct or that those circumstances exist.

8 b. A result of the person's conduct when the person  
9 is reasonably aware that the person's conduct is likely to  
10 cause that result.

11 (10) LAWFUL PRESENCE or LAWFULLY PRESENT. A person  
12 shall be regarded as an alien unlawfully present in the United  
13 States only if the person's unlawful immigration status has  
14 been verified by the federal government pursuant to 8 U.S.C. §  
15 1373(c). No officer of this state or any political subdivision  
16 of this state shall attempt to independently make a final  
17 determination of an alien's immigration status. An alien  
18 possessing self-identification in any of the following forms  
19 is entitled to the presumption that he or she is an alien  
20 lawfully present in the United States:

21 a. A valid, unexpired Alabama driver's license.

22 b. A valid, unexpired Alabama nondriver  
23 identification card.

1           c. A valid tribal enrollment card or other form of  
2 tribal identification bearing a photograph or other biometric  
3 identifier.

4           d. Any valid United States federal or state  
5 government issued identification document bearing a photograph  
6 or other biometric identifier, if issued by an entity that  
7 requires proof of lawful presence in the United States before  
8 issuance.

9           e. A foreign passport with an unexpired United  
10 States Visa and a corresponding stamp or notation by the  
11 United States Department of Homeland Security indicating the  
12 bearer's admission to the United States.

13           f. A foreign passport issued by a visa waiver  
14 country with the corresponding entry stamp and unexpired  
15 duration of stay annotation or an I-94W form by the United  
16 States Department of Homeland Security indicating the bearer's  
17 admission to the United States.

18           (11) POLICY OR PRACTICE. A guiding principle or rule  
19 that may be written or adopted through repeated actions or  
20 customs, which must be sanctioned by an agency or the head of  
21 an agency.

22           (12) PROTECTIVE SERVICES PROVIDER. A child  
23 protective services worker; adult protective services worker;  
24 protective services provider; or provider of services to  
25 victims of domestic violence, stalking, sexual assault, or

1 human trafficking that receives federal grants under the  
2 Victim of Crimes Act, the Violence Against Women Act, or the  
3 Family Violence Prevention and Services Act.

4 (13) PUBLIC EMPLOYER. Every department, agency, or  
5 instrumentality of the state or a political subdivision of the  
6 state including counties and municipalities.

7 (14) STATE-FUNDED ENTITY. Any governmental entity of  
8 the state or a political subdivision thereof or any other  
9 entity that receives any state monies.

10 (15) SUBCONTRACTOR. A subcontractor, contract  
11 employee, staffing agency, or any contractor, regardless of  
12 its tier.

13 (16) UNAUTHORIZED ALIEN. An alien who is not  
14 authorized to work in the United States as defined in 8 U.S.C.  
15 § 1324a(h) (3).

16 Section 4. (a) The Attorney General shall attempt to  
17 negotiate the terms of a Memorandum of Agreement between the  
18 State of Alabama and the United States Department of Homeland  
19 Security, as provided in 8 U.S.C. Section 1357(g), concerning  
20 the enforcement of federal immigration laws, detentions and  
21 removals, and related investigations in the State of Alabama  
22 by certain state law enforcement officers designated by the  
23 Attorney General.

24 (b) The Memorandum of Agreement negotiated pursuant  
25 to subsection (a) shall be signed on behalf of this state by

1 the Attorney General and the Governor or as otherwise required  
2 by the appropriate federal agency.

3 (c) A report of the results of the attempt of the  
4 Attorney General to enter into a Memorandum of Agreement shall  
5 be submitted to the Legislature within six months of the  
6 effective date of this act.

7 Section 5. (a) No official or agency of this state  
8 or any political subdivision thereof, including, but not  
9 limited to, an officer of a court of this state, may adopt a  
10 policy or practice that limits or restricts the enforcement of  
11 federal immigration laws by limiting communication between its  
12 officers and federal immigration officials in violation of 8  
13 U.S.C. § 1373 or 8 U.S.C. § 1644, or that restricts its  
14 officers in the enforcement of this act. If, in the judgment  
15 of the Attorney General of Alabama, an official or agency of  
16 this state or any political subdivision thereof, including,  
17 but not limited to, an officer of a court in this state, is in  
18 violation of this subsection, the Attorney General shall  
19 report any violation of this subsection to the Governor and  
20 the state Comptroller and that agency or political subdivision  
21 shall not be eligible to receive any funds, grants, or  
22 appropriations from the State of Alabama until such violation  
23 has ceased and the Attorney General has so certified. Any  
24 appeal of the determination of the Attorney General as  
25 considered in this section shall be first appealed to the

1 circuit court of the respective jurisdiction in which the  
2 alleged offending agency resides.

3 (b) All state officials, agencies, and personnel,  
4 including, but not limited to, an officer of a court of this  
5 state, shall fully comply with and, to the full extent  
6 permitted by law, support the enforcement of federal law  
7 prohibiting the entry into, presence, or residence in the  
8 United States of aliens in violation of federal immigration  
9 law.

10 (c) Except as provided by federal law, officials or  
11 agencies of this state or any political subdivision thereof,  
12 including, but not limited to, an officer of a court of this  
13 state, may not be prohibited or in any way be restricted from  
14 sending, receiving, or maintaining information relating to the  
15 immigration status, lawful or unlawful, of any individual or  
16 exchanging that information with any other federal, state, or  
17 local governmental entity for any of the following official  
18 purposes:

19 (1) Determining the eligibility for any public  
20 benefit, service, or license provided by any state, local, or  
21 other political subdivision of this state.

22 (2) Verifying any claim of residence or domicile if  
23 determination of residence or domicile is required under the  
24 laws of this state or a judicial order issued pursuant to a  
25 civil or criminal proceeding of this state.

1 (3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. § 1644.

2 (d) A person who is a United States citizen or an  
3 alien who is lawfully present in the United States and is a  
4 resident of this state may bring an action in circuit court to  
5 challenge any official or head of an agency of this state or  
6 political subdivision thereof, including, but not limited to,  
7 an officer of a court in this state, that adopts or implements  
8 a policy or practice that is in violation of 8 U.S.C. § 1373  
9 or 8 U.S.C. § 1644. If there is a judicial finding that an  
10 official or head of an agency, including, but not limited to,  
11 an officer of a court in this state, has violated this  
12 section, the court shall order that the officer, official, or  
13 head of an agency pay a civil penalty of not less than one  
14 thousand dollars (\$1,000) and not more than five thousand  
15 dollars (\$5,000) for each day that the policy or practice has  
16 remained in effect after the filing of an action pursuant to  
17 this section.

18 (e) A court shall collect the civil penalty  
19 prescribed in subsection (d) and remit one half of the civil  
20 penalty to the Alabama Department of Homeland Security and the  
21 second half shall be remitted to the Department of Public  
22 Safety.

23 (f) Every person working for the State of Alabama or  
24 a political subdivision thereof, including, but not limited  
25 to, a law enforcement agency in the State of Alabama or a

1 political subdivision thereof, shall have a duty to report  
2 violations of this act. Any person who willfully fails to  
3 report any violation of this act when the person knows that  
4 this act is being violated shall be guilty of obstructing  
5 governmental operations as defined in Section 13A-10-2 of the  
6 Code of Alabama 1975.

7 (g) For the purposes of this section, the term  
8 "official or head of an agency of this state" shall not  
9 include a law enforcement officer or other personnel employed  
10 in a jail who is acting within the line and scope of his or  
11 her duty.

12 (h) For the purposes of this act, any proceedings  
13 against an official shall be only in his or her official  
14 capacity. Each side on any litigation considered within this  
15 act shall bear their own costs and fees associated with the  
16 litigation unless otherwise ordered by the court. For the  
17 purposes of this act, the relevant statute of repose for  
18 assessing penalties shall be no more than 30 days prior to the  
19 initial allegation of the violations of this act.

20 Section 6. (a) No official or agency of this state  
21 or any political subdivision thereof, including, but not  
22 limited to, an officer of a court of this state, may adopt a  
23 policy or practice that limits or restricts the enforcement of  
24 this act to less than the full extent permitted by this act or  
25 that in any way limits communication between its officers or

1 officials in furtherance of the enforcement of this act. If,  
2 in the judgment of the Attorney General of Alabama, an  
3 official or agency of this state or any political subdivision  
4 thereof, including, but not limited to, an officer of a court  
5 of this state, is in violation of this subsection, the  
6 Attorney General shall report any violation of this subsection  
7 to the Governor and the state Comptroller and that agency or  
8 political subdivision shall not be eligible to receive any  
9 funds, grants, or appropriations from the State of Alabama  
10 until such violation has ceased and the Attorney General has  
11 so certified.

12 (b) All state officials, agencies, and personnel,  
13 including, but not limited to, an officer of a court of this  
14 state, shall fully comply with and, to the full extent  
15 permitted by law, support the enforcement of this act.

16 (c) Except as provided by this act, officials or  
17 agencies of this state or any political subdivision thereof,  
18 including, but not limited to, an officer of a court of this  
19 state, may not be prohibited or in any way be restricted from  
20 sending, receiving, or maintaining information relating to the  
21 immigration status, lawful or unlawful, of any individual or  
22 exchanging that information with any other federal, state, or  
23 local governmental entity for any of the following official  
24 purposes:



1           (1) Determining the eligibility for any public  
2 benefit, service, or license provided by any state, local, or  
3 other political subdivision of this state.

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

8           (3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. § 1644.

9           (d) A person who is a United States citizen or an  
10 alien who is lawfully present in the United States and is a  
11 resident of this state may bring an action in circuit court to  
12 challenge any official or head of an agency of this state or  
13 political subdivision thereof, including, but not limited to,  
14 an officer of a court in this state, that adopts or implements  
15 a policy or practice that limits or restricts the enforcement  
16 of this act to less than the full extent permitted by this  
17 act. Such person shall have actual knowledge that any official  
18 or head of an agency of this state or political subdivision  
19 thereof, including, but not limited to, an officer of a court  
20 in this state, has adopted or implemented a policy or practice  
21 that limits or restricts the enforcement of this act to less  
22 than the full extent permitted by this act. If there is a  
23 judicial finding that an official or head of an agency,  
24 including, but not limited to, an officer of a court in this  
25 state, has violated this section, the court shall order that

1 the officer, official, or head of an agency pay a civil  
2 penalty of not less than one thousand dollars (\$1,000) and not  
3 more than five thousand dollars (\$5,000) for each day that the  
4 policy or practice has remained in effect after the filing of  
5 an action pursuant to this section.

6 (e) A court shall collect the civil penalty  
7 prescribed in subsection (d) and remit one half of the civil  
8 penalty to the Alabama Department of Homeland Security and the  
9 second half shall be remitted to the Department of Public  
10 Safety.

11 (f) Every person working for the State of Alabama or  
12 a political subdivision thereof, including, but not limited  
13 to, a law enforcement agency in the State of Alabama or a  
14 political subdivision thereof, shall have a duty to report  
15 violations of this act. Failure to report any violation of  
16 this act when there is reasonable cause to believe that this  
17 act is being violated is guilty of obstructing governmental  
18 operations as defined in Section 13A-10-2, Code of Alabama  
19 1975, and shall be punishable pursuant to state law.

20 (g) For the purposes of this section, the term  
21 "official or head of an agency of this state" shall not  
22 include a law enforcement officer or other personnel employed  
23 in a jail who is acting within the line and scope of his or  
24 her duty.

1           Section 7. (a) As used in this section, the  
2 following terms have the following meanings:

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

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

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

9           (b) An alien who is not lawfully present in the  
10 United States and who is not defined as an alien eligible for  
11 public benefits under 8 U.S.C. § 1621(a) or 8 U.S.C. § 1641  
12 shall not receive any state or local public benefits.

13           (c) Except as otherwise provided in subsection (e)  
14 or where exempted by federal law, commencing on the effective  
15 date of this act, each agency or political subdivision of the  
16 state shall verify with the federal government the lawful  
17 presence in the United States of each alien who applies for  
18 state or local public benefits, pursuant to 8 U.S.C. §§  
19 1373(c), 1621, and 1625.

20           (d) An agency of this state or a county, city, town,  
21 or other political subdivision of this state may not consider  
22 race, color, or national origin in the enforcement of this  
23 section.

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

1           (1) For primary or secondary school education, and  
2 state or local public benefits that are listed in 8 U.S.C. §  
3 1621(b).

4           (2) For obtaining health care items and services  
5 that are necessary for the treatment of an emergency medical  
6 condition of the person involved and are not related to an  
7 organ transplant procedure.

8           (3) For short term, noncash, in kind emergency  
9 disaster relief.

10           (4) For public health assistance for immunizations  
11 with respect to immunizable diseases, for the Special  
12 Supplemental Nutrition Program for Women, Infants, and  
13 Children, and for testing and treatment of symptoms of  
14 communicable diseases, whether or not such symptoms are caused  
15 by a communicable disease.

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

20           a. Deliver in-kind services at the community level,  
21 including services through public or private nonprofit  
22 agencies.

23           b. Do not condition the provision of assistance, the  
24 amount of assistance provided, or the cost of assistance

1 provided on the income or resources of the individual  
2 recipient.

3 c. Are necessary for the protection of life or  
4 safety.

5 (6) For prenatal care.

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

8 (f) No official of this state or political  
9 subdivision of this state shall attempt to independently make  
10 a final determination of whether an alien is lawfully present  
11 in the United States. An alien's lawful presence in the United  
12 States shall be verified by the federal government pursuant to  
13 8 U.S.C. § 1373(c).

14 (g) Any United States citizen applying for state or  
15 local public benefits, except those benefits described in  
16 subsection (e), shall sign a declaration that he or she is a  
17 United States citizen.

18 (h) Any person who knowingly makes a false,  
19 fictitious, or fraudulent statement or representation in a  
20 declaration executed pursuant to subsection (g) shall be  
21 guilty of perjury in the second degree pursuant to Section  
22 13A-10-102, Code of Alabama 1975. Each time that a person  
23 receives a public benefit based upon such a statement or  
24 representation shall constitute a separate violation of  
25 Section 13A-10-102, Code of Alabama 1975.

1           (i) The verification that an alien seeking state or  
2 local public benefits is an alien lawfully present in the  
3 United States shall be made through the Systematic Alien  
4 Verification for Entitlements (SAVE) program, operated by the  
5 United States Department of Homeland Security. If for any  
6 reason the verification of an alien's lawful presence through  
7 the SAVE program is delayed or inconclusive, the alien shall  
8 be eligible for state or local public benefits in the interim  
9 period if the alien signs a declaration that he or she is an  
10 alien lawfully present in the United States. The penalties  
11 under subsection (h) shall apply to any false, fictitious, or  
12 fraudulent statement or representation made in a declaration.

13           (j) Each state agency or department that administers  
14 a program that provides state or local public benefits shall  
15 provide an annual report with respect to its compliance with  
16 this section to the Government Affairs Committee of the Senate  
17 and the Government Operations Committee of the House of  
18 Representatives, or any successor committees.

19           (k) Errors and significant delays resulting from use  
20 of the SAVE program shall be reported to the United States  
21 Department of Homeland Security and to the Alabama Department  
22 of Homeland Security to assist the federal government in  
23 ensuring that the application of the SAVE program is not  
24 wrongfully denying benefits to aliens lawfully present in the  
25 United States.

1           (1) For the purposes of administering the Alabama  
2 Child Health Insurance Program, verification and documentation  
3 of lawful presence through any alternative means expressly  
4 authorized by federal law shall satisfy the requirements of  
5 this section.

6           Section 8. An alien who is not lawfully present in  
7 the United States shall not be permitted to enroll in or  
8 attend any public postsecondary education institution in this  
9 state. An alien attending any public postsecondary institution  
10 in this state must either possess lawful permanent residence  
11 or an appropriate nonimmigrant visa under 8 U.S.C. § 1101, et  
12 seq. For the purposes of this section, a public postsecondary  
13 education institution officer may seek federal verification of  
14 an alien's immigration status with the federal government  
15 pursuant to 8 U.S.C. § 1373(c). A public postsecondary  
16 education institution officer or official shall not attempt to  
17 independently make a final determination of whether an alien  
18 is lawfully present in the United States. Except as otherwise  
19 provided by law, an alien who is not lawfully present in the  
20 United States shall not be eligible for any postsecondary  
21 education benefit, including, but not limited to,  
22 scholarships, grants, or financial aid.

23           Section 9. (a) As a condition for the award of any  
24 contract, grant, or incentive by the state, any political  
25 subdivision thereof, or any state-funded entity to a business

1       entity or employer that employs one or more employees, the  
2       business entity or employer shall not knowingly employ, hire  
3       for employment, or continue to employ an unauthorized alien  
4       and shall attest to such, by sworn affidavit signed before a  
5       notary.

6               (b) As a condition for the award of any contract,  
7       grant, or incentive by the state, any political subdivision  
8       thereof, or any state-funded entity to a business entity or  
9       employer that employs one or more employees, the business  
10      entity or employer shall provide documentation establishing  
11      that the business entity or employer is enrolled in the  
12      E-Verify program. During the performance of the contract, the  
13      business entity or employer shall participate in the E-Verify  
14      program and shall verify every employee that is required to be  
15      verified according to the applicable federal rules and  
16      regulations.

17              (c) No subcontractor on a project paid for by  
18      contract, grant, or incentive by the state, any political  
19      subdivision thereof, or any state-funded entity shall  
20      knowingly employ, hire for employment, or continue to employ  
21      an unauthorized alien and shall attest to such by sworn  
22      affidavit signed before a notary. The subcontractor shall also  
23      enroll in the E-Verify program prior to performing any work on  
24      the project and shall attach to the sworn affidavit



1 documentation establishing that the subcontractor is enrolled  
2 in the E-Verify program.

3 (d) A contractor of any tier shall not be liable  
4 under this section when such contractor contracts with its  
5 direct subcontractor who violates subsection (c), if the  
6 contractor receives a sworn affidavit from the subcontractor  
7 signed before a notary attesting to the fact that the direct  
8 subcontractor, in good faith, has complied with subsection (c)  
9 with respect to verifying each of its employee's eligibility  
10 for employment, unless the contractor knows the direct  
11 subcontractor is violating subsection (c).

12 (e) (1) Upon the first violation of subsection (a) by  
13 any business entity or employer awarded a contract by the  
14 state, any political subdivision thereof, or any state-funded  
15 entity the business entity or employer shall be deemed in  
16 breach of contract and the state, political subdivision  
17 thereof, or state-funded entity may terminate the contract  
18 after providing notice and an opportunity to be heard. Upon  
19 application by the state entity, political subdivision  
20 thereof, or state-funded entity, the Attorney General may  
21 bring an action to suspend the business licenses and permits  
22 of the business entity or employer for a period not to exceed  
23 60 days, according to the procedures described in Section 15.  
24 The court shall order the business entity or employer to file  
25 a signed, sworn affidavit with the local district attorney

1 within three days after the order is issued by the court  
2 stating that the business entity or employer has terminated  
3 the employment of every unauthorized alien and the business  
4 entity or employer will not knowingly or intentionally employ  
5 an unauthorized alien in this state. Before a business license  
6 or permit that has been suspended under this subsection is  
7 reinstated, a legal representative of the business entity or  
8 employer shall submit to the court a signed, sworn affidavit  
9 stating that the business entity or employer is in compliance  
10 with the provisions of this act and a copy of the Memorandum  
11 of Understanding issued to the business entity or employer at  
12 the time of enrollment in E-Verify.

13 (2) Upon a second or subsequent violation of  
14 subsection (a) by any business entity or employer awarded a  
15 contract by the state, any political subdivision thereof, or  
16 any state-funded entity the business entity or employer shall  
17 be deemed in breach of contract and the state, any political  
18 subdivision thereof, or any state-funded entity shall  
19 terminate the contract after providing notice and an  
20 opportunity to be heard. Upon application by the state entity,  
21 political subdivision thereof, or state-funded entity, the  
22 Attorney General may bring an action to permanently revoke the  
23 business licenses and permits of the business entity or  
24 employer according to the procedures described in Section 15.

1           (f) (1) Upon the first violation of subsection (c) by  
2 a subcontractor, the state or political subdivision thereof  
3 may bar the subcontractor from doing business with the state,  
4 any political subdivision thereof, any state-funded entity, or  
5 with any contractor who contracts with the state, any  
6 political subdivision thereof, or any state-funded entity  
7 after providing notice and an opportunity to be heard. Upon  
8 application by the state entity or political subdivision  
9 thereof, or state-funded entity, the Attorney General may  
10 bring an action to suspend the business licenses and permits  
11 of the subcontractor for a period not to exceed 60 days,  
12 according to the procedures described in Section 15. The court  
13 shall order the subcontractor to file a signed, sworn  
14 affidavit with the local district attorney within three days  
15 after the order is issued by the court stating that the  
16 subcontractor has terminated the employment of every  
17 unauthorized alien and the subcontractor will not knowingly or  
18 intentionally employ an unauthorized alien in this state.  
19 Before a business license or permit that has been suspended  
20 under this subsection is reinstated, a legal representative of  
21 the subcontractor shall submit to the court a signed, sworn  
22 affidavit stating that the subcontractor is in compliance with  
23 the provisions of this act and a copy of the Memorandum of  
24 Understanding issued to the subcontractor at the time of  
25 enrollment in E-Verify.

1           (2) Upon a second or subsequent violation of  
2 subsection (c) by a subcontractor and upon application by the  
3 state entity or political subdivision thereof, or state-funded  
4 entity, the Attorney General may bring an action to  
5 permanently suspend the business licenses of the business  
6 entity or employer according to the procedures described in  
7 Section 15. The determination of a violation shall be  
8 according to the procedures described in Section 15.

9           (g) A business entity or employer that complies with  
10 subsection (b) shall not be found to be in violation of  
11 subsection (a). A subcontractor that is enrolled in the  
12 E-Verify program during the full period of performance of the  
13 subcontract shall not be found to be in violation of  
14 subsection (c).

15           (h) The Secretary of State shall adopt rules to  
16 administer this section and shall report any rules adopted to  
17 the Legislature.

18           (i) Compliance with this section may be verified by  
19 the state authorities or law enforcement at any time to ensure  
20 a contractual agreement as provided for in this section is  
21 being met.

22           (j) The suspension of a business license or permit  
23 under subsection (e)(1) and (f)(1) shall terminate one  
24 business day after a legal representative of the business  
25 entity, employer, or subcontractor submits a signed, sworn

1 affidavit stating that the business entity, employer, or  
2 subcontractor is in compliance with the provisions of this act  
3 to the court.

4 Section 10. (a) In addition to any violation of  
5 federal law, a person is guilty of willful failure to complete  
6 or carry an alien registration document if the person is in  
7 violation of 8 U.S.C. § 1304(e) or 8 U.S.C. § 1306(a), and the  
8 person is an alien unlawfully present in the United States.

9 (b) In the enforcement of this section, an alien's  
10 immigration status shall be determined by verification of the  
11 alien's immigration status with the federal government  
12 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
13 shall not attempt to independently make a final determination  
14 of whether an alien is lawfully present in the United States.

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

21 (d) This section does not apply to a person who  
22 maintains authorization from the federal government to be  
23 present in the United States.

24 (e) Any record that relates to the immigration  
25 status of a person is admissible in any court of this state

1 without further foundation or testimony from a custodian of  
2 records if the record is certified as authentic by the federal  
3 government agency that is responsible for maintaining the  
4 record. A verification of an alien's immigration status  
5 received from the federal government pursuant to 8 U.S.C. §  
6 1373(c) shall constitute proof of that alien's status. A court  
7 of this state shall consider only the federal government's  
8 verification in determining whether an alien is lawfully  
9 present in the United States.

10 (f) An alien unlawfully present in the United States  
11 who is in violation of this section shall be guilty of a Class  
12 C misdemeanor and subject to a fine of not more than one  
13 hundred dollars (\$100) and not more than 30 days in jail.

14 (g) A court shall collect the assessments prescribed  
15 in subsection (f) and remit 50 percent of the assessments to  
16 the general fund of the local government where the person was  
17 apprehended to be earmarked for law enforcement purposes, 25  
18 percent of the assessments to the Alabama Department of  
19 Homeland Security, and 25 percent of the assessments to the  
20 Department of Public Safety.

21 Section 11. (a) It is unlawful for a person who is  
22 an unauthorized alien to knowingly apply for work, solicit  
23 work in a public or private place, or perform work as an  
24 employee or independent contractor in this state.

1           (b) In the enforcement of this section, an alien's  
 2 immigration status shall be determined by verification of the  
 3 alien's immigration status with the federal government  
 4 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
 5 shall not attempt to independently make a final determination  
 6 on whether an alien is authorized to work in the United  
 7 States.

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

14           (d) This section does not apply to a person who  
 15 maintains authorization from the federal government to be  
 16 employed in the United States.

17           (e) Any record that relates to the employment  
 18 authorization of a person is admissible in any court of this  
 19 state without further foundation or testimony from a custodian  
 20 of records if the record is certified as authentic by the  
 21 federal government agency that is responsible for maintaining  
 22 the record. A verification of an alien's immigration status  
 23 received from the federal government pursuant to 8 U.S.C. §  
 24 1373(c) shall constitute proof of that alien's status. A court  
 25 of this state shall consider only the federal government's

1 verification in determining whether a person is an  
 2 unauthorized alien.

3 (f) It is unlawful for an occupant of a motor  
 4 vehicle that is stopped on a street, roadway, or highway to  
 5 attempt to hire or hire and pick up passengers for work at a  
 6 different location if the motor vehicle blocks or impedes the  
 7 normal movement of traffic.

8 (g) It is unlawful for a person to enter a motor  
 9 vehicle that is stopped on a street, roadway or highway in  
 10 order to be hired by an occupant of the motor vehicle and to  
 11 be transported to work at a different location if the motor  
 12 vehicle blocks or impedes the normal movement of traffic.

13 (h) A person who is in violation of this section  
 14 shall be guilty of a Class C misdemeanor and subject to a fine  
 15 of not more than five hundred dollars (\$500).

16 (i) A court shall collect the assessments prescribed  
 17 in subsection (h) and remit 50 percent of the assessments to  
 18 the general fund of the local government where the person was  
 19 apprehended to be earmarked for law enforcement purposes, 25  
 20 percent of the assessments to the Alabama Department of  
 21 Homeland Security, and 25 percent of the assessments to the  
 22 Department of Public Safety.

23 (j) The terms of this section shall be interpreted  
 24 consistently with 8 U.S.C. § 1324a and any applicable federal  
 25 rules and regulations.



1           Section 12. (a) Upon any lawful stop, detention, or  
2           arrest made by a state, county, or municipal law enforcement  
3           officer of this state in the enforcement of any state law or  
4           ordinance of any political subdivision thereof, where  
5           reasonable suspicion exists that the person is an alien who is  
6           unlawfully present in the United States, a reasonable attempt  
7           shall be made, when practicable, to determine the citizenship  
8           and immigration status of the person, except if the  
9           determination may hinder or obstruct an investigation. Such  
10          determination shall be made by contacting the federal  
11          government pursuant to 8 U.S.C. § 1373(c) and relying upon any  
12          verification provided by the federal government.

13           (b) Any alien who is arrested and booked into  
14          custody shall have his or her immigration status determined  
15          pursuant to 8 U.S.C. § 1373(c). The alien's immigration status  
16          shall be verified by contacting the federal government  
17          pursuant to 8 U.S.C. § 1373(c) within 24 hours of the time of  
18          the alien's arrest. If for any reason federal verification  
19          pursuant to 8 U.S.C. § 1373(c) is delayed beyond the time that  
20          the alien would otherwise be released from custody, the alien  
21          shall be released from custody.

22           (c) A law enforcement officer shall not attempt to  
23          independently make a final determination of whether an alien  
24          is lawfully present in the United States. A law enforcement  
25          officer may not consider race, color, or national origin in

1 implementing the requirements of this section except to the  
2 extent permitted by the United States Constitution or the  
3 Constitution of Alabama of 1901.

4 (d) A person is presumed to not be an alien who is  
5 unlawfully present in the United States if the person provides  
6 to the law enforcement officer any of the following:

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

8 (2) A valid, unexpired Alabama nondriver  
9 identification card.

10 (3) A valid tribal enrollment card or other form of  
11 tribal identification bearing a photograph or other biometric  
12 identifier.

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

18 (5) A foreign passport with an unexpired United  
19 States Visa and a corresponding stamp or notation by the  
20 United States Department of Homeland Security indicating the  
21 bearer's admission to the United States.

22 (6) A foreign passport issued by a visa waiver  
23 country with the corresponding entry stamp and unexpired  
24 duration of stay annotation or an I-94W form by the United

1 States Department of Homeland Security indicating the bearer's  
 2 admission to the United States.

3 (e) If an alien is determined by the federal  
 4 government to be an alien who is unlawfully present in the  
 5 United States pursuant to 8 U.S.C. § 1373(c), the law  
 6 enforcement agency shall cooperate in the transfer of the  
 7 alien to the custody of the federal government, if the federal  
 8 government so requests.

9 Section 13. (a) It shall be unlawful for a person to  
 10 do any of the following:

11 (1) Conceal, harbor, or shield or attempt to  
 12 conceal, harbor, or shield or conspire to conceal, harbor, or  
 13 shield an alien from detection in any place in this state,  
 14 including any building or any means of transportation, if the  
 15 person knows or recklessly disregards the fact that the alien  
 16 has come to, has entered, or remains in the United States in  
 17 violation of federal law.

18 (2) Encourage or induce an alien to come to or  
 19 reside in this state if the person knows or recklessly  
 20 disregards the fact that such coming to, entering, or residing  
 21 in the United States is or will be in violation of federal  
 22 law.

23 (3) Transport, or attempt to transport, or conspire  
 24 to transport in this state an alien in furtherance of the  
 25 unlawful presence of the alien in the United States,

1 knowingly, or in reckless disregard of the fact, that the  
2 alien has come to, entered, or remained in the United States  
3 in violation of federal law. Conspiracy to be so transported  
4 shall be a violation of this subdivision.

5 (4) Harbor an alien unlawfully present in the United  
6 States by entering into a rental agreement, as defined by  
7 Section 35-9A-141 of the Code of Alabama 1975, with an alien  
8 to provide accommodations, if the person knows or recklessly  
9 disregards the fact that the alien is unlawfully present in  
10 the United States.

11 (b) Any person violating the provisions of this  
12 section is guilty of a Class A misdemeanor for each unlawfully  
13 present alien, the illegal presence of which in the United  
14 States and the State of Alabama, he or she is facilitating or  
15 is attempting to facilitate.

16 (c) A person violating the provisions of this  
17 section is guilty of a Class C felony when the violation  
18 involves 10 or more aliens, the illegal presence of which in  
19 the United States and the State of Alabama, he or she is  
20 facilitating or is attempting to facilitate.

21 (d) Notwithstanding any other law, a law enforcement  
22 agency may securely transport an alien whom the agency has  
23 received verification from the federal government pursuant to  
24 8 U.S.C. § 1373(c) is unlawfully present in the United States  
25 and who is in the agency's custody to a state approved

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

8 (e) Notwithstanding any other law, any person acting  
9 in his or her official capacity as a first responder or  
10 protective services provider may harbor, shelter, move, or  
11 transport an alien unlawfully present in the United States  
12 pursuant to state law.

13 (f) Any conveyance, including any vessel, vehicle,  
14 or aircraft, that has been or is being used in the commission  
15 of a violation of this section, and the gross proceeds of such  
16 a violation, shall be subject to civil forfeiture under the  
17 procedures of Section 20-2-93 of the Code of Alabama 1975.

18 (g) In the enforcement of this section, an alien's  
19 immigration status shall be determined by verification of the  
20 alien's immigration status with the federal government  
21 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
22 shall not attempt to independently make a final determination  
23 of whether an alien is lawfully present in the United States.

24 (h) Any record that relates to the immigration  
25 status of a person is admissible in any court of this state

1 without further foundation or testimony from a custodian of  
2 records if the record is certified as authentic by the federal  
3 government agency that is responsible for maintaining the  
4 record. A verification of an alien's immigration status  
5 received from the federal government pursuant to 8 U.S.C. §  
6 1373(c) shall constitute proof of that alien's status. A court  
7 of this state shall consider only the federal government's  
8 verification in determining whether an alien is lawfully  
9 present in the United States.

10 Section 14. (a) A person commits the crime of  
11 dealing in false identification documents if he or she  
12 knowingly reproduces, manufactures, sells, or offers for sale  
13 any identification document which does both of the following:

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

17 (2) Bears a fictitious name or other false  
18 information.

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

22 (1) Supplies false information intending that the  
23 information be used to obtain a certified copy of a vital  
24 record.

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

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

7           (c) (1) Dealing in false identification documents is  
8 a Class C felony.

9           (2) Vital records identity fraud is a Class C  
10 felony.

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

13           (1) A person less than 21 years of age who uses the  
14 identification document of another person to acquire an  
15 alcoholic beverage.

16           (2) A person less than 19 years of age who uses the  
17 identification documents of another person to acquire any of  
18 the following:

19           a. Cigarettes or tobacco products.

20           b. A periodical, videotape, or other communication  
21 medium that contains or depicts nudity.

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

24           d. An item that is prohibited by law for use or  
25 consumption by such person.

1           (e) As used in this section, "identification  
2 document" means any card, certificate, or document or banking  
3 instrument, including, but not limited to, a credit or debit  
4 card, which identifies or purports to identify the bearer of  
5 such document, whether or not intended for use as  
6 identification, and includes, but is not limited to, documents  
7 purporting to be drivers' licenses, nondriver identification  
8 cards, certified copies of birth, death, marriage, and divorce  
9 certificates, Social Security cards, and employee  
10 identification cards.

11           (f) Any person convicted of dealing in false  
12 identification documents as defined in this section shall be  
13 fined up to one thousand dollars (\$1,000) for every card or  
14 document he or she creates or possesses and be subject to any  
15 and all other state laws that may apply. A court shall collect  
16 the fines prescribed by this subsection and shall remit 50  
17 percent of the fines to the general fund of the local  
18 government that apprehended the person to be earmarked for law  
19 enforcement purposes, 25 percent of the fines to the Alabama  
20 Department of Homeland Security, and 25 percent of the fines  
21 to the Department of Public Safety.

22           Section 15. (a) No business entity, employer, or  
23 public employer shall knowingly employ, hire for employment,  
24 or continue to employ an unauthorized alien to perform work  
25 within the State of Alabama. Knowingly employ, hire for



1 employment, or continue to employ an unauthorized alien means  
 2 the actions described in 8 U.S.C. § 1324a.

3 (b) Effective April 1, 2012, every business entity  
 4 or employer in this state shall enroll in E-Verify and  
 5 thereafter, according to the federal statutes and regulations  
 6 governing E-Verify, shall verify the employment eligibility of  
 7 the employee through E-Verify. A business entity or employer  
 8 that uses E-Verify to verify the work authorization of an  
 9 employee shall not be deemed to have violated this section  
 10 with respect to the employment of that employee.

11 (c) On a finding of a first violation by a court of  
 12 competent jurisdiction that a business entity or employer  
 13 knowingly violated subsection (a), the court shall do all of  
 14 the following:

15 (1) Order the business entity or employer to  
 16 terminate the employment of every unauthorized alien.

17 (2) Subject the business entity or employer to a  
 18 three-year probationary period throughout the state. During  
 19 the probationary period, the business entity or employer shall  
 20 file quarterly reports with the local district attorney of  
 21 each new employee who is hired by the business entity or  
 22 employer in the state.

23 (3) Order the business entity or employer to file a  
 24 signed, sworn affidavit with the local district attorney  
 25 within three days after the order is issued by the court

1 stating that the business entity or employer has terminated  
2 the employment of every unauthorized alien and the business  
3 entity or employer will not knowingly or intentionally employ  
4 an unauthorized alien in this state.

5 (4) Direct the applicable state, county, or  
6 municipal governing bodies to suspend the business licenses  
7 and permits, if such exist, of the business entity or employer  
8 for a period not to exceed 10 business days specific to the  
9 business location where the unauthorized alien performed work.

10 (d) (1) Before a business license or permit that has  
11 been suspended under subsection (c) is reinstated, a legal  
12 representative of the business entity or employer shall submit  
13 to the court a signed, sworn affidavit stating that the  
14 business entity or employer is in compliance with the  
15 provisions of this act and a copy of the Memorandum of  
16 Understanding issued to the business entity or employer at the  
17 time of enrollment in E-Verify.

18 (2) The suspension of a business license or permit  
19 under subsection (c) shall terminate one business day after a  
20 legal representative of the business entity or employer  
21 submits a signed, sworn affidavit stating that the business  
22 entity or employer is in compliance with the provisions of  
23 this act to the court.

24 (e) For a second violation of subsection (a) by a  
25 business entity or employer, the court shall direct the

1 applicable state, county, or municipal governing body to  
2 permanently revoke all business licenses and permits, if such  
3 exist, held by the business entity or employer specific to the  
4 business location where the unauthorized alien performed work.  
5 On receipt of the order, and notwithstanding any other law,  
6 the appropriate agencies shall immediately revoke the licenses  
7 and permits held by the business entity or employer.

8 (f) For a subsequent violation of subsection (a),  
9 the court shall direct the applicable governing bodies to  
10 forever suspend the business licenses and permits, if such  
11 exist, of the business entity or employer throughout the  
12 state.

13 (g) This section shall not be construed to deny any  
14 procedural mechanisms or legal defenses included in the  
15 E-Verify program or any other federal work authorization  
16 program. A person or entity that establishes that it has  
17 complied in good faith with the requirements of 8 U.S.C. §  
18 1324a(b) establishes an affirmative defense that the business  
19 entity or employer did not knowingly hire or employ an  
20 unauthorized alien.

21 (h) In proceedings of the court, the determination  
22 of whether an employee is an unauthorized alien shall be made  
23 by the federal government, pursuant to 8 U.S.C. § 1373(c). The  
24 court shall consider only the federal government's  
25 determination when deciding whether an employee is an

1 unauthorized alien. The court may take judicial notice of any  
2 verification of an individual's immigration status previously  
3 provided by the federal government and may request the federal  
4 government to provide further automated or testimonial  
5 verification.

6 (i) Any business entity or employer that terminates  
7 an employee to comply with this section shall not be liable  
8 for any claims made against the business entity or employer by  
9 the terminated employee, provided that such termination is  
10 made without regard to the race, ethnicity, or national origin  
11 of the employee and that such termination is consistent with  
12 the anti-discrimination laws of this state and of the United  
13 States.

14 (j) If any agency of the state or any political  
15 subdivision thereof fails to suspend the business licenses or  
16 permits, if such exist, as a result of a violation of this  
17 section, the agency shall be deemed to have violated  
18 subsection (a) of Section 5 and shall be subject to the  
19 penalties thereunder.

20 (k) In addition to the district attorneys of this  
21 state, the Attorney General shall also have authority to bring  
22 a civil complaint in any court of competent jurisdiction to  
23 enforce the requirements of this section.

24 (l) Any resident of this state may petition the  
25 Attorney General to bring an enforcement action against a

1 specific business entity or employer by means of a written,  
2 signed petition. A valid petition shall include an allegation  
3 that describes the alleged violator or violators, as well as  
4 the action constituting the violation, and the date and  
5 location where the action occurred.

6 (2) A petition that alleges a violation on the basis  
7 of national origin, ethnicity, or race shall be deemed invalid  
8 and shall not be acted upon.

9 (3) The Attorney General shall respond to any  
10 petition under this subdivision within 60 days of receiving  
11 the petition, either by filing a civil complaint in a court of  
12 competent jurisdiction or by informing the petitioner in  
13 writing that the Attorney General has determined that filing a  
14 civil complaint is not warranted.

15 (1) This section does not apply to the relationship  
16 between a party and the employees of an independent contractor  
17 performing work for the party and does not apply to casual  
18 domestic labor performed within a household.

19 (m) It is an affirmative defense to a violation of  
20 subsection (a) of this section that a business entity or  
21 employer was entrapped.

22 (1) To claim entrapment, the business entity or  
23 employer must admit by testimony or other evidence the  
24 substantial elements of the violation.

1           (2) A business entity or employer who asserts an  
2 entrapment defense has the burden of proving by clear and  
3 convincing evidence the following:

4           a. The idea of committing the violation started with  
5 law enforcement officers or their agents rather than with the  
6 business entity or employer.

7           b. The law enforcement officers or their agents  
8 urged and induced the business entity or employer to commit  
9 the violation.

10           c. The business entity or employer was not already  
11 predisposed to commit the violation before the law enforcement  
12 officers or their agents urged and induced the employer to  
13 commit the violation.

14           (n) In addition to actions taken by the state or  
15 political subdivisions thereof, the Attorney General or the  
16 district attorney of the relevant county may bring an action  
17 to enforce the requirements of this section in any county  
18 district court of this state wherein the business entity or  
19 employer does business.

20           (o) The terms of this section shall be interpreted  
21 consistently with 8 U.S.C. § 1324a and any applicable federal  
22 rules and regulations.

23           Section 16. (a) No wage, compensation, whether in  
24 money or in kind or in services, or remuneration of any kind  
25 for the performance of services paid to an unauthorized alien

1 shall be allowed as a deductible business expense for any  
2 state income or business tax purposes in this state. This  
3 subsection shall apply whether or not an Internal Revenue  
4 Service Form 1099 is issued in conjunction with the wages or  
5 remuneration.

6 (b) Any business entity or employer who knowingly  
7 fails to comply with the requirements of this section shall be  
8 liable for a penalty equal to 10 times the business expense  
9 deduction claimed in violation of subsection (a). The penalty  
10 provided in this subsection shall be payable to the Alabama  
11 Department of Revenue.

12 Section 17. (a) It shall be a discriminatory  
13 practice for a business entity or employer to fail to hire a  
14 job applicant who is a United States citizen or an alien who  
15 is authorized to work in the United States as defined in 8  
16 U.S.C. § 1324a(h) (3) or discharge an employee working in  
17 Alabama who is a United States citizen or an alien who is  
18 authorized to work in the United States as defined in 8 U.S.C.  
19 § 1324a(h) (3) while retaining or hiring an employee who the  
20 business entity or employer knows, or reasonably should have  
21 known, is an unauthorized alien.

22 (b) A violation of subsection (a) may be the basis  
23 of a civil action in the state courts of this state. Any  
24 recovery under this subsection shall be limited to

1 compensatory relief and shall not include any civil or  
2 criminal sanctions against the employer.

3 (c) The losing party in any civil action shall pay  
4 the court costs and reasonable attorneys fees for the  
5 prevailing party; however, the losing party shall only pay the  
6 attorneys fees of the prevailing party up to the amount paid  
7 by the losing party for his or her own attorneys fees.

8 (d) The amount of the attorneys fees spent by each  
9 party shall be reported to the court before the verdict is  
10 rendered.

11 (e) In proceedings of the court, the determination  
12 of whether an employee is an unauthorized alien shall be made  
13 by the federal government, pursuant to 8 U.S.C. § 1373(c). The  
14 court shall consider only the federal government's  
15 determination when deciding whether an employee is an  
16 unauthorized alien. The court may take judicial notice of any  
17 verification of an individual's immigration status previously  
18 provided by the federal government and may request the federal  
19 government to provide further automated or testimonial  
20 verification.

21 Section 18. Section 32-6-9, Code of Alabama 1975, is  
22 amended to read as follows:

23 "§32-6-9.

24 "(a) Every licensee shall have his or her license in  
25 his or her immediate possession at all times when driving a



1 motor vehicle and shall display the same, upon demand of a  
2 judge of any court, a peace officer or a state trooper.  
3 However, no person charged with violating this section shall  
4 be convicted if he or she produces in court or the office of  
5 the arresting officer a driver's license theretofore issued to  
6 him or her and valid at the time of his or her arrest.

7 "(b) Notwithstanding the provisions of Section  
8 32-1-4, if a law officer arrests a person for a violation of  
9 this section and the officer is unable to determine by any  
10 other means that the person has a valid driver's license, the  
11 officer shall transport the person to the nearest or most  
12 accessible magistrate.

13 "(c) A reasonable effort shall be made to determine  
14 the citizenship of the person and if an alien, whether the  
15 alien is lawfully present in the United States by verification  
16 with the federal government pursuant to 8 U.S.C. § 1373(c). An  
17 officer shall not attempt to independently make a final  
18 determination of whether an alien is lawfully present in the  
19 United States.

20 (d) A verification inquiry, pursuant to 8 U.S.C. §  
21 1373(c), shall be made within 48 hours to the Law Enforcement  
22 Support Center of the United States Department of Homeland  
23 Security or other office or agency designated for that purpose  
24 by the federal government. If the person is determined to be  
25 an alien unlawfully present in the United States, the person

1 shall be considered a flight risk and shall be detained until  
2 prosecution or until handed over to federal immigration  
3 authorities."

4 Section 19. (a) When a person is charged with a  
5 crime for which bail is required, or is confined for any  
6 period in a state, county, or municipal jail, a reasonable  
7 effort shall be made to determine if the person is an alien  
8 unlawfully present in the United States by verification with  
9 the federal government pursuant to 8 U.S.C. § 1373(c).

10 (b) A verification inquiry, pursuant to 8 U.S.C. §  
11 1373(c), shall be made within 48 hours to the Law Enforcement  
12 Support Center of the United States Department of Homeland  
13 Security or other office or agency designated for that purpose  
14 by the federal government. If the person is determined to be  
15 an alien unlawfully present in the United States, the person  
16 shall be considered a flight risk and shall be detained until  
17 prosecution or until handed over to federal immigration  
18 authorities.

19 Section 20. If an alien who is unlawfully present in  
20 the United States is convicted of a violation of state or  
21 local law and is within 30 days of release or has paid any  
22 fine as required by operation of law, the agency responsible  
23 for his or her incarceration shall notify the United States  
24 Bureau of Immigration and Customs Enforcement and the Alabama  
25 Department of Homeland Security, pursuant to 8 U.S.C. § 1373.

1 The Alabama Department of Homeland Security shall assist in  
2 the coordination of the transfer of the prisoner to the  
3 appropriate federal immigration authorities; however, the  
4 Alabama Department of Corrections shall maintain custody  
5 during any transfer of the individual.

6 Section 21. If a person is an alien who is  
7 unlawfully present in the United States and is a victim of a  
8 criminal act, is the child of a victim of a criminal act, is a  
9 critical witness in any prosecution, or is the child of a  
10 critical witness in any prosecution of a state or federal  
11 crime, all provisions of this act shall be stayed until all of  
12 the related legal proceedings are concluded. However, the  
13 relevant state, county, or local law enforcement agency shall  
14 comply with any request by federal immigration officers to  
15 take custody of the person.

16 Section 22. (a) Notwithstanding the provisions of  
17 Section 31-9A-9 of the Code of Alabama 1975, the Alabama  
18 Department of Homeland Security may hire, appoint, and  
19 maintain APOST certified state law enforcement officers. Such  
20 officers shall receive the same rights and benefits as those  
21 prescribed to officers of the Alabama Department of Public  
22 Safety, except for the purposes of retirement. The officers  
23 shall have the same retirement benefits as a law enforcement  
24 officer as defined under Section 36-27-59 of the Code of  
25 Alabama 1975.

1           (b) Unless a violation of state law occurs in their  
2 presence, officers authorized under this section shall not  
3 engage in routine law enforcement activity, except for those  
4 investigative and analytical duties necessary to carry out the  
5 enforcement of this act and to fulfill the mission of the  
6 Alabama Department of Homeland Security or those duties  
7 necessary to provide assistance to other law enforcement  
8 agencies.

9           (c) The Director of the Alabama Department of  
10 Homeland Security shall have the authority to promulgate rules  
11 for the enforcement of this act.

12           Section 23. The Alabama Department of Homeland  
13 Security shall have the authority to coordinate with state and  
14 local law enforcement the practice and methods required to  
15 enforce this act in cooperation with federal immigration  
16 authorities and consistent with federal immigration laws.

17           Section 24. The Alabama Department of Homeland  
18 Security shall file a quarterly report to the Legislature on  
19 the progress being made regarding the enforcement of this act  
20 and the status of the progress being made in the effort to  
21 reduce the number of illegal aliens in the State of Alabama.  
22 The report shall include, but is not limited to, the  
23 statistics and results from the enforcement of the sections of  
24 this act, and suggestions on what can be done including  
25 additional legislation to further assist the federal

1 government in its efforts to apprehend illegal aliens in the  
2 State of Alabama. At the start of the 2013 fiscal year, the  
3 report shall be filed twice a year. At the start of the 2015  
4 fiscal year, the report is required annually. This report  
5 shall also be made available to the public and shall be  
6 announced through a press release from the Attorney General's  
7 office.

8 Section 25. (a) A solicitation to violate any  
9 criminal provision of this act, an attempt to violate any  
10 criminal provision of this act, or a conspiracy to violate any  
11 criminal provision of this act shall have the same penalty as  
12 a violation of this act.

13 (b) For the purposes of this section, solicitation  
14 shall have the same principles of liability and defenses as  
15 criminal solicitation under subsections (b) through (e) of  
16 Section 13A-4-1, Code of Alabama 1975, and Section 13A-4-5,  
17 Code of Alabama 1975.

18 (c) For the purposes of this section, attempt shall  
19 have the same principles of liability and defenses as attempt  
20 under subsections (b) and (c) of Section 13A-4-2, Code of  
21 Alabama 1975, and Section 13A-4-5, Code of Alabama 1975.

22 (d) For the purposes of this section, conspiracy  
23 shall have the same principles of liability and defenses as  
24 criminal conspiracy under subsections (b) through (f) of

1 Section 13A-4-3, Code of Alabama 1975, and Sections 13A-4-4  
2 and 13A-4-5, Code of Alabama 1975.

3 Section 26. (a) (1) The Alabama Department of  
4 Homeland Security shall establish and maintain an E-Verify  
5 employer agent service for any business entity or employer in  
6 this state with 25 or fewer employees to use the E-Verify  
7 program to verify an employee's employment eligibility on  
8 behalf of the business entity or employer. The Alabama  
9 Department of Homeland Security shall establish an E-Verify  
10 employer agent account with the United States Department of  
11 Homeland Security, shall enroll a participating business  
12 entity or employer in the E-Verify program on its behalf, and  
13 shall conform to all federal statutes and regulations  
14 governing E-Verify employer agents. The Alabama Department of  
15 Homeland Security shall not charge a fee to a participating  
16 business entity or employer for this service.

17 (2) The Alabama Department of Homeland Security  
18 E-Verify employer agent service shall be in place within 90  
19 days after the effective date of this act. The service shall  
20 accommodate a business entity or employer who wishes to  
21 communicate with the Alabama Department of Homeland Security  
22 by internet, by electronic mail, by facsimile machine, by  
23 telephone, or in person, provided that such communication is  
24 consistent with federal statutes and regulations governing  
25 E-Verify employer agents.

1           (b) On or after January 1, 2012, before receiving  
2 any contract, grant, or incentive by the state, any political  
3 subdivision thereof, or any state-funded entity, a business  
4 entity or employer shall provide proof to the state, political  
5 subdivision thereof, or state-funded entity that the business  
6 entity or employer is enrolled and is participating in the  
7 E-Verify program, either independently or through the Alabama  
8 Department of Homeland Security E-Verify employer agent  
9 service.

10           (c) Every three months, the Alabama Department of  
11 Homeland Security shall request from the United States  
12 Department of Homeland Security a list of every business  
13 entity or employer in this state that is enrolled in the  
14 E-Verify program. On receipt of the list, the Alabama  
15 Department of Homeland Security shall make the list available  
16 on its website.

17           (d) A business entity or employer that is enrolled  
18 in the E-Verify program and that verifies the employment  
19 eligibility of an employee in good faith pursuant to this  
20 section, and acts in conformity with all applicable federal  
21 statutes and regulations is immune from liability under  
22 Alabama law for any action by an employee for wrongful  
23 discharge or retaliation based on a notification from the  
24 E-Verify program that the employee is an unauthorized alien.

1           Section 27. (a) No court of this state shall enforce  
2           the terms of, or otherwise regard as valid, any contract  
3           between a party and an alien unlawfully present in the United  
4           States, if the party had direct or constructive knowledge that  
5           the alien was unlawfully present in the United States at the  
6           time the contract was entered into, and the performance of the  
7           contract required the alien to remain unlawfully present in  
8           the United States for more than 24 hours after the time the  
9           contract was entered into or performance could not reasonably  
10          be expected to occur without such remaining.

11           (b) This section shall not apply to a contract for  
12          lodging for one night, a contract for the purchase of food to  
13          be consumed by the alien, a contract for medical services, or  
14          a contract for transportation of the alien that is intended to  
15          facilitate the alien's return to his or her country of origin.

16           (c) This section shall not apply to a contract  
17          authorized by federal law.

18           (d) In proceedings of the court, the determination  
19          of whether an alien is unlawfully present in the United States  
20          shall be made by the federal government, pursuant to 8 U.S.C.  
21          § 1373(c). The court shall consider only the federal  
22          government's determination when deciding whether an alien is  
23          unlawfully present in the United States. The court may take  
24          judicial notice of any verification of an individual's  
25          immigration status previously provided by the federal



1 government and may request the federal government to provide  
2 further automated or testimonial verification.

3 Section 28. (a) (1) Every public elementary and  
4 secondary school in this state, at the time of enrollment in  
5 kindergarten or any grade in such school, shall determine  
6 whether the student enrolling in public school was born  
7 outside the jurisdiction of the United States or is the child  
8 of an alien not lawfully present in the United States and  
9 qualifies for assignment to an English as Second Language  
10 class or other remedial program.

11 (2) The public school, when making the determination  
12 required by subdivision (1), shall rely upon presentation of  
13 the student's original birth certificate, or a certified copy  
14 thereof.

15 (3) If, upon review of the student's birth  
16 certificate, it is determined that the student was born  
17 outside the jurisdiction of the United States or is the child  
18 of an alien not lawfully present in the United States, or  
19 where such certificate is not available for any reason, the  
20 parent, guardian, or legal custodian of the student shall  
21 notify the school within 30 days of the date of the student's  
22 enrollment of the actual citizenship or immigration status of  
23 the student under federal law.

24 (4) Notification shall consist of both of the  
25 following:

1           a. The presentation for inspection, to a school  
2 official designated for such purpose by the school district in  
3 which the child is enrolled, of official documentation  
4 establishing the citizenship and, in the case of an alien, the  
5 immigration status of the student, or alternatively by  
6 submission of a notarized copy of such documentation to such  
7 official.

8           b. Attestation by the parent, guardian, or legal  
9 custodian, under penalty of perjury, that the document states  
10 the true identity of the child. If the student or his or her  
11 parent, guardian, or legal representative possesses no such  
12 documentation but nevertheless maintains that the student is  
13 either a United States citizen or an alien lawfully present in  
14 the United States, the parent, guardian, or legal  
15 representative of the student may sign a declaration so  
16 stating, under penalty of perjury.

17           (5) If no such documentation or declaration is  
18 presented, the school official shall presume for the purposes  
19 of reporting under this section that the student is an alien  
20 unlawfully present in the United States.

21           (b) Each school district in this state shall collect  
22 and compile data as required by this section.

23           (c) Each school district shall submit to the State  
24 Board of Education an annual report listing all data obtained  
25 pursuant to this section.

1           (d) (1) The State Board of Education shall compile  
2 and submit an annual public report to the Legislature.

3           (2) The report shall provide data, aggregated by  
4 public school, regarding the numbers of United States  
5 citizens, of lawfully present aliens by immigration  
6 classification, and of aliens believed to be unlawfully  
7 present in the United States enrolled at all primary and  
8 secondary public schools in this state. The report shall also  
9 provide the number of students in each category participating  
10 in English as a Second Language Programs enrolled at such  
11 schools.

12           (3) The report shall analyze and identify the  
13 effects upon the standard or quality of education provided to  
14 students who are citizens of the United States residing in  
15 Alabama that may have occurred, or are expected to occur in  
16 the future, as a consequence of the enrollment of students who  
17 are aliens not lawfully present in the United States.

18           (4) The report shall analyze and itemize the fiscal  
19 costs to the state and political subdivisions thereof of  
20 providing educational instruction, computers, textbooks and  
21 other supplies, free or discounted school meals, and  
22 extracurricular activities to students who are aliens not  
23 lawfully present in the United States.

24           (5) The State Board of Education shall prepare and  
25 issue objective baseline criteria for identifying and

1 assessing the other educational impacts on the quality of  
2 education provided to students who are citizens of the United  
3 States, due to the enrollment of aliens who are not lawfully  
4 present in the United states, in addition to the statistical  
5 data on citizenship and immigration status and English as a  
6 Second Language enrollment required by this act. The State  
7 Board of Education may contract with reputable scholars and  
8 research institutions to identify and validate such criteria.  
9 The State Board of Education shall assess such educational  
10 impacts and include such assessments in its reports to the  
11 Legislature.

12 (e) Public disclosure by any person of information  
13 obtained pursuant to this section which personally identifies  
14 any student shall be unlawful, except for purposes permitted  
15 pursuant to 8 U.S.C. §§ 1373 and 1644. Any person intending to  
16 make a public disclosure of information that is classified as  
17 confidential under this section, on the ground that such  
18 disclosure constitutes a use permitted by federal law, shall  
19 first apply to the Attorney General and receive a waiver of  
20 confidentiality from the requirements of this subsection.

21 (f) A student whose personal identity has been  
22 negligently or intentionally disclosed in violation of this  
23 section shall be deemed to have suffered an invasion of the  
24 student's right to privacy. The student shall have a civil

1 remedy for such violation against the agency or person that  
2 has made the unauthorized disclosure.

3 (g) The State Board of Education shall construe all  
4 provisions of this section in conformity with federal law.

5 (h) This section shall be enforced without regard to  
6 race, religion, gender, ethnicity, or national origin.

7 Section 29. (a) Applications for voter registration  
8 shall give voter eligibility requirements and such information  
9 as is necessary to prevent duplicative voter registrations and  
10 enable the relevant election officer to assess the eligibility  
11 of the applicant and to administer voter registration,  
12 identify the applicant and to determine the qualifications of  
13 the applicant as an elector and the facts authorizing such  
14 person to be registered. Applications shall contain a  
15 statement that the applicant shall be required to provide  
16 qualifying identification when voting.

17 (b) The Secretary of State shall create a process  
18 for the county election officer to check to indicate whether  
19 an applicant has provided with the application the information  
20 necessary to assess the eligibility of the applicant,  
21 including the applicant's United States citizenship. This  
22 section shall be interpreted and applied in accordance with  
23 federal law. No eligible applicant whose qualifications have  
24 been assessed shall be denied registration.

1           (c) The county election officer or Secretary of  
2 State's office shall accept any completed application for  
3 registration, but an applicant shall not be registered until  
4 the applicant has provided satisfactory evidence of United  
5 States citizenship. Satisfactory evidence of United States  
6 citizenship shall be provided in person at the time of filing  
7 the application for registration or by including, with a  
8 mailed registration application, a photocopy of one of the  
9 documents listed as evidence of United States citizenship in  
10 subsection (k). After a person has submitted satisfactory  
11 evidence of citizenship, the county election officer shall  
12 indicate this information in the person's permanent voter  
13 file.

14           (d) Any person who is registered in this state on  
15 the effective date of this act is deemed to have provided  
16 satisfactory evidence of United States citizenship and shall  
17 not be required to submit evidence of citizenship.

18           (e) For purposes of this section, proof of voter  
19 registration from another state is not satisfactory evidence  
20 of United States citizenship.

21           (f) A registered voter who moves from one residence  
22 to another within the state or who modifies his or her voter  
23 registration records for any other reason shall not be  
24 required to submit evidence of United States citizenship.

1 (g) If evidence of United States citizenship is  
2 deemed to be unsatisfactory due to an inconsistency between  
3 the document submitted as evidence and the name or sex  
4 provided on the application for registration, such applicant  
5 may sign an affidavit containing both of the following:

6 (1) Stating the inconsistency or inconsistencies  
7 related to the name or sex, and the reason therefor.

8 (2) Swearing under oath that, despite the  
9 inconsistency, the applicant is the individual reflected in  
10 the document provided as evidence of citizenship.

11 (h) There shall be no inconsistency between the date  
12 of birth on the document provided as evidence of citizenship  
13 and the date of birth provided on the application for  
14 registration. If such an affidavit is submitted by the  
15 applicant, the county election officer or Secretary of State  
16 shall assess the eligibility of the applicant without regard  
17 to any inconsistency stated in the affidavit.

18 (i) All documents submitted as evidence of United  
19 States citizenship shall be kept confidential by the county  
20 election officer or the Secretary of State and maintained as  
21 provided by record retention laws.

22 (j) Nothing in this section shall prohibit an  
23 applicant from providing, or the Secretary of State or county  
24 election officer from obtaining, satisfactory evidence of  
25 United States citizenship, as described in this section, at a

1 different time or in a different manner than an application  
2 for registration is provided, as long as the applicant's  
3 eligibility can be adequately assessed by the Secretary of  
4 State or county election officer as required by this section.

5 (k) Evidence of United States citizenship shall be  
6 demonstrated by one of the following documents, or a legible  
7 photocopy of one of the following documents:

8 (1) The applicant's driver's license or nondriver's  
9 identification card issued by the division of motor vehicles  
10 or the equivalent governmental agency of another state within  
11 the United States if the agency indicates on the applicant's  
12 driver's license or nondriver's identification card that the  
13 person has provided satisfactory proof of United States  
14 citizenship.

15 (2) The applicant's birth certificate that verifies  
16 United States citizenship to the satisfaction of the county  
17 election officer or Secretary of State.

18 (3) Pertinent pages of the applicant's United States  
19 valid or expired passport identifying the applicant and the  
20 applicant's passport number, or presentation to the county  
21 election officer of the applicant's United States passport.

22 (4) The applicant's United States naturalization  
23 documents or the number of the certificate of naturalization.  
24 If only the number of the certificate of naturalization is  
25 provided, the applicant shall not be included in the



1 registration rolls until the number of the certificate of  
2 naturalization is verified with the United States Bureau of  
3 Citizenship and Immigration Services by the county election  
4 officer or the Secretary of State, pursuant to 8 U.S.C. §  
5 1373(c).

6 (5) Other documents or methods of proof of United  
7 States citizenship issued by the federal government pursuant  
8 to the Immigration and Nationality Act of 1952, and amendments  
9 thereto.

10 (6) The applicant's Bureau of Indian Affairs card  
11 number, tribal treaty card number, or tribal enrollment  
12 number.

13 (7) The applicant's consular report of birth abroad  
14 of a citizen of the United States of America.

15 (8) The applicant's certificate of citizenship  
16 issued by the United States Citizenship and Immigration  
17 Services.

18 (9) The applicant's certification of report of birth  
19 issued by the United States Department of State.

20 (10) The applicant's American Indian card, with KIC  
21 classification, issued by the United States Department of  
22 Homeland Security.

23 (11) The applicant's final adoption decree showing  
24 the applicant's name and United States birthplace.

1           (12) The applicant's official United States military  
2 record of service showing the applicant's place of birth in  
3 the United States.

4           (13) An extract from a United States hospital record  
5 of birth created at the time of the applicant's birth  
6 indicating the applicant's place of birth in the United  
7 States.

8           (1) There is hereby established the State Election  
9 Board, consisting of the Secretary of State, the Attorney  
10 General, and the Lieutenant Governor. The State Election Board  
11 shall meet on the call of the Secretary of State. The State  
12 Election Board shall do both of the following:

13           (1) Assess information provided by any applicant for  
14 voter registration as evidence of citizenship pursuant to  
15 subsection (m).

16           (2) Adopt rules to implement subsection (m).

17           (m) (1) If an applicant is a United States citizen  
18 but does not have any of the documentation listed in this  
19 section as satisfactory evidence of United States citizenship,  
20 the applicant may submit any evidence that the applicant  
21 believes demonstrates the applicant's United States  
22 citizenship.

23           (2) Any applicant seeking an assessment of evidence  
24 under this section may directly contact the office of the  
25 Secretary of State by submitting a voter registration

1 application or the national voter registration form and any  
2 supporting evidence of United States citizenship. Upon receipt  
3 of this information, the Secretary of State shall notify the  
4 State Election Board that such application is pending.

5 (3) The State Election Board shall give the  
6 applicant an opportunity for a hearing, upon the applicant's  
7 request in writing, and an opportunity to present any  
8 additional evidence to the State Election Board. Notice of  
9 such hearing shall be given to the applicant at least five  
10 days prior to the hearing date. An applicant shall have the  
11 opportunity to be represented by counsel at such hearing.

12 (4) The State Election Board shall assess the  
13 evidence provided by the applicant to determine whether the  
14 applicant has provided satisfactory evidence of United States  
15 citizenship. A decision of the State Election Board shall be  
16 determined by a majority vote of the board.

17 (5) If an applicant submits an application and any  
18 supporting evidence prior to the close of registration for an  
19 election cycle, a determination by the State Election Board  
20 shall be issued at least five days before such election date.

21 (6) If the State Election Board finds that the  
22 evidence presented by the applicant constitutes satisfactory  
23 evidence of United States citizenship, the applicant shall  
24 meet the requirements under this section to provide  
25 satisfactory evidence of United States citizenship.

1           (7) If the State Election Board finds that the  
2 evidence presented by an applicant does not constitute  
3 satisfactory evidence of United States citizenship, the  
4 applicant shall have the right to appeal such determination by  
5 the State Election Board by instituting an action under 8  
6 U.S.C. § 1503. Any negative assessment of an applicant's  
7 eligibility by the State Election Board shall be reversed if  
8 the applicant obtains a declaratory judgment pursuant to 8  
9 U.S.C. § 1503, demonstrating that the applicant is a national  
10 of the United States.

11           (n) (1) The Department of Public Health shall not  
12 charge or accept any fee for a certified copy of a birth  
13 certificate if the certificate is requested by any person who  
14 is 17 years of age or older for purposes of meeting the voter  
15 registration requirements of this act. The person requesting a  
16 certified copy of a birth certificate shall swear under oath  
17 to both of the following:

18           a. That the person plans to register to vote in this  
19 state.

20           b. That the person does not possess any of the  
21 documents that constitute evidence of United States  
22 citizenship as defined in this act.

23           (2) The affidavit shall specifically list the  
24 documents that constitute evidence of United States  
25 citizenship as defined in this act.

1           Section 30. (a) For the purposes of this section,  
2 "business transaction" includes any transaction between a  
3 person and the state or a political subdivision of the state,  
4 including, but not limited to, applying for or renewing a  
5 motor vehicle license plate, applying for or renewing a  
6 driver's license or nondriver identification card, or applying  
7 for or renewing a business license. "Business transaction"  
8 does not include applying for a marriage license.

9           (b) An alien not lawfully present in the United  
10 States shall not enter into or attempt to enter into a  
11 business transaction with the state or a political subdivision  
12 of the state and no person shall enter into a business  
13 transaction or attempt to enter into a business transaction on  
14 behalf of an alien not lawfully present in the United States.

15           (c) Any person entering into a business transaction  
16 or attempting to enter into a business transaction with this  
17 state or a political subdivision of this state shall be  
18 required to demonstrate his or her United States citizenship,  
19 or if he or she is an alien, his or her lawful presence in the  
20 United States to the person conducting the business  
21 transaction on behalf of this state or a political subdivision  
22 of this state. United States citizenship shall be demonstrated  
23 by presentation of one of the documents listed in Section  
24 29(k). An alien's lawful presence in the United States shall  
25 be demonstrated by this state's or a political subdivision of

1 this state's verification of the alien's lawful presence  
2 through the Systematic Alien Verification for Entitlements  
3 program operated by the Department of Homeland Security, or by  
4 other verification with the Department of Homeland Security  
5 pursuant to 8 U.S.C. § 1373(c).

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

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

12 (f) In the enforcement of this section, an alien's  
13 immigration status shall be determined by verification of the  
14 alien's immigration status with the federal government  
15 pursuant to 8 U.S.C. § 1373(c). An official of this state or  
16 political subdivision of this state shall not attempt to  
17 independently make a final determination of whether an alien  
18 is lawfully present in the United States.

19 Section 31. Nothing in this act is in any way meant  
20 to implement, authorize, or establish the Real ID Act of 2005  
21 (P.L. 109-13, Division D; 119 Stat. 302).

22 Section 32. Although this bill would have as its  
23 purpose or effect the requirement of a new or increased  
24 expenditure of local funds, the bill is excluded from further  
25 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official Recompilation of  
2 the Constitution of Alabama of 1901, as amended, because the  
3 bill defines a new crime or amends the definition of an  
4 existing crime.

5 Section 33. The provisions of this act are  
6 severable. If any part of this act is declared invalid or  
7 unconstitutional, that declaration shall not affect the part  
8 which remains.

9 Section 34. Sections 22 and 23 of this act shall  
10 become effective immediately following the passage and  
11 approval of this act by the Governor, or its otherwise  
12 becoming law. Section 9 shall become effective on January 1,  
13 2012, following the passage and approval of this act by the  
14 Governor, or its otherwise becoming law. Section 15 shall  
15 become effective on April 1, 2012, following the passage and  
16 approval of this act by the Governor, or its otherwise  
17 becoming law. The remainder of this act shall become effective  
18 on the first day of the third month following the passage and  
19 approval of this act by the Governor, or its otherwise  
20 becoming law.

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Speaker of the House of Representatives



President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 05-APR-11, as amended.

Greg Pappas  
Clerk

Senate	05-MAY-11	Amended and Passed
House	02-JUN-11	Passed, as amended by Conference Committee Report
Senate	02-JUN-11	Passed, as amended by Conference Committee Report

APPROVED June 9, 2011  
TIME 8:30 am  
Robert Bentley  
GOVERNOR

Alabama Secretary Of State  
Act Num....: 2011-535  
Bill Num....: H-56