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3 SUBSTITUTE TO THE SUBSTITUTE FOR HB56, AS ENGROSSED  
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8 SYNOPSIS: Under existing law, the determination of who  
9 is an alien lawfully present in the United States  
10 and the enforcement of immigration laws are  
11 generally functions administered by the federal  
12 government. However, states are permitted to assist  
13 the federal government in the enforcement of  
14 immigration laws.

15 This bill would relate to illegal  
16 immigration and would: Define terms; require the  
17 Attorney General to attempt to negotiate a  
18 Memorandum of Agreement between the State of  
19 Alabama and the United States Department of Justice  
20 or the United States Department of Homeland  
21 Security concerning the enforcement of federal  
22 immigration and customs laws, detention and  
23 removals, and investigations in the state; require  
24 a person to present proof of citizenship and  
25 residency before voting; preclude any state or  
26 local government or official from refusing to  
27 assist in the enforcement of federal immigration

1 laws; prohibit an alien not lawfully present in the  
2 United States from receiving any state or local  
3 public benefits; prohibit a person not lawfully  
4 present from being eligible on the basis of  
5 residence for education benefits; require business  
6 entities or employers seeking economic incentives  
7 to verify the employment eligibility of their  
8 employees and would provide penalties; require an  
9 alien to possess certain documents already required  
10 by federal law and would provide penalties;  
11 prohibit an unauthorized alien from seeking  
12 employment in this state and would provide  
13 penalties; require the verification of the legal  
14 status of persons by law enforcement officers who  
15 contact the federal government under certain  
16 circumstances; criminalize certain behavior  
17 relating to concealing, harboring, shielding, or  
18 attempting to conceal, harbor, or shield illegal  
19 aliens and would provide penalties; create the  
20 crime of dealing in false identification documents  
21 and the crime of vital records identity fraud and  
22 would provide penalties; prohibit a business  
23 entity, employer, or public employer from knowingly  
24 employing an unauthorized alien and would provide  
25 penalties; prohibit certain deductible business  
26 expenses; make it a discriminatory practice for a  
27 business entity or employer to fail to hire a

1           legally present job applicant or discharge an  
2           employee while retaining an employee who is an  
3           unauthorized alien under certain conditions;  
4           require the verification of legal status of every  
5           alien charged with a crime for which bail is  
6           required; require law enforcement to detain any  
7           person whose lawful immigration status cannot be  
8           verified under certain conditions; require  
9           notification of the United States Bureau of  
10          Immigration and Customs Enforcement and the Alabama  
11          Department of Homeland Security when an unlawfully  
12          present alien is convicted of state law; provide  
13          for a stay of the provisions of this act when an  
14          alien unlawfully present is a victim or critical  
15          witness of a crime under certain conditions;  
16          authorize the Alabama Department of Homeland  
17          Security to hire state police officers and give the  
18          department enforcement power under certain  
19          conditions; provide penalties for solicitation,  
20          attempt, or conspiracy to violate this act; require  
21          the Alabama Department of Homeland Security to file  
22          a quarterly report with the Legislature under  
23          certain conditions; require the Alabama Department  
24          of Homeland Security to establish and maintain an  
25          E-Verify employer agent service under certain  
26          conditions; prohibit the enforcement of certain  
27          contracts under certain conditions; require public

1 schools to determine the citizenship and  
2 immigration status of students enrolling; require  
3 school districts to compile certain data and submit  
4 reports to the State Board of Education; require  
5 the State Board of Education to submit an annual  
6 report to the Legislature; further provide for  
7 eligibility and requirements for voter  
8 registration; establish a state election board;  
9 provide duties of the board; provide that a person  
10 may obtain a certified copy of a birth certificate  
11 from the Department of Public Health free of charge  
12 under certain conditions; prohibit an alien not  
13 lawfully present from entering into a business  
14 transaction under certain conditions and provide  
15 penalties; and prohibit a landlord from knowingly  
16 entering into a rental agreement to harbor an  
17 illegal alien and provide penalties.

18 Amendment 621 of the Constitution of Alabama  
19 of 1901, now appearing as Section 111.05 of the  
20 Official Recompilation of the Constitution of  
21 Alabama of 1901, as amended, prohibits a general  
22 law whose purpose or effect would be to require a  
23 new or increased expenditure of local funds from  
24 becoming effective with regard to a local  
25 governmental entity without enactment by a 2/3 vote  
26 unless: it comes within one of a number of  
27 specified exceptions; it is approved by the

1 affected entity; or the Legislature appropriates  
2 funds, or provides a local source of revenue, to  
3 the entity for the purpose.

4 The purpose or effect of this bill would be  
5 to require a new or increased expenditure of local  
6 funds within the meaning of the amendment. However,  
7 the bill does not require approval of a local  
8 governmental entity or enactment by a 2/3 vote to  
9 become effective because it comes within one of the  
10 specified exceptions contained in the amendment.

11  
12 A BILL  
13 TO BE ENTITLED  
14 AN ACT  
15

16 Relating to illegal immigration; to define terms; to  
17 require the Attorney General to attempt to negotiate a  
18 Memorandum of Agreement under certain conditions; to require a  
19 person to present proof of citizenship and residency before  
20 voting; to preclude any state or local government or official  
21 from refusing to assist the federal government in the  
22 enforcement of federal immigration laws; to prohibit an alien  
23 unlawfully present in the United States from receiving any  
24 state or local public benefits; to prohibit a person not  
25 lawfully present from being eligible on the basis of residence  
26 for education benefits; to require business entities or  
27 employers seeking economic incentives to verify the employment

1 eligibility of their employees and to provide penalties; to  
2 require an illegal alien to possess certain documents already  
3 required by federal law and to provide penalties; to prohibit  
4 an unauthorized alien from seeking employment in this state  
5 and to provide penalties; to require the verification of the  
6 legal status of persons by law enforcement officers under  
7 certain circumstances; to criminalize certain behavior  
8 relating to concealing, harboring, shielding, or attempting to  
9 conceal, harbor, or shield unauthorized aliens and to provide  
10 penalties; to create the crime of dealing in false  
11 identification documents and the crime of vital records  
12 identity fraud and to provide penalties; to prohibit a  
13 business entity, employer, or public employer from knowingly  
14 employing an unauthorized alien and to provide penalties; to  
15 prohibit certain deductible business expenses; to make it a  
16 discriminatory practice for a business entity or employer to  
17 fail to hire a legally present job applicant or discharge an  
18 employee while retaining an employee who is an unauthorized  
19 alien under certain conditions; to require the verification of  
20 legal status of every alien charged with a crime for which  
21 bail is required; to amend Section 32-6-9 of the Code of  
22 Alabama 1975, relating to driver's licenses; to require law  
23 enforcement to detain any alien whose lawful immigration  
24 status cannot be verified under certain conditions; to require  
25 notification of the United States Bureau of Immigration and  
26 Customs Enforcement and the Alabama Department of Homeland  
27 Security when an unlawfully present alien is convicted of

1 state law; to provide for a stay of the provisions of this act  
2 when an alien unlawfully present is a victim or critical  
3 witness of a crime under certain conditions; to authorize the  
4 Alabama Department of Homeland Security to hire state police  
5 officers and give the department enforcement power under  
6 certain conditions; to provide penalties for solicitation,  
7 attempt, or conspiracy to violate this act; to require the  
8 Alabama Department of Homeland Security to file a quarterly  
9 report with the Legislature under certain conditions; to  
10 require the Alabama Department of Homeland Security to  
11 establish and maintain an E-Verify employer agent service  
12 under certain conditions; to prohibit the enforcement of  
13 certain contracts under certain conditions; to require public  
14 schools to determine the citizenship and immigration status of  
15 students enrolling; to require school districts to compile  
16 certain data and submit reports to the State Board of  
17 Education; to require the State Board of Education to submit  
18 an annual report to the Legislature; to further provide for  
19 eligibility and requirements for voter registration; to  
20 establish a state election board; to provide duties of the  
21 board; to provide that a person may obtain a certified copy of  
22 a birth certificate from the Department of Public Health free  
23 of charge under certain conditions; to prohibit an alien not  
24 lawfully present from entering into a business transaction  
25 under certain conditions and provide penalties; to prohibit a  
26 landlord from knowingly entering into a rental agreement to  
27 harbor an illegal alien and provide penalties; and in

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

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 Section 2. The State of Alabama finds that illegal  
12 immigration is causing economic hardship and lawlessness in  
13 this state and that illegal immigration is encouraged when  
14 public agencies within this state provide public benefits  
15 without verifying immigration status. Because the costs  
16 incurred by school districts for the public elementary and  
17 secondary education of children who are aliens not lawfully  
18 present in the United States can adversely affect the  
19 availability of public education resources to students who are  
20 United States citizens or are aliens lawfully present in the  
21 United States, the State of Alabama determines that there is a  
22 compelling need for the State Board of Education to accurately  
23 measure and assess the population of students who are aliens  
24 not lawfully present in the United States, in order to  
25 forecast and plan for any impact that the presence such  
26 population may have on publicly funded education in this  
27 state. The State of Alabama further finds that certain



1 practices currently allowed in this state impede and obstruct  
2 the enforcement of federal immigration law, undermine the  
3 security of our borders, and impermissibly restrict the  
4 privileges and immunities of the citizens of Alabama.  
5 Therefore, the people of the State of Alabama declare that it  
6 is a compelling public interest to discourage illegal  
7 immigration by requiring all agencies within this state to  
8 fully cooperate with federal immigration authorities in the  
9 enforcement of federal immigration laws. The State of Alabama  
10 also finds that other measures are necessary to ensure the  
11 integrity of various governmental programs and services.

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

14 (1) ALIEN. Any person who is not a citizen or  
15 national of the United States, as described in 8 U.S.C. §  
16 1101, et seq., and any amendments thereto.

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

22 a. Self-employed individuals, business entities  
23 filing articles of incorporation, partnerships, limited  
24 partnerships, limited liability companies, foreign  
25 corporations, foreign limited partnerships, foreign limited  
26 liability companies authorized to transact business in this

1 state, business trusts, and any business entity that registers  
2 with the Secretary of State.

3 b. Any business entity that possesses a business  
4 license, permit, certificate, approval, registration, charter,  
5 or similar form of authorization issued by the state, any  
6 business entity that is exempt by law from obtaining such a  
7 business license, and any business entity that is operating  
8 unlawfully without a business license.

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

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

21 (5) EMPLOYER. Any person, firm, corporation,  
22 partnership, joint stock association, agent, manager,  
23 representative, foreman, or other person having control or  
24 custody of any employment, place of employment, or of any  
25 employee, including any person or entity employing any person  
26 for hire within the State of Alabama, including a public  
27 employer. This term shall not include the occupant of a

1 household contracting with another person to perform casual  
2 domestic labor within the household.

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

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

20 (8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the  
21 electronic verification of work authorization programs  
22 operated by the United States Department of Homeland Security  
23 or an equivalent federal work authorization program operated  
24 by the United States Department of Homeland Security to verify  
25 information of newly hired employees, under the Immigration  
26 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the  
27 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.

24 c. A valid tribal enrollment card or other form of  
25 tribal identification bearing a photograph or other biometric  
26 identifier.

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

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

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

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

19           (12) PROTECTIVE SERVICES PROVIDER. A child  
20 protective services worker; adult protective services worker;  
21 protective services provider; or provider of services to  
22 victims of domestic violence, stalking, sexual assault, or  
23 human trafficking that receives federal grants under the  
24 Victim of Crimes Act, the Violence Against Women Act, or the  
25 Family Violence Prevention and Services Act.

1           (13) PUBLIC EMPLOYER. Every department, agency, or  
2 instrumentality of the state or a political subdivision of the  
3 state including counties and municipalities.

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

7           (15) SUBCONTRACTOR. A subcontractor, contract  
8 employee, staffing agency, or any contractor, regardless of  
9 its tier.

10           (16) UNAUTHORIZED ALIEN. An alien who is not  
11 authorized to work in the United States as defined in 8 U.S.C.  
12 § 1324a(h) (3).

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

21           (b) The Memorandum of Agreement negotiated pursuant  
22 to subsection (a) shall be signed on behalf of this state by  
23 the Attorney General and the Governor or as otherwise required  
24 by the appropriate federal agency.

25           (c) A report of the results of the attempt of the  
26 Attorney General to enter into a Memorandum of Agreement shall

1 be submitted to the Legislature within six months of the  
2 effective date of this act.

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

24 (b) All state officials, agencies, and personnel,  
25 including, but not limited to, an officer of a court of this  
26 state, shall fully comply with and, to the full extent  
27 permitted by law, support the enforcement of federal law

1 prohibiting the entry into, presence, or residence in the  
2 United States of aliens in violation of federal immigration  
3 law.

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

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

16 (2) Verifying any claim of residence or domicile if  
17 determination of residence or domicile is required under the  
18 laws of this state or a judicial order issued pursuant to a  
19 civil or criminal proceeding of this state.

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

21 (d) A person who is a United States citizen or an  
22 alien who is lawfully present in the United States and is a  
23 resident of this state may bring an action in circuit court to  
24 challenge any official or head of an agency of this state or  
25 political subdivision thereof, including, but not limited to,  
26 an officer of a court in this state, that adopts or implements  
27 a policy or practice that is in violation of 8 U.S.C. § 1373



1 or 8 U.S.C. § 1644. If there is a judicial finding that an  
2 official or head of an agency, including, but not limited to,  
3 an officer of a court in this state, has violated this  
4 section, the court shall order that the officer, official, or  
5 head of an agency pay a civil penalty of not less than one  
6 thousand dollars (\$1,000) and not more than five thousand  
7 dollars (\$5,000) for each day that the policy or practice has  
8 remained in effect after the filing of an action pursuant to  
9 this section.

10 (e) A court shall collect the civil penalty  
11 prescribed in subsection (d) and remit one half of the civil  
12 penalty to the Alabama Department of Homeland Security and the  
13 second half shall be remitted to the Department of Public  
14 Safety.

15 (f) Every person working for the State of Alabama or  
16 a political subdivision thereof, including, but not limited  
17 to, a law enforcement agency in the State of Alabama or a  
18 political subdivision thereof, shall have a duty to report  
19 violations of this act. Any person who willfully fails to  
20 report any violation of this act when the person knows that  
21 this act is being violated shall be guilty of obstructing  
22 governmental operations as defined in Section 13A-10-2 of the  
23 Code of Alabama 1975.

24 (g) For the purposes of this section, the term  
25 "official or head of an agency of this state" shall not  
26 include a law enforcement officer or other personnel employed

1 in a jail who is acting within the line and scope of his or  
2 her duty.

3 (h) For the purposes of this act, any proceedings  
4 against an official shall be only in his or her official  
5 capacity. Each side on any litigation considered within this  
6 act shall bear their own costs and fees associated with the  
7 litigation unless otherwise ordered by the court. For the  
8 purposes of this act, the relevant statute of repose for  
9 assessing penalties shall be no more than 30 days prior to the  
10 initial allegation of the violations of this act.

11 Section 6. (a) No official or agency of this state  
12 or any political subdivision thereof, including, but not  
13 limited to, an officer of a court of this state, may adopt a  
14 policy or practice that limits or restricts the enforcement of  
15 this act to less than the full extent permitted by this act or  
16 that in any way limits communication between its officers or  
17 officials in furtherance of the enforcement of this act. If,  
18 in the judgment of the Attorney General of Alabama, an  
19 official or agency of this state or any political subdivision  
20 thereof, including, but not limited to, an officer of a court  
21 of this state, is in violation of this subsection, the  
22 Attorney General shall report any violation of this subsection  
23 to the Governor and the state Comptroller and that agency or  
24 political subdivision shall not be eligible to receive any  
25 funds, grants, or appropriations from the State of Alabama  
26 until such violation has ceased and the Attorney General has  
27 so certified.

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

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

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

17 (2) Verifying any claim of residence or domicile if  
18 determination of residence or domicile is required under the  
19 laws of this state or a judicial order issued pursuant to a  
20 civil or criminal proceeding of this state.

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

22 (d) A person who is a United States citizen or an  
23 alien who is lawfully present in the United States and is a  
24 resident of this state may bring an action in circuit court to  
25 challenge any official or head of an agency of this state or  
26 political subdivision thereof, including, but not limited to,  
27 an officer of a court in this state, that adopts or implements

1 a policy or practice that limits or restricts the enforcement  
2 of this act to less than the full extent permitted by this  
3 act. Such person shall have actual knowledge that any official  
4 or head of an agency of this state or political subdivision  
5 thereof, including, but not limited to, an officer of a court  
6 in this state, has adopted or implemented a policy or practice  
7 that limits or restricts the enforcement of this act to less  
8 than the full extent permitted by this act. If there is a  
9 judicial finding that an official or head of an agency,  
10 including, but not limited to, an officer of a court in this  
11 state, has violated this section, the court shall order that  
12 the officer, official, or head of an agency pay a civil  
13 penalty of not less than one thousand dollars (\$1,000) and not  
14 more than five thousand dollars (\$5,000) for each day that the  
15 policy or practice has remained in effect after the filing of  
16 an action pursuant to this section.

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

22 (f) Every person working for the State of Alabama or  
23 a political subdivision thereof, including, but not limited  
24 to, a law enforcement agency in the State of Alabama or a  
25 political subdivision thereof, shall have a duty to report  
26 violations of this act. Failure to report any violation of  
27 this act when there is reasonable cause to believe that this

1 act is being violated is guilty of obstructing governmental  
2 operations as defined in Section 13A-10-2, Code of Alabama  
3 1975, and shall be punishable pursuant to state law.

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

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

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

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

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

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

21 (c) Except as otherwise provided in subsection (e)  
22 or where exempted by federal law, commencing on the effective  
23 date of this act, each agency or political subdivision of the  
24 state shall verify with the federal government the lawful  
25 presence in the United States of each alien who applies for  
26 state or local public benefits, pursuant to 8 U.S.C. §§  
27 1373(c), 1621, and 1625.

1           (d) An agency of this state or a county, city, town,  
2 or other political subdivision of this state may not consider  
3 race, color, or national origin in the enforcement of this  
4 section.

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

7           (1) For primary or secondary school education, and  
8 state or local public benefits that are listed in 8 U.S.C. §  
9 1621(b).

10           (2) For obtaining health care items and services  
11 that are necessary for the treatment of an emergency medical  
12 condition of the person involved and are not related to an  
13 organ transplant procedure.

14           (3) For short term, noncash, in kind emergency  
15 disaster relief.

16           (4) For public health assistance for immunizations  
17 with respect to immunizable diseases, for the Special  
18 Supplemental Nutrition Program for Women, Infants, and  
19 Children, and for testing and treatment of symptoms of  
20 communicable diseases, whether or not such symptoms are caused  
21 by a communicable disease.

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

1           a. Deliver in-kind services at the community level,  
2 including services through public or private nonprofit  
3 agencies.

4           b. Do not condition the provision of assistance, the  
5 amount of assistance provided, or the cost of assistance  
6 provided on the income or resources of the individual  
7 recipient.

8           c. Are necessary for the protection of life or  
9 safety.

10           (6) For prenatal care.

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

13           (f) No official of this state or political  
14 subdivision of this state shall attempt to independently make  
15 a final determination of whether an alien is lawfully present  
16 in the United States. An alien's lawful presence in the United  
17 States shall be verified by the federal government pursuant to  
18 8 U.S.C. § 1373(c).

19           (g) Any United States citizen applying for state or  
20 local public benefits, except those benefits described in  
21 subsection (e), shall sign a declaration that he or she is a  
22 United States citizen.

23           (h) Any person who knowingly makes a false,  
24 fictitious, or fraudulent statement or representation in a  
25 declaration executed pursuant to subsection (g) shall be  
26 guilty of perjury in the second degree pursuant to Section  
27 13A-10-102, Code of Alabama 1975. Each time that a person

1 receives a public benefit based upon such a statement or  
2 representation shall constitute a separate violation of  
3 Section 13A-10-102, Code of Alabama 1975.

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

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

22 (k) Errors and significant delays resulting from use  
23 of the SAVE program shall be reported to the United States  
24 Department of Homeland Security and to the Alabama Department  
25 of Homeland Security to assist the federal government in  
26 ensuring that the application of the SAVE program is not



1 wrongfully denying benefits to aliens lawfully present in the  
2 United States.

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

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

25 Section 9. (a) As a condition for the award of any  
26 contract, grant, or incentive by the state, any political  
27 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  
25 documentation establishing that the subcontractor is enrolled  
26 in the E-Verify program.

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

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

1 an unauthorized alien in this state. Before a business license  
2 or permit that has been suspended under this subsection is  
3 reinstated, a legal representative of the business entity or  
4 employer shall submit to the court a signed, sworn affidavit  
5 stating that the business entity or employer is in compliance  
6 with the provisions of this act and a copy of the Memorandum  
7 of Understanding issued to the business entity or employer at  
8 the time of enrollment in E-Verify.

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

21 (f) (1) Upon the first violation of subsection (c) by  
22 a subcontractor, the state or political subdivision thereof  
23 may bar the subcontractor from doing business with the state,  
24 any political subdivision thereof, any state-funded entity, or  
25 with any contractor who contracts with the state, any  
26 political subdivision thereof, or any state-funded entity  
27 after providing notice and an opportunity to be heard. Upon

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

19 (2) Upon a second or subsequent violation of  
20 subsection (c) by a subcontractor and upon application by the  
21 state entity or political subdivision thereof, or state-funded  
22 entity, the Attorney General may bring an action to  
23 permanently suspend the business licenses of the business  
24 entity or employer according to the procedures described in  
25 Section 15. The determination of a violation shall be  
26 according to the procedures described in Section 15.

1 (g) A business entity or employer that complies with  
2 subsection (b) shall not be found to be in violation of  
3 subsection (a). A subcontractor that is enrolled in the  
4 E-Verify program during the full period of performance of the  
5 subcontract shall not be found to be in violation of  
6 subsection (c).

7 (h) The Secretary of State shall adopt rules to  
8 administer this section and shall report any rules adopted to  
9 the Legislature.

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

14 (j) The suspension of a business license or permit  
15 under subsection (e)(1) and (f)(1) shall terminate one  
16 business day after a legal representative of the business  
17 entity, employer, or subcontractor submits a signed, sworn  
18 affidavit stating that the business entity, employer, or  
19 subcontractor is in compliance with the provisions of this act  
20 to the court.

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

26 (b) In the enforcement of this section, an alien's  
27 immigration status shall be determined by verification of the

1 alien's immigration status with the federal government  
2 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
3 shall not attempt to independently make a final determination  
4 of whether an alien is lawfully present in the United States.

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

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

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

25 (f) An alien unlawfully present in the United States  
26 who is in violation of this section shall be guilty of a Class

1 C misdemeanor and subject to a fine of not more than one  
2 hundred dollars (\$100) and not more than 30 days in jail.

3 (g) A court shall collect the assessments prescribed  
4 in subsection (f) and remit 50 percent of the assessments to  
5 the general fund of the local government where the person was  
6 apprehended to be earmarked for law enforcement purposes, 25  
7 percent of the assessments to the Alabama Department of  
8 Homeland Security, and 25 percent of the assessments to the  
9 Department of Public Safety.

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

14 (b) In the enforcement of this section, an alien's  
15 immigration status shall be determined by verification of the  
16 alien's immigration status with the federal government  
17 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
18 shall not attempt to independently make a final determination  
19 on whether an alien is authorized to work in the United  
20 States.

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



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

4 (e) Any record that relates to the employment  
5 authorization of a person is admissible in any court of this  
6 state without further foundation or testimony from a custodian  
7 of records if the record is certified as authentic by the  
8 federal government agency that is responsible for maintaining  
9 the record. A verification of an alien's immigration status  
10 received from the federal government pursuant to 8 U.S.C. §  
11 1373(c) shall constitute proof of that alien's status. A court  
12 of this state shall consider only the federal government's  
13 verification in determining whether a person is an  
14 unauthorized alien.

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

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

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

1 (i) A court shall collect the assessments prescribed  
2 in subsection (h) and remit 50 percent of the assessments to  
3 the general fund of the local government where the person was  
4 apprehended to be earmarked for law enforcement purposes, 25  
5 percent of the assessments to the Alabama Department of  
6 Homeland Security, and 25 percent of the assessments to the  
7 Department of Public Safety.

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

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

23 (b) Any alien who is arrested and booked into  
24 custody shall have his or her immigration status determined  
25 pursuant to 8 U.S.C. § 1373(c). The alien's immigration status  
26 shall be verified by contacting the federal government  
27 pursuant to 8 U.S.C. § 1373(c) within 24 hours of the time of

1 the alien's arrest. If for any reason federal verification  
2 pursuant to 8 U.S.C. § 1373(c) is delayed beyond the time that  
3 the alien would otherwise be released from custody, the alien  
4 shall be released from custody.

5 (c) A law enforcement officer shall not attempt to  
6 independently make a final determination of whether an alien  
7 is lawfully present in the United States. A law enforcement  
8 officer may not consider race, color, or national origin in  
9 implementing the requirements of this section except to the  
10 extent permitted by the United States Constitution or the  
11 Constitution of Alabama of 1901.

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

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

16 (2) A valid, unexpired Alabama nondriver  
17 identification card.

18 (3) A valid tribal enrollment card or other form of  
19 tribal identification bearing a photograph or other biometric  
20 identifier.

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

26 (5) A foreign passport with an unexpired United  
27 States Visa and a corresponding stamp or notation by the

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

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

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

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

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

23 (2) Encourage or induce an alien to come to or  
24 reside in this state if the person knows or recklessly  
25 disregards the fact that such coming to, entering, or residing  
26 in the United States is or will be in violation of federal  
27 law.

1           (3) Transport, or attempt to transport, or conspire  
2 to transport in this state an alien in furtherance of the  
3 unlawful presence of the alien in the United States,  
4 knowingly, or in reckless disregard of the fact, that the  
5 alien has come to, entered, or remained in the United States  
6 in violation of federal law. Conspiracy to be so transported  
7 shall be a violation of this subdivision.

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

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

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

24           (d) Notwithstanding any other law, a law enforcement  
25 agency may securely transport an alien whom the agency has  
26 received verification from the federal government pursuant to  
27 8 U.S.C. § 1373(c) is unlawfully present in the United States

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

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

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

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

25 (h) Any record that relates to the immigration  
26 status of a person is admissible in any court of this state  
27 without further foundation or testimony from a custodian of

1 records if the record is certified as authentic by the federal  
2 government agency that is responsible for maintaining the  
3 record. A verification of an alien's immigration status  
4 received from the federal government pursuant to 8 U.S.C. §  
5 1373(c) shall constitute proof of that alien's status. A court  
6 of this state shall consider only the federal government's  
7 verification in determining whether an alien is lawfully  
8 present in the United States.

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

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

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

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

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

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

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

4           (c) (1) Dealing in false identification documents is  
5 a Class C felony.

6           (2) Vital records identity fraud is a Class C  
7 felony.

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

10           (1) A person less than 21 years of age who uses the  
11 identification document of another person to acquire an  
12 alcoholic beverage.

13           (2) A person less than 19 years of age who uses the  
14 identification documents of another person to acquire any of  
15 the following:

16           a. Cigarettes or tobacco products.

17           b. A periodical, videotape, or other communication  
18 medium that contains or depicts nudity.

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

21           d. An item that is prohibited by law for use or  
22 consumption by such person.

23           (e) As used in this section, "identification  
24 document" means any card, certificate, or document or banking  
25 instrument, including, but not limited to, a credit or debit  
26 card, which identifies or purports to identify the bearer of  
27 such document, whether or not intended for use as



1 identification, and includes, but is not limited to, documents  
2 purporting to be drivers' licenses, nondriver identification  
3 cards, certified copies of birth, death, marriage, and divorce  
4 certificates, Social Security cards, and employee  
5 identification cards.

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

17 Section 15. (a) No business entity, employer, or  
18 public employer shall knowingly employ, hire for employment,  
19 or continue to employ an unauthorized alien to perform work  
20 within the State of Alabama. Knowingly employ, hire for  
21 employment, or continue to employ an unauthorized alien means  
22 the actions described in 8 U.S.C. § 1324a.

23 (b) Effective April 1, 2012, every business entity  
24 or employer in this state shall enroll in E-Verify and  
25 thereafter, according to the federal statutes and regulations  
26 governing E-Verify, shall verify the employment eligibility of  
27 the employee through E-Verify. A business entity or employer

1 that uses E-Verify to verify the work authorization of an  
2 employee shall not be deemed to have violated this section  
3 with respect to the employment of that employee.

4 (c) On a finding of a first violation by a court of  
5 competent jurisdiction that a business entity or employer  
6 knowingly violated subsection (a), the court shall do all of  
7 the following:

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

10 (2) Subject the business entity or employer to a  
11 three-year probationary period throughout the state. During  
12 the probationary period, the business entity or employer shall  
13 file quarterly reports with the local district attorney of  
14 each new employee who is hired by the business entity or  
15 employer in the state.

16 (3) Order the business entity or employer to file a  
17 signed, sworn affidavit with the local district attorney  
18 within three days after the order is issued by the court  
19 stating that the business entity or employer has terminated  
20 the employment of every unauthorized alien and the business  
21 entity or employer will not knowingly or intentionally employ  
22 an unauthorized alien in this state.

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

1 (d) (1) Before a business license or permit that has  
2 been suspended under subsection (c) is reinstated, a legal  
3 representative of the business entity or employer shall submit  
4 to the court a signed, sworn affidavit stating that the  
5 business entity or employer is in compliance with the  
6 provisions of this act and a copy of the Memorandum of  
7 Understanding issued to the business entity or employer at the  
8 time of enrollment in E-Verify.

9 (2) The suspension of a business license or permit  
10 under subsection (c) shall terminate one business day after a  
11 legal representative of the business entity or employer  
12 submits a signed, sworn affidavit stating that the business  
13 entity or employer is in compliance with the provisions of  
14 this act to the court.

15 (e) For a second violation of subsection (a) by a  
16 business entity or employer, the court shall direct the  
17 applicable state, county, or municipal governing body to  
18 permanently revoke all business licenses and permits, if such  
19 exist, held by the business entity or employer specific to the  
20 business location where the unauthorized alien performed work.  
21 On receipt of the order, and notwithstanding any other law,  
22 the appropriate agencies shall immediately revoke the licenses  
23 and permits held by the business entity or employer.

24 (f) For a subsequent violation of subsection (a),  
25 the court shall direct the applicable governing bodies to  
26 forever suspend the business licenses and permits, if such

1 exist, of the business entity or employer throughout the  
2 state.

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

11 (h) 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 (i) Any business entity or employer that terminates  
22 an employee to comply with this section shall not be liable  
23 for any claims made against the business entity or employer by  
24 the terminated employee, provided that such termination is  
25 made without regard to the race, ethnicity, or national origin  
26 of the employee and that such termination is consistent with

1 the anti-discrimination laws of this state and of the United  
2 States.

3 (j) If any agency of the state or any political  
4 subdivision thereof fails to suspend the business licenses or  
5 permits, if such exist, as a result of a violation of this  
6 section, the agency shall be deemed to have violated  
7 subsection (a) of Section 5 and shall be subject to the  
8 penalties thereunder.

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

13 (1) Any resident of this state may petition the  
14 Attorney General to bring an enforcement action against a  
15 specific business entity or employer by means of a written,  
16 signed petition. A valid petition shall include an allegation  
17 that describes the alleged violator or violators, as well as  
18 the action constituting the violation, and the date and  
19 location where the action occurred.

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

23 (3) The Attorney General shall respond to any  
24 petition under this subdivision within 60 days of receiving  
25 the petition, either by filing a civil complaint in a court of  
26 competent jurisdiction or by informing the petitioner in

1 writing that the Attorney General has determined that filing a  
2 civil complaint is not warranted.

3 (1) This section does not apply to the relationship  
4 between a party and the employees of an independent contractor  
5 performing work for the party and does not apply to casual  
6 domestic labor performed within a household.

7 (m) It is an affirmative defense to a violation of  
8 subsection (a) of this section that a business entity or  
9 employer was entrapped.

10 (1) To claim entrapment, the business entity or  
11 employer must admit by testimony or other evidence the  
12 substantial elements of the violation.

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

16 a. The idea of committing the violation started with  
17 law enforcement officers or their agents rather than with the  
18 business entity or employer.

19 b. The law enforcement officers or their agents  
20 urged and induced the business entity or employer to commit  
21 the violation.

22 c. The business entity or employer was not already  
23 predisposed to commit the violation before the law enforcement  
24 officers or their agents urged and induced the employer to  
25 commit the violation.

26 (n) In addition to actions taken by the state or  
27 political subdivisions thereof, the Attorney General or the

1 district attorney of the relevant county may bring an action  
2 to enforce the requirements of this section in any county  
3 district court of this state wherein the business entity or  
4 employer does business.

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

8 Section 16. (a) No wage, compensation, whether in  
9 money or in kind or in services, or remuneration of any kind  
10 for the performance of services paid to an unauthorized alien  
11 shall be allowed as a deductible business expense for any  
12 state income or business tax purposes in this state. This  
13 subsection shall apply whether or not an Internal Revenue  
14 Service Form 1099 is issued in conjunction with the wages or  
15 remuneration.

16 (b) Any business entity or employer who knowingly  
17 fails to comply with the requirements of this section shall be  
18 liable for a penalty equal to 10 times the business expense  
19 deduction claimed in violation of subsection (a). The penalty  
20 provided in this subsection shall be payable to the Alabama  
21 Department of Revenue.

22 Section 17. (a) It shall be a discriminatory  
23 practice for a business entity or employer to fail to hire a  
24 job applicant who is a United States citizen or an alien who  
25 is authorized to work in the United States as defined in 8  
26 U.S.C. § 1324a(h) (3) or discharge an employee working in  
27 Alabama who is a United States citizen or an alien who is

1 authorized to work in the United States as defined in 8 U.S.C.  
2 § 1324a(h) (3) while retaining or hiring an employee who the  
3 business entity or employer knows, or reasonably should have  
4 known, is an unauthorized alien.

5 (b) A violation of subsection (a) may be the basis  
6 of a civil action in the state courts of this state. Any  
7 recovery under this subsection shall be limited to  
8 compensatory relief and shall not include any civil or  
9 criminal sanctions against the employer.

10 (c) The losing party in any civil action shall pay  
11 the court costs and reasonable attorneys fees for the  
12 prevailing party; however, the losing party shall only pay the  
13 attorneys fees of the prevailing party up to the amount paid  
14 by the losing party for his or her own attorneys fees.

15 (d) The amount of the attorneys fees spent by each  
16 party shall be reported to the court before the verdict is  
17 rendered.

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



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

3           "§32-6-9.

4           "(a) Every licensee shall have his or her license in  
5 his or her immediate possession at all times when driving a  
6 motor vehicle and shall display the same, upon demand of a  
7 judge of any court, a peace officer or a state trooper.  
8 However, no person charged with violating this section shall  
9 be convicted if he or she produces in court or the office of  
10 the arresting officer a driver's license theretofore issued to  
11 him or her and valid at the time of his or her arrest.

12           "(b) Notwithstanding the provisions of Section  
13 32-1-4, if a law officer arrests a person for a violation of  
14 this section and the officer is unable to determine by any  
15 other means that the person has a valid driver's license, the  
16 officer shall transport the person to the nearest or most  
17 accessible magistrate.

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

25           "(d) A verification inquiry, pursuant to 8 U.S.C. §  
26 1373(c), shall be made within 48 hours to the Law Enforcement  
27 Support Center of the United States Department of Homeland

1 Security or other office or agency designated for that purpose  
2 by the federal government. If the person is determined to be  
3 an alien unlawfully present in the United States, the person  
4 shall be considered a flight risk and shall be detained until  
5 prosecution or until handed over to federal immigration  
6 authorities."

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

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

22 Section 20. If an alien who is unlawfully present in  
23 the United States is convicted of a violation of state or  
24 local law and is within 30 days of release or has paid any  
25 fine as required by operation of law, the agency responsible  
26 for his or her incarceration shall notify the United States  
27 Bureau of Immigration and Customs Enforcement and the Alabama

1 Department of Homeland Security, pursuant to 8 U.S.C. § 1373.  
2 The Alabama Department of Homeland Security shall assist in  
3 the coordination of the transfer of the prisoner to the  
4 appropriate federal immigration authorities; however, the  
5 Alabama Department of Corrections shall maintain custody  
6 during any transfer of the individual.

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

17 Section 22. (a) Notwithstanding the provisions of  
18 Section 31-9A-9 of the Code of Alabama 1975, the Alabama  
19 Department of Homeland Security may hire, appoint, and  
20 maintain APOST certified state law enforcement officers. Such  
21 officers shall receive the same rights and benefits as those  
22 prescribed to officers of the Alabama Department of Public  
23 Safety, except for the purposes of retirement. The officers  
24 shall have the same retirement benefits as a law enforcement  
25 officer as defined under Section 36-27-59 of the Code of  
26 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  
26 government in its efforts to apprehend illegal aliens in the  
27 State of Alabama. At the start of the 2013 fiscal year, the

1 report shall be filed twice a year. At the start of the 2015  
2 fiscal year, the report is required annually. This report  
3 shall also be made available to the public and shall be  
4 announced through a press release from the Attorney General's  
5 office.

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

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

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

20 (d) For the purposes of this section, conspiracy  
21 shall have the same principles of liability and defenses as  
22 criminal conspiracy under subsections (b) through (f) of  
23 Section 13A-4-3, Code of Alabama 1975, and Sections 13A-4-4  
24 and 13A-4-5, Code of Alabama 1975.

25 Section 26. (a) (1) The Alabama Department of  
26 Homeland Security shall establish and maintain an E-Verify  
27 employer agent service for any business entity or employer in

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

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

21 (b) On or after January 1, 2012, before receiving  
22 any contract, grant, or incentive by the state, any political  
23 subdivision thereof, or any state-funded entity, a business  
24 entity or employer shall provide proof to the state, political  
25 subdivision thereof, or state-funded entity that the business  
26 entity or employer is enrolled and is participating in the  
27 E-Verify program, either independently or through the Alabama

1 Department of Homeland Security E-Verify employer agent  
2 service.

3 (c) Every three months, the Alabama Department of  
4 Homeland Security shall request from the United States  
5 Department of Homeland Security a list of every business  
6 entity or employer in this state that is enrolled in the  
7 E-Verify program. On receipt of the list, the Alabama  
8 Department of Homeland Security shall make the list available  
9 on its website.

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

18 Section 27. (a) No court of this state shall enforce  
19 the terms of, or otherwise regard as valid, any contract  
20 between a party and an alien unlawfully present in the United  
21 States, if the party had direct or constructive knowledge that  
22 the alien was unlawfully present in the United States at the  
23 time the contract was entered into, and the performance of the  
24 contract required the alien to remain unlawfully present in  
25 the United States for more than 24 hours after the time the  
26 contract was entered into or performance could not reasonably  
27 be expected to occur without such remaining.

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

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

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

18           Section 28. (a) (1) Every public elementary and  
19 secondary school in this state, at the time of enrollment in  
20 kindergarten or any grade in such school, shall determine  
21 whether the student enrolling in public school was born  
22 outside the jurisdiction of the United States or is the child  
23 of an alien not lawfully present in the United States and  
24 qualifies for assignment to an English as Second Language  
25 class or other remedial program.

26           (2) The public school, when making the determination  
27 required by subdivision (1), shall rely upon presentation of



1 the student's original birth certificate, or a certified copy  
2 thereof.

3 (3) If, upon review of the student's birth  
4 certificate, it is determined that the student was born  
5 outside the jurisdiction of the United States or is the child  
6 of an alien not lawfully present in the United States, or  
7 where such certificate is not available for any reason, the  
8 parent, guardian, or legal custodian of the student shall  
9 notify the school within 30 days of the date of the student's  
10 enrollment of the actual citizenship or immigration status of  
11 the student under federal law.

12 (4) Notification shall consist of both of the  
13 following:

14 a. The presentation for inspection, to a school  
15 official designated for such purpose by the school district in  
16 which the child is enrolled, of official documentation  
17 establishing the citizenship and, in the case of an alien, the  
18 immigration status of the student, or alternatively by  
19 submission of a notarized copy of such documentation to such  
20 official.

21 b. Attestation by the parent, guardian, or legal  
22 custodian, under penalty of perjury, that the document states  
23 the true identity of the child. If the student or his or her  
24 parent, guardian, or legal representative possesses no such  
25 documentation but nevertheless maintains that the student is  
26 either a United States citizen or an alien lawfully present in  
27 the United States, the parent, guardian, or legal

1 representative of the student may sign a declaration so  
2 stating, under penalty of perjury.

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

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

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

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

14 (2) The report shall provide data, aggregated by  
15 public school, regarding the numbers of United States  
16 citizens, of lawfully present aliens by immigration  
17 classification, and of aliens believed to be unlawfully  
18 present in the United States enrolled at all primary and  
19 secondary public schools in this state. The report shall also  
20 provide the number of students in each category participating  
21 in English as a Second Language Programs enrolled at such  
22 schools.

23 (3) The report shall analyze and identify the  
24 effects upon the standard or quality of education provided to  
25 students who are citizens of the United States residing in  
26 Alabama that may have occurred, or are expected to occur in

1 the future, as a consequence of the enrollment of students who  
2 are aliens not lawfully present in the United States.

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

9 (5) The State Board of Education shall prepare and  
10 issue objective baseline criteria for identifying and  
11 assessing the other educational impacts on the quality of  
12 education provided to students who are citizens of the United  
13 States, due to the enrollment of aliens who are not lawfully  
14 present in the United states, in addition to the statistical  
15 data on citizenship and immigration status and English as a  
16 Second Language enrollment required by this act. The State  
17 Board of Education may contract with reputable scholars and  
18 research institutions to identify and validate such criteria.  
19 The State Board of Education shall assess such educational  
20 impacts and include such assessments in its reports to the  
21 Legislature.

22 (e) Public disclosure by any person of information  
23 obtained pursuant to this section which personally identifies  
24 any student shall be unlawful, except for purposes permitted  
25 pursuant to 8 U.S.C. §§ 1373 and 1644. Any person intending to  
26 make a public disclosure of information that is classified as  
27 confidential under this section, on the ground that such

1 disclosure constitutes a use permitted by federal law, shall  
2 first apply to the Attorney General and receive a waiver of  
3 confidentiality from the requirements of this subsection.

4 (f) A student whose personal identity has been  
5 negligently or intentionally disclosed in violation of this  
6 section shall be deemed to have suffered an invasion of the  
7 student's right to privacy. The student shall have a civil  
8 remedy for such violation against the agency or person that  
9 has made the unauthorized disclosure.

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

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

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

24 (b) The Secretary of State shall create a process  
25 for the county election officer to check to indicate whether  
26 an applicant has provided with the application the information  
27 necessary to assess the eligibility of the applicant,

1 including the applicant's United States citizenship. This  
2 section shall be interpreted and applied in accordance with  
3 federal law. No eligible applicant whose qualifications have  
4 been assessed shall be denied registration.

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

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

22 (e) For purposes of this section, proof of voter  
23 registration from another state is not satisfactory evidence  
24 of United States citizenship.

25 (f) A registered voter who moves from one residence  
26 to another within the state or who modifies his or her voter

1 registration records for any other reason shall not be  
2 required to submit evidence of United States citizenship.

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

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

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

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

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

24 (j) Nothing in this section shall prohibit an  
25 applicant from providing, or the Secretary of State or county  
26 election officer from obtaining, satisfactory evidence of  
27 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  
26 registration rolls until the number of the certificate of  
27 naturalization is verified with the United States Bureau of

1       Citizenship and Immigration Services by the county election  
2       officer or the Secretary of State, pursuant to 8 U.S.C. §  
3       1373(c).

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

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

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

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

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

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

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

23              (12) The applicant's official United States military  
24      record of service showing the applicant's place of birth in  
25      the United States.

26              (13) An extract from a United States hospital record  
27      of birth created at the time of the applicant's birth



1 indicating the applicant's place of birth in the United  
2 States.

3 (1) There is hereby established the State Election  
4 Board, consisting of the Secretary of State, the Attorney  
5 General, and the Lieutenant Governor. The State Election Board  
6 shall meet on the call of the Secretary of State. The State  
7 Election Board shall do both of the following:

8 (1) Assess information provided by any applicant for  
9 voter registration as evidence of citizenship pursuant to  
10 subsection (m).

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

12 (m)(1) If an applicant is a United States citizen  
13 but does not have any of the documentation listed in this  
14 section as satisfactory evidence of United States citizenship,  
15 the applicant may submit any evidence that the applicant  
16 believes demonstrates the applicant's United States  
17 citizenship.

18 (2) Any applicant seeking an assessment of evidence  
19 under this section may directly contact the office of the  
20 Secretary of State by submitting a voter registration  
21 application or the national voter registration form and any  
22 supporting evidence of United States citizenship. Upon receipt  
23 of this information, the Secretary of State shall notify the  
24 State Election Board that such application is pending.

25 (3) The State Election Board shall give the  
26 applicant an opportunity for a hearing, upon the applicant's  
27 request in writing, and an opportunity to present any

1 additional evidence to the State Election Board. Notice of  
2 such hearing shall be given to the applicant at least five  
3 days prior to the hearing date. An applicant shall have the  
4 opportunity to be represented by counsel at such hearing.

5 (4) The State Election Board shall assess the  
6 evidence provided by the applicant to determine whether the  
7 applicant has provided satisfactory evidence of United States  
8 citizenship. A decision of the State Election Board shall be  
9 determined by a majority vote of the board.

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

14 (6) If the State Election Board finds that the  
15 evidence presented by the applicant constitutes satisfactory  
16 evidence of United States citizenship, the applicant shall  
17 meet the requirements under this section to provide  
18 satisfactory evidence of United States citizenship.

19 (7) If the State Election Board finds that the  
20 evidence presented by an applicant does not constitute  
21 satisfactory evidence of United States citizenship, the  
22 applicant shall have the right to appeal such determination by  
23 the State Election Board by instituting an action under 8  
24 U.S.C. § 1503. Any negative assessment of an applicant's  
25 eligibility by the State Election Board shall be reversed if  
26 the applicant obtains a declaratory judgment pursuant to 8

1 U.S.C. § 1503, demonstrating that the applicant is a national  
2 of the United States.

3 (n) (1) The Department of Public Health shall not  
4 charge or accept any fee for a certified copy of a birth  
5 certificate if the certificate is requested by any person who  
6 is 17 years of age or older for purposes of meeting the voter  
7 registration requirements of this act. The person requesting a  
8 certified copy of a birth certificate shall swear under oath  
9 to both of the following:

10 a. That the person plans to register to vote in this  
11 state.

12 b. That the person does not possess any of the  
13 documents that constitute evidence of United States  
14 citizenship as defined in this act.

15 (2) The affidavit shall specifically list the  
16 documents that constitute evidence of United States  
17 citizenship as defined in this act.

18 Section 30. (a) For the purposes of this section,  
19 "business transaction" includes any transaction between a  
20 person and the state or a political subdivision of the state,  
21 including, but not limited to, applying for or renewing a  
22 motor vehicle license plate, applying for or renewing a  
23 driver's license or nondriver identification card, or applying  
24 for or renewing a business license. "Business transaction"  
25 does not include applying for a marriage license.

26 (b) An alien not lawfully present in the United  
27 States shall not enter into or attempt to enter into a

1 business transaction with the state or a political subdivision  
2 of the state and no person shall enter into a business  
3 transaction or attempt to enter into a business transaction on  
4 behalf of an alien not lawfully present in the United States.

5 (c) Any person entering into a business transaction  
6 or attempting to enter into a business transaction with this  
7 state or a political subdivision of this state shall be  
8 required to demonstrate his or her United States citizenship,  
9 or if he or she is an alien, his or her lawful presence in the  
10 United States to the person conducting the business  
11 transaction on behalf of this state or a political subdivision  
12 of this state. United States citizenship shall be demonstrated  
13 by presentation of one of the documents listed in Section  
14 29(k). An alien's lawful presence in the United States shall  
15 be demonstrated by this state's or a political subdivision of  
16 this state's verification of the alien's lawful presence  
17 through the Systematic Alien Verification for Entitlements  
18 program operated by the Department of Homeland Security, or by  
19 other verification with the Department of Homeland Security  
20 pursuant to 8 U.S.C. § 1373(c).

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

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

1 (f) 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). An official of this state or  
5 political subdivision of this state shall not attempt to  
6 independently make a final determination of whether an alien  
7 is lawfully present in the United States.

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

11 Section 32. Although this bill would have as its  
12 purpose or effect the requirement of a new or increased  
13 expenditure of local funds, the bill is excluded from further  
14 requirements and application under Amendment 621, now  
15 appearing as Section 111.05 of the Official Recompilation of  
16 the Constitution of Alabama of 1901, as amended, because the  
17 bill defines a new crime or amends the definition of an  
18 existing crime.

19 Section 33. The provisions of this act are  
20 severable. If any part of this act is declared invalid or  
21 unconstitutional, that declaration shall not affect the part  
22 which remains.

23 Section 34. Sections 22 and 23 of this act shall  
24 become effective immediately following the passage and  
25 approval of this act by the Governor, or its otherwise  
26 becoming law. Section 9 shall become effective on January 1,  
27 2012, following the passage and approval of this act by the

1 Governor, or its otherwise becoming law. Section 15 shall  
2 become effective on April 1, 2012, following the passage and  
3 approval of this act by the Governor, or its otherwise  
4 becoming law. The remainder of this act shall become effective  
5 on the first day of the third month following the passage and  
6 approval of this act by the Governor, or its otherwise  
7 becoming law.