

# EXHIBIT INDEX

Exhibit 1.....Senate Bill 1070

Exhibit 2..... House Bill 2162

# EXHIBIT 1

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

## **SENATE BILL 1070**

### AN ACT

AMENDING TITLE 11, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; AMENDING TITLE 13, CHAPTER 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1509; AMENDING SECTION 13-2319, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-2928 AND 13-2929; AMENDING SECTIONS 13-3883, 23-212, 23-212.01, 23-214 AND 28-3511, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1724; RELATING TO UNLAWFULLY PRESENT ALIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Intent

3 The legislature finds that there is a compelling interest in the  
4 cooperative enforcement of federal immigration laws throughout all of  
5 Arizona. The legislature declares that the intent of this act is to make  
6 attrition through enforcement the public policy of all state and local  
7 government agencies in Arizona. The provisions of this act are intended to  
8 work together to discourage and deter the unlawful entry and presence of  
9 aliens and economic activity by persons unlawfully present in the United  
10 States.

11 Sec. 2. Title 11, chapter 7, Arizona Revised Statutes, is amended by  
12 adding article 8, to read:

13 ARTICLE 8. ENFORCEMENT OF IMMIGRATION LAWS

14 11-1051. Cooperation and assistance in enforcement of  
15 immigration laws; indemnification

16 A. NO OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR  
17 OTHER POLITICAL SUBDIVISION OF THIS STATE MAY LIMIT OR RESTRICT THE  
18 ENFORCEMENT OF FEDERAL IMMIGRATION LAWS TO LESS THAN THE FULL EXTENT  
19 PERMITTED BY FEDERAL LAW.

20 B. FOR ANY LAWFUL CONTACT MADE BY A LAW ENFORCEMENT OFFICIAL OR A LAW  
21 ENFORCEMENT AGENCY OF THIS STATE OR A LAW ENFORCEMENT OFFICIAL OR A LAW  
22 ENFORCEMENT AGENCY OF A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF  
23 THIS STATE WHERE REASONABLE SUSPICION EXISTS THAT THE PERSON IS AN ALIEN WHO  
24 IS UNLAWFULLY PRESENT IN THE UNITED STATES, A REASONABLE ATTEMPT SHALL BE  
25 MADE, WHEN PRACTICABLE, TO DETERMINE THE IMMIGRATION STATUS OF THE PERSON,  
26 EXCEPT IF THE DETERMINATION MAY HINDER OR OBSTRUCT AN INVESTIGATION. ANY  
27 PERSON WHO IS ARRESTED SHALL HAVE THE PERSON'S IMMIGRATION STATUS DETERMINED  
28 BEFORE THE PERSON IS RELEASED. THE PERSON'S IMMIGRATION STATUS SHALL BE  
29 VERIFIED WITH THE FEDERAL GOVERNMENT PURSUANT TO 8 UNITED STATES CODE SECTION  
30 1373(c). A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,  
31 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT SOLELY  
32 CONSIDER RACE, COLOR OR NATIONAL ORIGIN IN IMPLEMENTING THE REQUIREMENTS OF  
33 THIS SUBSECTION EXCEPT TO THE EXTENT PERMITTED BY THE UNITED STATES OR  
34 ARIZONA CONSTITUTION. A PERSON IS PRESUMED TO NOT BE AN ALIEN WHO IS  
35 UNLAWFULLY PRESENT IN THE UNITED STATES IF THE PERSON PROVIDES TO THE LAW  
36 ENFORCEMENT OFFICER OR AGENCY ANY OF THE FOLLOWING:

- 37 1. A VALID ARIZONA DRIVER LICENSE.
- 38 2. A VALID ARIZONA NONOPERATING IDENTIFICATION LICENSE.
- 39 3. A VALID TRIBAL ENROLLMENT CARD OR OTHER FORM OF TRIBAL  
40 IDENTIFICATION.
- 41 4. IF THE ENTITY REQUIRES PROOF OF LEGAL PRESENCE IN THE UNITED STATES  
42 BEFORE ISSUANCE, ANY VALID UNITED STATES FEDERAL, STATE OR LOCAL GOVERNMENT  
43 ISSUED IDENTIFICATION.

1 C. IF AN ALIEN WHO IS UNLAWFULLY PRESENT IN THE UNITED STATES IS  
2 CONVICTED OF A VIOLATION OF STATE OR LOCAL LAW, ON DISCHARGE FROM  
3 IMPRISONMENT OR ON THE ASSESSMENT OF ANY MONETARY OBLIGATION THAT IS IMPOSED,  
4 THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED STATES  
5 CUSTOMS AND BORDER PROTECTION SHALL BE IMMEDIATELY NOTIFIED.

6 D. NOTWITHSTANDING ANY OTHER LAW, A LAW ENFORCEMENT AGENCY MAY  
7 SECURELY TRANSPORT AN ALIEN WHO THE AGENCY HAS RECEIVED VERIFICATION IS  
8 UNLAWFULLY PRESENT IN THE UNITED STATES AND WHO IS IN THE AGENCY'S CUSTODY TO  
9 A FEDERAL FACILITY IN THIS STATE OR TO ANY OTHER POINT OF TRANSFER INTO  
10 FEDERAL CUSTODY THAT IS OUTSIDE THE JURISDICTION OF THE LAW ENFORCEMENT  
11 AGENCY. A LAW ENFORCEMENT AGENCY SHALL OBTAIN JUDICIAL AUTHORIZATION BEFORE  
12 SECURELY TRANSPORTING AN ALIEN WHO IS UNLAWFULLY PRESENT IN THE UNITED STATES  
13 TO A POINT OF TRANSFER THAT IS OUTSIDE OF THIS STATE.

14 E. EXCEPT AS PROVIDED IN FEDERAL LAW, OFFICIALS OR AGENCIES OF THIS  
15 STATE AND COUNTIES, CITIES, TOWNS AND OTHER POLITICAL SUBDIVISIONS OF THIS  
16 STATE MAY NOT BE PROHIBITED OR IN ANY WAY BE RESTRICTED FROM SENDING,  
17 RECEIVING OR MAINTAINING INFORMATION RELATING TO THE IMMIGRATION STATUS,  
18 LAWFUL OR UNLAWFUL, OF ANY INDIVIDUAL OR EXCHANGING THAT INFORMATION WITH ANY  
19 OTHER FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITY FOR THE FOLLOWING OFFICIAL  
20 PURPOSES:

21 1. DETERMINING ELIGIBILITY FOR ANY PUBLIC BENEFIT, SERVICE OR LICENSE  
22 PROVIDED BY ANY FEDERAL, STATE, LOCAL OR OTHER POLITICAL SUBDIVISION OF THIS  
23 STATE.

24 2. VERIFYING ANY CLAIM OF RESIDENCE OR DOMICILE IF DETERMINATION OF  
25 RESIDENCE OR DOMICILE IS REQUIRED UNDER THE LAWS OF THIS STATE OR A JUDICIAL  
26 ORDER ISSUED PURSUANT TO A CIVIL OR CRIMINAL PROCEEDING IN THIS STATE.

27 3. IF THE PERSON IS AN ALIEN, DETERMINING WHETHER THE PERSON IS IN  
28 COMPLIANCE WITH THE FEDERAL REGISTRATION LAWS PRESCRIBED BY TITLE II, CHAPTER  
29 7 OF THE FEDERAL IMMIGRATION AND NATIONALITY ACT.

30 4. PURSUANT TO 8 UNITED STATES CODE SECTION 1373 AND 8 UNITED STATES  
31 CODE SECTION 1644.

32 F. THIS SECTION DOES NOT IMPLEMENT, AUTHORIZE OR ESTABLISH AND SHALL  
33 NOT BE CONSTRUED TO IMPLEMENT, AUTHORIZE OR ESTABLISH THE REAL ID ACT OF 2005  
34 (P.L. 109-13, DIVISION B; 119 STAT. 302), INCLUDING THE USE OF A RADIO  
35 FREQUENCY IDENTIFICATION CHIP.

36 G. A PERSON WHO IS A LEGAL RESIDENT OF THIS STATE MAY BRING AN ACTION  
37 IN SUPERIOR COURT TO CHALLENGE ANY OFFICIAL OR AGENCY OF THIS STATE OR A  
38 COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE THAT ADOPTS  
39 OR IMPLEMENTS A POLICY OR PRACTICE THAT LIMITS OR RESTRICTS THE ENFORCEMENT  
40 OF FEDERAL IMMIGRATION LAWS TO LESS THAN THE FULL EXTENT PERMITTED BY FEDERAL  
41 LAW. IF THERE IS A JUDICIAL FINDING THAT AN ENTITY HAS VIOLATED THIS  
42 SECTION, THE COURT SHALL ORDER THAT THE ENTITY PAY A CIVIL PENALTY OF NOT  
43 LESS THAN ONE THOUSAND DOLLARS AND NOT MORE THAN FIVE THOUSAND DOLLARS FOR  
44 EACH DAY THAT THE POLICY HAS REMAINED IN EFFECT AFTER THE FILING OF AN ACTION  
45 PURSUANT TO THIS SUBSECTION.

1 H. A COURT SHALL COLLECT THE CIVIL PENALTY PRESCRIBED IN SUBSECTION G  
2 OF THIS SECTION AND REMIT THE CIVIL PENALTY TO THE STATE TREASURER FOR  
3 DEPOSIT IN THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION  
4 FUND ESTABLISHED BY SECTION 41-1724.

5 I. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY  
6 PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR  
7 OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON  
8 THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

9 J. EXCEPT IN RELATION TO MATTERS IN WHICH THE OFFICER IS ADJUDGED TO  
10 HAVE ACTED IN BAD FAITH, A LAW ENFORCEMENT OFFICER IS INDEMNIFIED BY THE LAW  
11 ENFORCEMENT OFFICER'S AGENCY AGAINST REASONABLE COSTS AND EXPENSES, INCLUDING  
12 ATTORNEY FEES, INCURRED BY THE OFFICER IN CONNECTION WITH ANY ACTION, SUIT OR  
13 PROCEEDING BROUGHT PURSUANT TO THIS SECTION IN WHICH THE OFFICER MAY BE A  
14 DEFENDANT BY REASON OF THE OFFICER BEING OR HAVING BEEN A MEMBER OF THE LAW  
15 ENFORCEMENT AGENCY.

16 K. THIS SECTION SHALL BE IMPLEMENTED IN A MANNER CONSISTENT WITH  
17 FEDERAL LAWS REGULATING IMMIGRATION, PROTECTING THE CIVIL RIGHTS OF ALL  
18 PERSONS AND RESPECTING THE PRIVILEGES AND IMMUNITIES OF UNITED STATES  
19 CITIZENS.

20 Sec. 3. Title 13, chapter 15, Arizona Revised Statutes, is amended by  
21 adding section 13-1509, to read:

22 13-1509. Willful failure to complete or carry an alien  
23 registration document; assessment; exception;  
24 authenticated records; classification

25 A. IN ADDITION TO ANY VIOLATION OF FEDERAL LAW, A PERSON IS GUILTY OF  
26 WILLFUL FAILURE TO COMPLETE OR CARRY AN ALIEN REGISTRATION DOCUMENT IF THE  
27 PERSON IS IN VIOLATION OF 8 UNITED STATES CODE SECTION 1304(e) OR 1306(a).

28 B. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS  
29 MAY BE DETERMINED BY:

30 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL  
31 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

32 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED  
33 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION  
34 1373(c).

35 C. A PERSON WHO IS SENTENCED PURSUANT TO THIS SECTION IS NOT ELIGIBLE  
36 FOR SUSPENSION OF SENTENCE, PROBATION, PARDON, COMMUTATION OF SENTENCE, OR  
37 RELEASE FROM CONFINEMENT ON ANY BASIS EXCEPT AS AUTHORIZED BY SECTION 31-233,  
38 SUBSECTION A OR B UNTIL THE SENTENCE IMPOSED BY THE COURT HAS BEEN SERVED OR  
39 THE PERSON IS ELIGIBLE FOR RELEASE PURSUANT TO SECTION 41-1604.07.

40 D. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, THE COURT SHALL  
41 ORDER THE PERSON TO PAY JAIL COSTS AND AN ADDITIONAL ASSESSMENT IN THE  
42 FOLLOWING AMOUNTS:

43 1. AT LEAST FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION.

44 2. TWICE THE AMOUNT SPECIFIED IN PARAGRAPH 1 OF THIS SUBSECTION IF THE  
45 PERSON WAS PREVIOUSLY SUBJECT TO AN ASSESSMENT PURSUANT TO THIS SUBSECTION.

1 E. A COURT SHALL COLLECT THE ASSESSMENTS PRESCRIBED IN SUBSECTION D OF  
2 THIS SECTION AND REMIT THE ASSESSMENTS TO THE DEPARTMENT OF PUBLIC SAFETY,  
3 WHICH SHALL ESTABLISH A SPECIAL SUBACCOUNT FOR THE MONIES IN THE ACCOUNT  
4 ESTABLISHED FOR THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT  
5 MISSION APPROPRIATION. MONIES IN THE SPECIAL SUBACCOUNT ARE SUBJECT TO  
6 LEGISLATIVE APPROPRIATION FOR DISTRIBUTION FOR GANG AND IMMIGRATION  
7 ENFORCEMENT AND FOR COUNTY JAIL REIMBURSEMENT COSTS RELATING TO ILLEGAL  
8 IMMIGRATION.

9 F. THIS SECTION DOES NOT APPLY TO A PERSON WHO MAINTAINS AUTHORIZATION  
10 FROM THE FEDERAL GOVERNMENT TO REMAIN IN THE UNITED STATES.

11 G. ANY RECORD THAT RELATES TO THE IMMIGRATION STATUS OF A PERSON IS  
12 ADMISSIBLE IN ANY COURT WITHOUT FURTHER FOUNDATION OR TESTIMONY FROM A  
13 CUSTODIAN OF RECORDS IF THE RECORD IS CERTIFIED AS AUTHENTIC BY THE  
14 GOVERNMENT AGENCY THAT IS RESPONSIBLE FOR MAINTAINING THE RECORD.

15 H. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR, EXCEPT THAT A  
16 VIOLATION OF THIS SECTION IS:

17 1. A CLASS 3 FELONY IF THE PERSON VIOLATES THIS SECTION WHILE IN  
18 POSSESSION OF ANY OF THE FOLLOWING:

19 (a) A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401.

20 (b) PRECURSOR CHEMICALS THAT ARE USED IN THE MANUFACTURING OF  
21 METHAMPHETAMINE IN VIOLATION OF SECTION 13-3404.01.

22 (c) A DEADLY WEAPON OR A DANGEROUS INSTRUMENT, AS DEFINED IN SECTION  
23 13-105.

24 (d) PROPERTY THAT IS USED FOR THE PURPOSE OF COMMITTING AN ACT OF  
25 TERRORISM AS PRESCRIBED IN SECTION 13-2308.01.

26 2. A CLASS 4 FELONY IF THE PERSON EITHER:

27 (a) IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION.

28 (b) WITHIN SIXTY MONTHS BEFORE THE VIOLATION, HAS BEEN REMOVED FROM  
29 THE UNITED STATES PURSUANT TO 8 UNITED STATES CODE SECTION 1229a OR HAS  
30 ACCEPTED A VOLUNTARY REMOVAL FROM THE UNITED STATES PURSUANT TO 8 UNITED  
31 STATES CODE SECTION 1229c.

32 Sec. 4. Section 13-2319, Arizona Revised Statutes, is amended to read:  
33 13-2319. Smuggling; classification; definitions

34 A. It is unlawful for a person to intentionally engage in the  
35 smuggling of human beings for profit or commercial purpose.

36 B. A violation of this section is a class 4 felony.

37 C. Notwithstanding subsection B of this section, a violation of this  
38 section:

39 1. Is a class 2 felony if the human being who is smuggled is under  
40 eighteen years of age and is not accompanied by a family member over eighteen  
41 years of age or the offense involved the use of a deadly weapon or dangerous  
42 instrument.

43 2. Is a class 3 felony if the offense involves the use or threatened  
44 use of deadly physical force and the person is not eligible for suspension of  
45 sentence, probation, pardon or release from confinement on any other basis

1 except pursuant to section 31-233, subsection A or B until the sentence  
2 imposed by the court is served, the person is eligible for release pursuant  
3 to section 41-1604.07 or the sentence is commuted.

4 D. Chapter 10 of this title does not apply to a violation of  
5 subsection C, paragraph 1 of this section.

6 E. NOTWITHSTANDING ANY OTHER LAW, IN THE ENFORCEMENT OF THIS SECTION A  
7 PEACE OFFICER MAY LAWFULLY STOP ANY PERSON WHO IS OPERATING A MOTOR VEHICLE  
8 IF THE OFFICER HAS REASONABLE SUSPICION TO BELIEVE THE PERSON IS IN VIOLATION  
9 OF ANY CIVIL TRAFFIC LAW.

10 ~~E.~~ F. For the purposes of this section:

11 1. "Family member" means the person's parent, grandparent, sibling or  
12 any other person who is related to the person by consanguinity or affinity to  
13 the second degree.

14 2. "Procurement of transportation" means any participation in or  
15 facilitation of transportation and includes:

16 (a) Providing services that facilitate transportation including travel  
17 arrangement services or money transmission services.

18 (b) Providing property that facilitates transportation, including a  
19 weapon, a vehicle or other means of transportation or false identification,  
20 or selling, leasing, renting or otherwise making available a drop house as  
21 defined in section 13-2322.

22 3. "Smuggling of human beings" means the transportation, procurement  
23 of transportation or use of property or real property by a person or an  
24 entity that knows or has reason to know that the person or persons  
25 transported or to be transported are not United States citizens, permanent  
26 resident aliens or persons otherwise lawfully in this state or have attempted  
27 to enter, entered or remained in the United States in violation of law.

28 Sec. 5. Title 13, chapter 29, Arizona Revised Statutes, is amended by  
29 adding sections 13-2928 and 13-2929, to read:

30 13-2928. Unlawful stopping to hire and pick up passengers for  
31 work; unlawful application, solicitation or  
32 employment; classification; definitions

33 A. IT IS UNLAWFUL FOR AN OCCUPANT OF A MOTOR VEHICLE THAT IS STOPPED  
34 ON A STREET, ROADWAY OR HIGHWAY TO ATTEMPT TO HIRE OR HIRE AND PICK UP  
35 PASSENGERS FOR WORK AT A DIFFERENT LOCATION IF THE MOTOR VEHICLE BLOCKS OR  
36 IMPEDES THE NORMAL MOVEMENT OF TRAFFIC.

37 B. IT IS UNLAWFUL FOR A PERSON TO ENTER A MOTOR VEHICLE THAT IS  
38 STOPPED ON A STREET, ROADWAY OR HIGHWAY IN ORDER TO BE HIRED BY AN OCCUPANT  
39 OF THE MOTOR VEHICLE AND TO BE TRANSPORTED TO WORK AT A DIFFERENT LOCATION IF  
40 THE MOTOR VEHICLE BLOCKS OR IMPEDES THE NORMAL MOVEMENT OF TRAFFIC.

41 C. IT IS UNLAWFUL FOR A PERSON WHO IS UNLAWFULLY PRESENT IN THE UNITED  
42 STATES AND WHO IS AN UNAUTHORIZED ALIEN TO KNOWINGLY APPLY FOR WORK, SOLICIT  
43 WORK IN A PUBLIC PLACE OR PERFORM WORK AS AN EMPLOYEE OR INDEPENDENT  
44 CONTRACTOR IN THIS STATE.

45 D. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.



1 E. FOR THE PURPOSES OF THIS SECTION:

2 1. "SOLICIT" MEANS VERBAL OR NONVERBAL COMMUNICATION BY A GESTURE OR A  
3 NOD THAT WOULD INDICATE TO A REASONABLE PERSON THAT A PERSON IS WILLING TO BE  
4 EMPLOYED.

5 2. "UNAUTHORIZED ALIEN" MEANS AN ALIEN WHO DOES NOT HAVE THE LEGAL  
6 RIGHT OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS  
7 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324a(h)(3).

8 13-2929. Unlawful transporting, moving, concealing, harboring  
9 or shielding of unlawful aliens; vehicle  
10 impoundment; exception; classification

11 A. IT IS UNLAWFUL FOR A PERSON WHO IS IN VIOLATION OF A CRIMINAL  
12 OFFENSE TO:

13 1. TRANSPORT OR MOVE OR ATTEMPT TO TRANSPORT OR MOVE AN ALIEN IN THIS  
14 STATE, IN FURTHERANCE OF THE ILLEGAL PRESENCE OF THE ALIEN IN THE UNITED  
15 STATES, IN A MEANS OF TRANSPORTATION IF THE PERSON KNOWS OR RECKLESSLY  
16 DISREGARDS THE FACT THAT THE ALIEN HAS COME TO, HAS ENTERED OR REMAINS IN THE  
17 UNITED STATES IN VIOLATION OF LAW.

18 2. CONCEAL, HARBOR OR SHIELD OR ATTEMPT TO CONCEAL, HARBOR OR SHIELD  
19 AN ALIEN FROM DETECTION IN ANY PLACE IN THIS STATE, INCLUDING ANY BUILDING OR  
20 ANY MEANS OF TRANSPORTATION, IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE  
21 FACT THAT THE ALIEN HAS COME TO, HAS ENTERED OR REMAINS IN THE UNITED STATES  
22 IN VIOLATION OF LAW.

23 3. ENCOURAGE OR INDUCE AN ALIEN TO COME TO OR RESIDE IN THIS STATE IF  
24 THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT THAT SUCH COMING TO,  
25 ENTERING OR RESIDING IN THIS STATE IS OR WILL BE IN VIOLATION OF LAW.

26 B. A MEANS OF TRANSPORTATION THAT IS USED IN THE COMMISSION OF A  
27 VIOLATION OF THIS SECTION IS SUBJECT TO MANDATORY VEHICLE IMMOBILIZATION OR  
28 IMPOUNDMENT PURSUANT TO SECTION 28-3511.

29 C. THIS SECTION DOES NOT APPLY TO A CHILD PROTECTIVE SERVICES WORKER  
30 ACTING IN THE WORKER'S OFFICIAL CAPACITY OR A PERSON WHO IS ACTING IN THE  
31 CAPACITY OF A FIRST RESPONDER, AN AMBULANCE ATTENDANT OR AN EMERGENCY MEDICAL  
32 TECHNICIAN AND WHO IS TRANSPORTING OR MOVING AN ALIEN IN THIS STATE PURSUANT  
33 TO TITLE 36, CHAPTER 21.1.

34 D. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1  
35 MISDEMEANOR AND IS SUBJECT TO A FINE OF AT LEAST ONE THOUSAND DOLLARS, EXCEPT  
36 THAT A VIOLATION OF THIS SECTION THAT INVOLVES TEN OR MORE ILLEGAL ALIENS IS  
37 A CLASS 6 FELONY AND THE PERSON IS SUBJECT TO A FINE OF AT LEAST ONE THOUSAND  
38 DOLLARS FOR EACH ALIEN WHO IS INVOLVED.

39 Sec. 6. Section 13-3883, Arizona Revised Statutes, is amended to read:  
40 13-3883. Arrest by officer without warrant

41 A. A peace officer ~~may~~, without a warrant, MAY arrest a person if ~~he~~  
42 THE OFFICER has probable cause to believe:

43 1. A felony has been committed and probable cause to believe the  
44 person to be arrested has committed the felony.

1           2. A misdemeanor has been committed in his THE OFFICER'S presence and  
2 probable cause to believe the person to be arrested has committed the  
3 offense.

4           3. The person to be arrested has been involved in a traffic accident  
5 and violated any criminal section of title 28, and that such violation  
6 occurred prior to or immediately following such traffic accident.

7           4. A misdemeanor or a petty offense has been committed and probable  
8 cause to believe the person to be arrested has committed the offense. A  
9 person arrested under this paragraph is eligible for release under section  
10 13-3903.

11           5. THE PERSON TO BE ARRESTED HAS COMMITTED ANY PUBLIC OFFENSE THAT  
12 MAKES THE PERSON REMOVABLE FROM THE UNITED STATES.

13           B. A peace officer may stop and detain a person as is reasonably  
14 necessary to investigate an actual or suspected violation of any traffic law  
15 committed in the officer's presence and may serve a copy of the traffic  
16 complaint for any alleged civil or criminal traffic violation. A peace  
17 officer who serves a copy of the traffic complaint shall do so within a  
18 reasonable time of the alleged criminal or civil traffic violation.

19           Sec. 7. Section 23-212, Arizona Revised Statutes, is amended to read:

20           23-212. Knowingly employing unauthorized aliens; prohibition;  
21                           false and frivolous complaints; violation;  
22                           classification; license suspension and revocation;  
23                           affirmative defense

24           A. An employer shall not knowingly employ an unauthorized alien. If,  
25 in the case when an employer uses a contract, subcontract or other  
26 independent contractor agreement to obtain the labor of an alien in this  
27 state, the employer knowingly contracts with an unauthorized alien or with a  
28 person who employs or contracts with an unauthorized alien to perform the  
29 labor, the employer violates this subsection.

30           B. The attorney general shall prescribe a complaint form for a person  
31 to allege a violation of subsection A of this section. The complainant shall  
32 not be required to list the complainant's social security number on the  
33 complaint form or to have the complaint form notarized. On receipt of a  
34 complaint on a prescribed complaint form that an employer allegedly knowingly  
35 employs an unauthorized alien, the attorney general or county attorney shall  
36 investigate whether the employer has violated subsection A of this section.  
37 If a complaint is received but is not submitted on a prescribed complaint  
38 form, the attorney general or county attorney may investigate whether the  
39 employer has violated subsection A of this section. This subsection shall  
40 not be construed to prohibit the filing of anonymous complaints that are not  
41 submitted on a prescribed complaint form. The attorney general or county  
42 attorney shall not investigate complaints that are based solely on race,  
43 color or national origin. A complaint that is submitted to a county attorney  
44 shall be submitted to the county attorney in the county in which the alleged  
45 unauthorized alien is or was employed by the employer. The county sheriff or

1 any other local law enforcement agency may assist in investigating a  
2 complaint. When investigating a complaint, the attorney general or county  
3 attorney shall verify the work authorization of the alleged unauthorized  
4 alien with the federal government pursuant to 8 United States Code section  
5 1373(c). A state, county or local official shall not attempt to  
6 independently make a final determination on whether an alien is authorized to  
7 work in the United States. An alien's immigration status or work  
8 authorization status shall be verified with the federal government pursuant  
9 to 8 United States Code section 1373(c). A person who knowingly files a  
10 false and frivolous complaint under this subsection is guilty of a class 3  
11 misdemeanor.

12 C. If, after an investigation, the attorney general or county attorney  
13 determines that the complaint is not false and frivolous:

14 1. The attorney general or county attorney shall notify the United  
15 States immigration and customs enforcement of the unauthorized alien.

16 2. The attorney general or county attorney shall notify the local law  
17 enforcement agency of the unauthorized alien.

18 3. The attorney general shall notify the appropriate county attorney  
19 to bring an action pursuant to subsection D of this section if the complaint  
20 was originally filed with the attorney general.

21 D. An action for a violation of subsection A of this section shall be  
22 brought against the employer by the county attorney in the county where the  
23 unauthorized alien employee is or was employed by the employer. The county  
24 attorney shall not bring an action against any employer for any violation of  
25 subsection A of this section that occurs before January 1, 2008. A second  
26 violation of this section shall be based only on an unauthorized alien who is  
27 or was employed by the employer after an action has been brought for a  
28 violation of subsection A of this section or section 23-212.01, subsection A.

29 E. For any action in superior court under this section, the court  
30 shall expedite the action, including assigning the hearing at the earliest  
31 practicable date.

32 F. On a finding of a violation of subsection A of this section:

33 1. For a first violation, as described in paragraph 3 of this  
34 subsection, the court:

35 (a) Shall order the employer to terminate the employment of all  
36 unauthorized aliens.

37 (b) Shall order the employer to be subject to a three year  
38 probationary period for the business location where the unauthorized alien  
39 performed work. During the probationary period the employer shall file  
40 quarterly reports in the form provided in section 23-722.01 with the county  
41 attorney of each new employee who is hired by the employer at the business  
42 location where the unauthorized alien performed work.

43 (c) Shall order the employer to file a signed sworn affidavit with the  
44 county attorney within three business days after the order is issued. The  
45 affidavit shall state that the employer has terminated the employment of all

1 unauthorized aliens in this state and that the employer will not  
2 intentionally or knowingly employ an unauthorized alien in this state. The  
3 court shall order the appropriate agencies to suspend all licenses subject to  
4 this subdivision that are held by the employer if the employer fails to file  
5 a signed sworn affidavit with the county attorney within three business days  
6 after the order is issued. All licenses that are suspended under this  
7 subdivision shall remain suspended until the employer files a signed sworn  
8 affidavit with the county attorney. Notwithstanding any other law, on filing  
9 of the affidavit the suspended licenses shall be reinstated immediately by  
10 the appropriate agencies. For the purposes of this subdivision, the licenses  
11 that are subject to suspension under this subdivision are all licenses that  
12 are held by the employer specific to the business location where the  
13 unauthorized alien performed work. If the employer does not hold a license  
14 specific to the business location where the unauthorized alien performed  
15 work, but a license is necessary to operate the employer's business in  
16 general, the licenses that are subject to suspension under this subdivision  
17 are all licenses that are held by the employer at the employer's primary  
18 place of business. On receipt of the court's order and notwithstanding any  
19 other law, the appropriate agencies shall suspend the licenses according to  
20 the court's order. The court shall send a copy of the court's order to the  
21 attorney general and the attorney general shall maintain the copy pursuant to  
22 subsection G of this section.

23 (d) May order the appropriate agencies to suspend all licenses  
24 described in subdivision (c) of this paragraph that are held by the employer  
25 for not to exceed ten business days. The court shall base its decision to  
26 suspend under this subdivision on any evidence or information submitted to it  
27 during the action for a violation of this subsection and shall consider the  
28 following factors, if relevant:

- 29 (i) The number of unauthorized aliens employed by the employer.
- 30 (ii) Any prior misconduct by the employer.
- 31 (iii) The degree of harm resulting from the violation.
- 32 (iv) Whether the employer made good faith efforts to comply with any  
33 applicable requirements.
- 34 (v) The duration of the violation.
- 35 (vi) The role of the directors, officers or principals of the employer  
36 in the violation.
- 37 (vii) Any other factors the court deems appropriate.

38 2. For a second violation, as described in paragraph 3 of this  
39 subsection, the court shall order the appropriate agencies to permanently  
40 revoke all licenses that are held by the employer specific to the business  
41 location where the unauthorized alien performed work. If the employer does  
42 not hold a license specific to the business location where the unauthorized  
43 alien performed work, but a license is necessary to operate the employer's  
44 business in general, the court shall order the appropriate agencies to  
45 permanently revoke all licenses that are held by the employer at the

1 employer's primary place of business. On receipt of the order and  
2 notwithstanding any other law, the appropriate agencies shall immediately  
3 revoke the licenses.

4 3. The violation shall be considered:

5 (a) A first violation by an employer at a business location if the  
6 violation did not occur during a probationary period ordered by the court  
7 under this subsection or section 23-212.01, subsection F for that employer's  
8 business location.

9 (b) A second violation by an employer at a business location if the  
10 violation occurred during a probationary period ordered by the court under  
11 this subsection or section 23-212.01, subsection F for that employer's  
12 business location.

13 G. The attorney general shall maintain copies of court orders that are  
14 received pursuant to subsection F of this section and shall maintain a  
15 database of the employers and business locations that have a first violation  
16 of subsection A of this section and make the court orders available on the  
17 attorney general's website.

18 H. On determining whether an employee is an unauthorized alien, the  
19 court shall consider only the federal government's determination pursuant to  
20 8 United States Code section 1373(c). The federal government's determination  
21 creates a rebuttable presumption of the employee's lawful status. The court  
22 may take judicial notice of the federal government's determination and may  
23 request the federal government to provide automated or testimonial  
24 verification pursuant to 8 United States Code section 1373(c).

25 I. For the purposes of this section, proof of verifying the employment  
26 authorization of an employee through the e-verify program creates a  
27 rebuttable presumption that an employer did not knowingly employ an  
28 unauthorized alien.

29 J. For the purposes of this section, an employer that establishes that  
30 it has complied in good faith with the requirements of 8 United States Code  
31 section 1324a(b) establishes an affirmative defense that the employer did not  
32 knowingly employ an unauthorized alien. An employer is considered to have  
33 complied with the requirements of 8 United States Code section 1324a(b),  
34 notwithstanding an isolated, sporadic or accidental technical or procedural  
35 failure to meet the requirements, if there is a good faith attempt to comply  
36 with the requirements.

37 K. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF THIS  
38 SECTION THAT THE EMPLOYER WAS ENTRAPPED. TO CLAIM ENTRAPMENT, THE EMPLOYER  
39 MUST ADMIT BY THE EMPLOYER'S TESTIMONY OR OTHER EVIDENCE THE SUBSTANTIAL  
40 ELEMENTS OF THE VIOLATION. AN EMPLOYER WHO ASSERTS AN ENTRAPMENT DEFENSE HAS  
41 THE BURDEN OF PROVING THE FOLLOWING BY A PREPONDERANCE OF THE EVIDENCE:

42 1. THE IDEA OF COMMITTING THE VIOLATION STARTED WITH LAW ENFORCEMENT  
43 OFFICERS OR THEIR AGENTS RATHER THAN WITH THE EMPLOYER.

44 2. THE LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE  
45 EMPLOYER TO COMMIT THE VIOLATION.

1           3. THE EMPLOYER WAS NOT PREDISPOSED TO COMMIT THE VIOLATION BEFORE THE  
2 LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE EMPLOYER TO  
3 COMMIT THE VIOLATION.

4           L. AN EMPLOYER DOES NOT ESTABLISH ENTRAPMENT IF THE EMPLOYER WAS  
5 PREDISPOSED TO VIOLATE SUBSECTION A OF THIS SECTION AND THE LAW ENFORCEMENT  
6 OFFICERS OR THEIR AGENTS MERELY PROVIDED THE EMPLOYER WITH AN OPPORTUNITY TO  
7 COMMIT THE VIOLATION. IT IS NOT ENTRAPMENT FOR LAW ENFORCEMENT OFFICERS OR  
8 THEIR AGENTS MERELY TO USE A RUSE OR TO CONCEAL THEIR IDENTITY. THE CONDUCT  
9 OF LAW ENFORCEMENT OFFICERS AND THEIR AGENTS MAY BE CONSIDERED IN DETERMINING  
10 IF AN EMPLOYER HAS PROVEN ENTRAPMENT.

11           Sec. 8. Section 23-212.01, Arizona Revised Statutes, is amended to  
12 read:

13           23-212.01. Intentionally employing unauthorized aliens;  
14 prohibition; false and frivolous complaints;  
15 violation; classification; license suspension and  
16 revocation; affirmative defense

17           A. An employer shall not intentionally employ an unauthorized alien.  
18 If, in the case when an employer uses a contract, subcontract or other  
19 independent contractor agreement to obtain the labor of an alien in this  
20 state, the employer intentionally contracts with an unauthorized alien or  
21 with a person who employs or contracts with an unauthorized alien to perform  
22 the labor, the employer violates this subsection.

23           B. The attorney general shall prescribe a complaint form for a person  
24 to allege a violation of subsection A of this section. The complainant shall  
25 not be required to list the complainant's social security number on the  
26 complaint form or to have the complaint form notarized. On receipt of a  
27 complaint on a prescribed complaint form that an employer allegedly  
28 intentionally employs an unauthorized alien, the attorney general or county  
29 attorney shall investigate whether the employer has violated subsection A of  
30 this section. If a complaint is received but is not submitted on a  
31 prescribed complaint form, the attorney general or county attorney may  
32 investigate whether the employer has violated subsection A of this section.  
33 This subsection shall not be construed to prohibit the filing of anonymous  
34 complaints that are not submitted on a prescribed complaint form. The  
35 attorney general or county attorney shall not investigate complaints that are  
36 based solely on race, color or national origin. A complaint that is  
37 submitted to a county attorney shall be submitted to the county attorney in  
38 the county in which the alleged unauthorized alien is or was employed by the  
39 employer. The county sheriff or any other local law enforcement agency may  
40 assist in investigating a complaint. When investigating a complaint, the  
41 attorney general or county attorney shall verify the work authorization of  
42 the alleged unauthorized alien with the federal government pursuant to  
43 8 United States Code section 1373(c). A state, county or local official  
44 shall not attempt to independently make a final determination on whether an  
45 alien is authorized to work in the United States. An alien's immigration

1 status or work authorization status shall be verified with the federal  
2 government pursuant to 8 United States Code section 1373(c). A person who  
3 knowingly files a false and frivolous complaint under this subsection is  
4 guilty of a class 3 misdemeanor.

5 C. If, after an investigation, the attorney general or county attorney  
6 determines that the complaint is not false and frivolous:

7 1. The attorney general or county attorney shall notify the United  
8 States immigration and customs enforcement of the unauthorized alien.

9 2. The attorney general or county attorney shall notify the local law  
10 enforcement agency of the unauthorized alien.

11 3. The attorney general shall notify the appropriate county attorney  
12 to bring an action pursuant to subsection D of this section if the complaint  
13 was originally filed with the attorney general.

14 D. An action for a violation of subsection A of this section shall be  
15 brought against the employer by the county attorney in the county where the  
16 unauthorized alien employee is or was employed by the employer. The county  
17 attorney shall not bring an action against any employer for any violation of  
18 subsection A of this section that occurs before January 1, 2008. A second  
19 violation of this section shall be based only on an unauthorized alien who is  
20 or was employed by the employer after an action has been brought for a  
21 violation of subsection A of this section or section 23-212, subsection A.

22 E. For any action in superior court under this section, the court  
23 shall expedite the action, including assigning the hearing at the earliest  
24 practicable date.

25 F. On a finding of a violation of subsection A of this section:

26 1. For a first violation, as described in paragraph 3 of this  
27 subsection, the court shall:

28 (a) Order the employer to terminate the employment of all unauthorized  
29 aliens.

30 (b) Order the employer to be subject to a five year probationary  
31 period for the business location where the unauthorized alien performed work.  
32 During the probationary period the employer shall file quarterly reports in  
33 the form provided in section 23-722.01 with the county attorney of each new  
34 employee who is hired by the employer at the business location where the  
35 unauthorized alien performed work.

36 (c) Order the appropriate agencies to suspend all licenses described  
37 in subdivision (d) of this paragraph that are held by the employer for a  
38 minimum of ten days. The court shall base its decision on the length of the  
39 suspension under this subdivision on any evidence or information submitted to  
40 it during the action for a violation of this subsection and shall consider  
41 the following factors, if relevant:

42 (i) The number of unauthorized aliens employed by the employer.

43 (ii) Any prior misconduct by the employer.

44 (iii) The degree of harm resulting from the violation.

1 (iv) Whether the employer made good faith efforts to comply with any  
2 applicable requirements.

3 (v) The duration of the violation.

4 (vi) The role of the directors, officers or principals of the employer  
5 in the violation.

6 (vii) Any other factors the court deems appropriate.

7 (d) Order the employer to file a signed sworn affidavit with the  
8 county attorney. The affidavit shall state that the employer has terminated  
9 the employment of all unauthorized aliens in this state and that the employer  
10 will not intentionally or knowingly employ an unauthorized alien in this  
11 state.. The court shall order the appropriate agencies to suspend all  
12 licenses subject to this subdivision that are held by the employer if the  
13 employer fails to file a signed sworn affidavit with the county attorney  
14 within three business days after the order is issued. All licenses that are  
15 suspended under this subdivision for failing to file a signed sworn affidavit  
16 shall remain suspended until the employer files a signed sworn affidavit with  
17 the county attorney. For the purposes of this subdivision, the licenses that  
18 are subject to suspension under this subdivision are all licenses that are  
19 held by the employer specific to the business location where the unauthorized  
20 alien performed work. If the employer does not hold a license specific to  
21 the business location where the unauthorized alien performed work, but a  
22 license is necessary to operate the employer's business in general, the  
23 licenses that are subject to suspension under this subdivision are all  
24 licenses that are held by the employer at the employer's primary place of  
25 business. On receipt of the court's order and notwithstanding any other law,  
26 the appropriate agencies shall suspend the licenses according to the court's  
27 order. The court shall send a copy of the court's order to the attorney  
28 general and the attorney general shall maintain the copy pursuant to  
29 subsection G of this section.

30 2. For a second violation, as described in paragraph 3 of this  
31 subsection, the court shall order the appropriate agencies to permanently  
32 revoke all licenses that are held by the employer specific to the business  
33 location where the unauthorized alien performed work. If the employer does  
34 not hold a license specific to the business location where the unauthorized  
35 alien performed work, but a license is necessary to operate the employer's  
36 business in general, the court shall order the appropriate agencies to  
37 permanently revoke all licenses that are held by the employer at the  
38 employer's primary place of business. On receipt of the order and  
39 notwithstanding any other law, the appropriate agencies shall immediately  
40 revoke the licenses.

41 3. The violation shall be considered:

42 (a) A first violation by an employer at a business location if the  
43 violation did not occur during a probationary period ordered by the court  
44 under this subsection or section 23-212, subsection F for that employer's  
45 business location.



1 (b) A second violation by an employer at a business location if the  
2 violation occurred during a probationary period ordered by the court under  
3 this subsection or section 23-212, subsection F for that employer's business  
4 location.

5 G. The attorney general shall maintain copies of court orders that are  
6 received pursuant to subsection F of this section and shall maintain a  
7 database of the employers and business locations that have a first violation  
8 of subsection A of this section and make the court orders available on the  
9 attorney general's website.

10 H. On determining whether an employee is an unauthorized alien, the  
11 court shall consider only the federal government's determination pursuant to  
12 8 United States Code section 1373(c). The federal government's determination  
13 creates a rebuttable presumption of the employee's lawful status. The court  
14 may take judicial notice of the federal government's determination and may  
15 request the federal government to provide automated or testimonial  
16 verification pursuant to 8 United States Code section 1373(c).

17 I. For the purposes of this section, proof of verifying the employment  
18 authorization of an employee through the e-verify program creates a  
19 rebuttable presumption that an employer did not intentionally employ an  
20 unauthorized alien.

21 J. For the purposes of this section, an employer that establishes that  
22 it has complied in good faith with the requirements of 8 United States Code  
23 section 1324a(b) establishes an affirmative defense that the employer did not  
24 intentionally employ an unauthorized alien. An employer is considered to  
25 have complied with the requirements of 8 United States Code section 1324a(b),  
26 notwithstanding an isolated, sporadic or accidental technical or procedural  
27 failure to meet the requirements, if there is a good faith attempt to comply  
28 with the requirements.

29 K. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF THIS  
30 SECTION THAT THE EMPLOYER WAS ENTRAPPED. TO CLAIM ENTRAPMENT, THE EMPLOYER  
31 MUST ADMIT BY THE EMPLOYER'S TESTIMONY OR OTHER EVIDENCE THE SUBSTANTIAL  
32 ELEMENTS OF THE VIOLATION. AN EMPLOYER WHO ASSERTS AN ENTRAPMENT DEFENSE HAS  
33 THE BURDEN OF PROVING THE FOLLOWING BY A PREPONDERANCE OF THE EVIDENCE:

34 1. THE IDEA OF COMMITTING THE VIOLATION STARTED WITH LAW ENFORCEMENT  
35 OFFICERS OR THEIR AGENTS RATHER THAN WITH THE EMPLOYER.

36 2. THE LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE  
37 EMPLOYER TO COMMIT THE VIOLATION.

38 3. THE EMPLOYER WAS NOT PREDISPOSED TO COMMIT THE VIOLATION BEFORE THE  
39 LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE EMPLOYER TO  
40 COMMIT THE VIOLATION.

41 L. AN EMPLOYER DOES NOT ESTABLISH ENTRAPMENT IF THE EMPLOYER WAS  
42 PREDISPOSED TO VIOLATE SUBSECTION A OF THIS SECTION AND THE LAW ENFORCEMENT  
43 OFFICERS OR THEIR AGENTS MERELY PROVIDED THE EMPLOYER WITH AN OPPORTUNITY TO  
44 COMMIT THE VIOLATION. IT IS NOT ENTRAPMENT FOR LAW ENFORCEMENT OFFICERS OR  
45 THEIR AGENTS MERELY TO USE A RUSE OR TO CONCEAL THEIR IDENTITY. THE CONDUCT

1 OF LAW ENFORCEMENT OFFICERS AND THEIR AGENTS MAY BE CONSIDERED IN DETERMINING  
2 IF AN EMPLOYER HAS PROVEN ENTRAPMENT.

3 Sec. 9. Section 23-214, Arizona Revised Statutes, is amended to read:

4 23-214. Verification of employment eligibility; e-verify  
5 program; economic development incentives; list of  
6 registered employers

7 A. After December 31, 2007, every employer, after hiring an employee,  
8 shall verify the employment eligibility of the employee through the e-verify  
9 program AND SHALL KEEP A RECORD OF THE VERIFICATION FOR THE DURATION OF THE  
10 EMPLOYEE'S EMPLOYMENT OR AT LEAST THREE YEARS, WHICHEVER IS LONGER.

11 B. In addition to any other requirement for an employer to receive an  
12 economic development incentive from a government entity, the employer shall  
13 register with and participate in the e-verify program. Before receiving the  
14 economic development incentive, the employer shall provide proof to the  
15 government entity that the employer is registered with and is participating  
16 in the e-verify program. If the government entity determines that the  
17 employer is not complying with this subsection, the government entity shall  
18 notify the employer by certified mail of the government entity's  
19 determination of noncompliance and the employer's right to appeal the  
20 determination. On a final determination of noncompliance, the employer shall  
21 repay all monies received as an economic development incentive to the  
22 government entity within thirty days of the final determination. For the  
23 purposes of this subsection:

24 1. "Economic development incentive" means any grant, loan or  
25 performance-based incentive from any government entity that is awarded after  
26 September 30, 2008. Economic development incentive does not include any tax  
27 provision under title 42 or 43.

28 2. "Government entity" means this state and any political subdivision  
29 of this state that receives and uses tax revenues.

30 C. Every three months the attorney general shall request from the  
31 United States department of homeland security a list of employers from this  
32 state that are registered with the e-verify program. On receipt of the list  
33 of employers, the attorney general shall make the list available on the  
34 attorney general's website.

35 Sec. 10. Section 28-3511, Arizona Revised Statutes, is amended to  
36 read:

37 28-3511. Removal and immobilization or impoundment of vehicle

38 A. A peace officer shall cause the removal and either immobilization  
39 or impoundment of a vehicle if the peace officer determines that a person is  
40 driving the vehicle while any of the following applies:

41 1. The person's driving privilege is suspended or revoked for any  
42 reason.

1           2. The person has not ever been issued a valid driver license or  
2 permit by this state and the person does not produce evidence of ever having  
3 a valid driver license or permit issued by another jurisdiction. This  
4 paragraph does not apply to the operation of an implement of husbandry.

5           3. The person is subject to an ignition interlock device requirement  
6 pursuant to chapter 4 of this title and the person is operating a vehicle  
7 without a functioning certified ignition interlock device. This paragraph  
8 does not apply to a person operating an employer's vehicle or the operation  
9 of a vehicle due to a substantial emergency as defined in section 28-1464.

10          4. IN FURTHERANCE OF THE ILLEGAL PRESENCE OF AN ALIEN IN THE UNITED  
11 STATES AND IN VIOLATION OF A CRIMINAL OFFENSE, THE PERSON IS TRANSPORTING OR  
12 MOVING OR ATTEMPTING TO TRANSPORT OR MOVE AN ALIEN IN THIS STATE IN A VEHICLE  
13 IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT THAT THE ALIEN HAS COME  
14 TO, HAS ENTERED OR REMAINS IN THE UNITED STATES IN VIOLATION OF LAW.

15          5. THE PERSON IS CONCEALING, HARBORING OR SHIELDING OR ATTEMPTING TO  
16 CONCEAL, HARBOR OR SHIELD FROM DETECTION AN ALIEN IN THIS STATE IN A VEHICLE  
17 IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT THAT THE ALIEN HAS COME  
18 TO, ENTERED OR REMAINS IN THE UNITED STATES IN VIOLATION OF LAW.

19          B. A peace officer shall cause the removal and impoundment of a  
20 vehicle if the peace officer determines that a person is driving the vehicle  
21 and if all of the following apply:

22           1. The person's driving privilege is canceled, suspended or revoked  
23 for any reason or the person has not ever been issued a driver license or  
24 permit by this state and the person does not produce evidence of ever having  
25 a driver license or permit issued by another jurisdiction.

26           2. The person is not in compliance with the financial responsibility  
27 requirements of chapter 9, article 4 of this title.

28           3. The person is driving a vehicle that is involved in an accident  
29 that results in either property damage or injury to or death of another  
30 person.

31          C. Except as provided in subsection D of this section, while a peace  
32 officer has control of the vehicle the peace officer shall cause the removal  
33 and either immobilization or impoundment of the vehicle if the peace officer  
34 has probable cause to arrest the driver of the vehicle for a violation of  
35 section 4-244, paragraph 34 or section 28-1382 or 28-1383.

36          D. A peace officer shall not cause the removal and either the  
37 immobilization or impoundment of a vehicle pursuant to subsection C of this  
38 section if all of the following apply:

39           1. The peace officer determines that the vehicle is currently  
40 registered and that the driver or the vehicle is in compliance with the  
41 financial responsibility requirements of chapter 9, article 4 of this title.

42           2. The spouse of the driver is with the driver at the time of the  
43 arrest.

1           3. The peace officer has reasonable grounds to believe that the spouse  
2 of the driver:

3           (a) Has a valid driver license.

4           (b) Is not impaired by intoxicating liquor, any drug, a vapor  
5 releasing substance containing a toxic substance or any combination of  
6 liquor, drugs or vapor releasing substances.

7           (c) Does not have any spirituous liquor in the spouse's body if the  
8 spouse is under twenty-one years of age.

9           4. The spouse notifies the peace officer that the spouse will drive  
10 the vehicle from the place of arrest to the driver's home or other place of  
11 safety.

12           5. The spouse drives the vehicle as prescribed by paragraph 4 of this  
13 subsection.

14           E. Except as otherwise provided in this article, a vehicle that is  
15 removed and either immobilized or impounded pursuant to subsection A, B or C  
16 of this section shall be immobilized or impounded for thirty days. An  
17 insurance company does not have a duty to pay any benefits for charges or  
18 fees for immobilization or impoundment.

19           F. The owner of a vehicle that is removed and either immobilized or  
20 impounded pursuant to subsection A, B or C of this section, the spouse of the  
21 owner and each person identified on the department's record with an interest  
22 in the vehicle shall be provided with an opportunity for an immobilization or  
23 poststorage hearing pursuant to section 28-3514.

24           Sec. 11. Title 41, chapter 12, article 2, Arizona Revised Statutes, is  
25 amended by adding section 41-1724, to read:

26           41-1724. Gang and immigration intelligence team enforcement  
27                               mission fund

28           THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND IS  
29 ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 11-1051 AND  
30 MONIES APPROPRIATED BY THE LEGISLATURE. THE DEPARTMENT SHALL ADMINISTER THE  
31 FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION AND SHALL  
32 BE USED FOR GANG AND IMMIGRATION ENFORCEMENT AND FOR COUNTY JAIL  
33 REIMBURSEMENT COSTS RELATING TO ILLEGAL IMMIGRATION.

34           Sec. 12. Severability, implementation and construction

35           A. If a provision of this act or its application to any person or  
36 circumstance is held invalid, the invalidity does not affect other provisions  
37 or applications of the act that can be given effect without the invalid  
38 provision or application, and to this end the provisions of this act are  
39 severable.

40           B. The terms of this act regarding immigration shall be construed to  
41 have the meanings given to them under federal immigration law.

42           C. This act shall be implemented in a manner consistent with federal  
43 laws regulating immigration, protecting the civil rights of all persons and  
44 respecting the privileges and immunities of United States citizens.

1           D. Nothing in this act shall implement or shall be construed or  
2 interpreted to implement or establish the REAL ID act of 2005 (P.L. 109-13,  
3 division B; 119 Stat. 302) including the use of a radio frequency  
4 identification chip.

5           Sec. 13. Short title

6           This act may be cited as the "Support Our Law Enforcement and Safe  
7 Neighborhoods Act".

## EXHIBIT 2

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

## HOUSE BILL 2162

### AN ACT

AMENDING SECTIONS 1-501 AND 1-502, ARIZONA REVISED STATUTES; AMENDING SECTION 11-1051, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 2, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-1509, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 3, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-2928, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 5, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-2929, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 5, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO IMMIGRATION AND BORDER SECURITY; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 1-501, Arizona Revised Statutes, is amended to  
3 read:

4 1-501. Eligibility for federal public benefits; documentation;  
5 violation; classification; citizen suits; attorney  
6 fees; definition

7 A. Notwithstanding any other state law and to the extent permitted by  
8 federal law, any NATURAL person who applies for a federal public benefit that  
9 is administered by this state or a political subdivision of this state and  
10 that requires participants to be citizens of the United States, legal  
11 residents of the United States or otherwise lawfully present in the United  
12 States shall submit at least one of the following documents to the entity  
13 that administers the federal public benefit demonstrating lawful presence in  
14 the United States:

15 1. An Arizona driver license issued after 1996 or an Arizona  
16 nonoperating identification license.

17 2. A birth certificate or delayed birth certificate issued in any  
18 state, territory or possession of the United States.

19 3. A United States certificate of birth abroad.

20 4. A United States passport.

21 5. A foreign passport with a United States visa.

22 6. An I-94 form with a photograph.

23 7. A United States citizenship and immigration services employment  
24 authorization document or refugee travel document.

25 8. A United States certificate of naturalization.

26 9. A United States certificate of citizenship.

27 10. A tribal certificate of Indian blood.

28 11. A tribal or bureau of Indian affairs affidavit of birth.

29 B. For the purposes of administering the Arizona health care cost  
30 containment system, documentation of citizenship and legal residence shall  
31 conform with the requirements of title XIX of the social security act.

32 C. To the extent permitted by federal law, an agency of this state or  
33 political subdivision of this state may allow tribal members, the elderly and  
34 persons with disabilities or incapacity of the mind or body to provide  
35 documentation as specified in section 6036 of the federal deficit reduction  
36 act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu  
37 of the documentation required by this section.

38 D. Any person who applies for federal public benefits shall sign a  
39 sworn affidavit stating that the documents presented pursuant to subsection A  
40 OF THIS SECTION are true under penalty of perjury.

41 E. Failure to report discovered violations of federal immigration law  
42 by an employee of an agency of this state or a political subdivision of this  
43 state that administers any federal public benefit is a class 2 misdemeanor.  
44 If that employee's supervisor knew of the failure to report and failed to



1 direct the employee to make the report, the supervisor is guilty of a class 2  
2 misdemeanor.

3 F. This section shall be enforced without regard to race, color,  
4 religion, sex, age, disability or national origin.

5 G. Any person who is a resident of this state has standing in any  
6 court of record to bring suit against any agent or agency of this state or  
7 its political subdivisions to remedy any violation of any provision of this  
8 section, including an action for mandamus. Courts shall give preference to  
9 actions brought under this section over other civil actions or proceedings  
10 pending in the court.

11 H. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY  
12 PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR  
13 OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON  
14 THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

15 ~~H-~~ I. For the purposes of this section, "federal public benefit" has  
16 the same meaning prescribed in 8 United States Code section 1611.

17 Sec. 2. Section 1-502, Arizona Revised Statutes, is amended to read:

18 1-502. Eligibility for state or local public benefits;  
19 documentation; violation; classification; citizen  
20 suits; attorney fees; definition

21 A. Notwithstanding any other state law and to the extent permitted by  
22 federal law, any agency of this state or a political subdivision of this  
23 state that administers any state or local public benefit shall require each  
24 NATURAL person who applies for the state or local public benefit to submit at  
25 least one of the following documents to the entity that administers the state  
26 or local public benefit demonstrating lawful presence in the United States:

27 1. An Arizona driver license issued after 1996 or an Arizona  
28 nonoperating identification license.

29 2. A birth certificate or delayed birth certificate issued in any  
30 state, territory or possession of the United States.

31 3. A United States certificate of birth abroad.

32 4. A United States passport.

33 5. A foreign passport with a United States visa.

34 6. An I-94 form with a photograph.

35 7. A United States citizenship and immigration services employment  
36 authorization document or refugee travel document.

37 8. A United States certificate of naturalization.

38 9. A United States certificate of citizenship.

39 10. A tribal certificate of Indian blood.

40 11. A tribal or bureau of Indian affairs affidavit of birth.

41 B. For the purposes of administering the Arizona health care cost  
42 containment system, documentation of citizenship and legal residence shall  
43 conform with the requirements of title XIX of the social security act.

1 C. To the extent permitted by federal law, an agency of this state or  
2 political subdivision of this state may allow tribal members, the elderly and  
3 persons with disabilities or incapacity of the mind or body to provide  
4 documentation as specified in section 6036 of the federal deficit reduction  
5 act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu  
6 of the documentation required by this section.

7 D. Any person who applies for state or local public benefits shall  
8 sign a sworn affidavit stating that the documents presented pursuant to  
9 subsection A OF THIS SECTION are true under penalty of perjury.

10 E. Failure to report discovered violations of federal immigration law  
11 by an employee of an agency of this state or a political subdivision of this  
12 state that administers any state or local public benefit is a class 2  
13 misdemeanor. If that employee's supervisor knew of the failure to report and  
14 failed to direct the employee to make the report, the supervisor is guilty of  
15 a class 2 misdemeanor.

16 F. This section shall be enforced without regard to race, color,  
17 religion, sex, age, disability or national origin.

18 G. Any person who is a resident of this state has standing in any  
19 court of record to bring suit against any agent or agency of this state or  
20 its political subdivisions to remedy any violation of any provision of this  
21 section, including an action for mandamus. Courts shall give preference to  
22 actions brought under this section over other civil actions or proceedings  
23 pending in the court.

24 H. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY  
25 PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR  
26 OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON  
27 THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

28 ~~H.~~ I. For the purposes of this section, "state or local public  
29 benefit" has the same meaning prescribed in 8 United States Code section  
30 1621, except that it does not include commercial or professional licenses, ~~or~~  
31 benefits provided by the public retirement systems and plans of this state OR  
32 SERVICES WIDELY AVAILABLE TO THE GENERAL POPULATION AS A WHOLE.

33 Sec. 3. Section 11-1051, Arizona Revised Statutes, as added by Senate  
34 Bill 1070, section 2, forty-ninth legislature, second regular session, as  
35 transmitted to the governor, is amended to read:

36 11-1051. Cooperation and assistance in enforcement of  
37 immigration laws; indemnification

38 A. No official or agency of this state or a county, city, town or  
39 other political subdivision of this state may limit or restrict the  
40 enforcement of federal immigration laws to less than the full extent  
41 permitted by federal law.

42 B. For any lawful ~~contact~~ STOP, DETENTION OR ARREST made by a law  
43 enforcement official or a law enforcement agency of this state or a law  
44 enforcement official or a law enforcement agency of a county, city, town or  
45 other political subdivision of this state IN THE ENFORCEMENT OF ANY OTHER LAW

1 OR ORDINANCE OF A COUNTY, CITY OR TOWN OR THIS STATE where reasonable  
2 suspicion exists that the person is an alien ~~who~~ AND is unlawfully present in  
3 the United States, a reasonable attempt shall be made, when practicable, to  
4 determine the immigration status of the person, except if the determination  
5 may hinder or obstruct an investigation. Any person who is arrested shall  
6 have the person's immigration status determined before the person is  
7 released. The person's immigration status shall be verified with the federal  
8 government pursuant to 8 United States code section 1373(c). A law  
9 enforcement official or agency of this state or a county, city, town or other  
10 political subdivision of this state may not ~~solely~~ consider race, color or  
11 national origin in implementing the requirements of this subsection except to  
12 the extent permitted by the United States or Arizona Constitution. A person  
13 is presumed to not be an alien who is unlawfully present in the United States  
14 if the person provides to the law enforcement officer or agency any of the  
15 following:

- 16 1. A valid Arizona driver license.
- 17 2. A valid Arizona nonoperating identification license.
- 18 3. A valid tribal enrollment card or other form of tribal  
19 identification.

20 4. If the entity requires proof of legal presence in the United States  
21 before issuance, any valid United States federal, state or local government  
22 issued identification.

23 C. If an alien who is unlawfully present in the United States is  
24 convicted of a violation of state or local law, on discharge from  
25 imprisonment or on the assessment of any monetary obligation that is imposed,  
26 the United States immigration and customs enforcement or the United States  
27 customs and border protection shall be immediately notified.

28 D. Notwithstanding any other law, a law enforcement agency may  
29 securely transport an alien who the agency has received verification is  
30 unlawfully present in the united states and who is in the agency's custody to  
31 a federal facility in this state or to any other point of transfer into  
32 federal custody that is outside the jurisdiction of the law enforcement  
33 agency. A law enforcement agency shall obtain judicial authorization before  
34 securely transporting an alien who is unlawfully present in the United States  
35 to a point of transfer that is outside of this state.

36 E. IN THE IMPLEMENTATION OF THIS SECTION, AN ALIEN'S IMMIGRATION  
37 STATUS MAY BE DETERMINED BY:

38 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL  
39 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

40 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED  
41 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION  
42 1373(c).

43 ~~E~~ F. Except as provided in federal law, officials or agencies of  
44 this state and counties, cities, towns and other political subdivisions of  
45 this state may not be prohibited or in any way be restricted from sending,

1 receiving or maintaining information relating to the immigration status,  
2 lawful or unlawful, of any individual or exchanging that information with any  
3 other federal, state or local governmental entity for the following official  
4 purposes:

5 1. Determining eligibility for any public benefit, service or license  
6 provided by any federal, state, local or other political subdivision of this  
7 state.

8 2. Verifying any claim of residence or domicile if determination of  
9 residence or domicile is required under the laws of this state or a judicial  
10 order issued pursuant to a civil or criminal proceeding in this state.

11 3. If the person is an alien, determining whether the person is in  
12 compliance with the federal registration laws prescribed by title II, chapter  
13 7 of the federal immigration and Nationality act.

14 4. Pursuant to 8 United States Code section 1373 and 8 United States  
15 Code section 1644.

16 ~~F.~~ G. This section does not implement, authorize or establish and  
17 shall not be construed to implement, authorize or establish the REAL ID act  
18 of 2005 (P.L. 109-13, division B; 119 Stat. 302), including the use of a  
19 radio frequency identification chip.

20 ~~G.~~ H. A person who is a legal resident of this state may bring an  
21 action in superior court to challenge any official or agency of this state or  
22 a county, city, town or other political subdivision of this state that adopts  
23 or implements a policy ~~or practice~~ that limits or restricts the enforcement  
24 of federal immigration laws, INCLUDING 8 UNITED STATES CODE SECTIONS 1373 AND  
25 1644, to less than the full extent permitted by federal law. If there is a  
26 judicial finding that an entity has violated this section, the court shall  
27 order that the entity pay a civil penalty of not less than ~~one thousand~~ FIVE  
28 HUNDRED dollars and not more than five thousand dollars for each day that the  
29 policy has remained in effect after the filing of an action pursuant to this  
30 subsection.

31 ~~H.~~ I. A court shall collect the civil penalty prescribed in  
32 subsection ~~G~~ H of this section and remit the civil penalty to the state  
33 treasurer for deposit in the gang and immigration intelligence team  
34 enforcement mission fund established by section 41-1724.

35 ~~I.~~ J. The court may award court costs and reasonable attorney fees to  
36 any person or any official or agency of this state or a county, city, town or  
37 other political subdivision of this state that prevails by an adjudication on  
38 the merits in a proceeding brought pursuant to this section.

39 ~~J.~~ K. Except in relation to matters in which the officer is adjudged  
40 to have acted in bad faith, a law enforcement officer is indemnified by the  
41 law enforcement officer's agency against reasonable costs and expenses,  
42 including attorney fees, incurred by the officer in connection with any  
43 action, suit or proceeding brought pursuant to this section in which the  
44 officer may be a defendant by reason of the officer being or having been a  
45 member of the law enforcement agency.

1       ~~K-~~ L. This section shall be implemented in a manner consistent with  
2 federal laws regulating immigration, protecting the civil rights of all  
3 persons and respecting the privileges and immunities of United States  
4 citizens.

5       Sec. 4. Section 13-1509, Arizona Revised Statutes, as added by Senate  
6 Bill 1070, section 3, forty-ninth legislature, second regular session, as  
7 transmitted to the governor, is amended to read:

8       13-1509. Willful failure to complete or carry an alien  
9                                   registration document; assessment; exception;  
10                                   authenticated records; classification

11       A. In addition to any violation of federal law, a person is guilty of  
12 willful failure to complete or carry an alien registration document if the  
13 person is in violation of 8 United States Code section 1304(e) or 1306(a).

14       B. In the enforcement of this section, an alien's immigration status  
15 may be determined by:

16       1. A law enforcement officer who is authorized by the federal  
17 government to verify or ascertain an alien's immigration status.

18       2. The United States immigration and customs enforcement or the United  
19 States customs and border protection pursuant to 8 United States Code section  
20 1373(c).

21       C. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,  
22 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER  
23 RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO  
24 THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

25       ~~G-~~ D. A person who is sentenced pursuant to this section is not  
26 eligible for suspension of sentence, probation, pardon, commutation of  
27 sentence, or release from confinement on any basis except as authorized by  
28 section 31-233, subsection A or B until the sentence imposed by the court has  
29 been served or the person is eligible for release pursuant to section 41-  
30 1604.07.

31       ~~D-~~ E. In addition to any other penalty prescribed by law, the court  
32 shall order the person to pay jail costs. ~~and an additional assessment in~~  
33 ~~the following amounts:~~

34       1. ~~At least five hundred dollars for a first violation.~~

35       2. ~~Twice the amount specified in paragraph 1 of this subsection if the~~  
36 ~~person was previously subject to an assessment pursuant to this subsection.~~

37       ~~E. A court shall collect the assessments prescribed in subsection D of~~  
38 ~~this section and remit the assessments to the department of public safety,~~  
39 ~~which shall establish a special subaccount for the monies in the account~~  
40 ~~established for the gang and immigration intelligence team enforcement~~  
41 ~~mission appropriation. Monies in the special subaccount are subject to~~  
42 ~~legislative appropriation for distribution for gang and immigration~~  
43 ~~enforcement and for county jail reimbursement costs relating to illegal~~  
44 ~~immigration.~~

1 F. This section does not apply to a person who maintains authorization  
2 from the federal government to remain in the United States.

3 G. Any record that relates to the immigration status of a person is  
4 admissible in any court without further foundation or testimony from a  
5 custodian of records if the record is certified as authentic by the  
6 government agency that is responsible for maintaining the record.

7 H. A violation of this section is a class 1 misdemeanor, except that  
8 THE MAXIMUM FINE IS ONE HUNDRED DOLLARS AND FOR a FIRST violation of this  
9 section ~~is~~ THE COURT SHALL NOT SENTENCE THE PERSON TO MORE THAN TWENTY DAYS  
10 IN JAIL AND FOR A SECOND OR SUBSEQUENT VIOLATION THE COURT SHALL NOT SENTENCE  
11 THE PERSON TO MORE THAN THIRTY DAYS IN JAIL.

12 ~~1. A class 3 felony if the person violates this section while in~~  
13 ~~possession of any of the following:~~

14 ~~(a) A dangerous drug as defined in section 13-3401.~~

15 ~~(b) Precursor chemicals that are used in the manufacturing of~~  
16 ~~methamphetamine in violation of section 13-3404.01.~~

17 ~~(c) A deadly weapon or a dangerous instrument, as defined in section~~  
18 ~~13-105.~~

19 ~~(d) Property that is used for the purpose of committing an act of~~  
20 ~~terrorism as prescribed in section 13-2308.01.~~

21 ~~2. A class 4 felony if the person either:~~

22 ~~(a) Is convicted of a second or subsequent violation of this section.~~

23 ~~(b) Within sixty months before the violation, has been removed from~~  
24 ~~the United States pursuant to 8 United States Code section 1229a or has~~  
25 ~~accepted a voluntary removal from the United States pursuant to 8 United~~  
26 ~~States Code section 1229c.~~

27 Sec. 5. Section 13-2928, Arizona Revised Statutes, as added by Senate  
28 Bill 1070, section 5, forty-ninth legislature, second regular session, as  
29 transmitted to the governor, is amended to read:

30 13-2928. Unlawful stopping to hire and pick up passengers for  
31 work; unlawful application, solicitation or  
32 employment; classification; definitions

33 A. It is unlawful for an occupant of a motor vehicle that is stopped  
34 on a street, roadway or highway to attempt to hire or hire and pick up  
35 passengers for work at a different location if the motor vehicle blocks or  
36 impedes the normal movement of traffic.

37 B. It is unlawful for a person to enter a motor vehicle that is  
38 stopped on a street, roadway or highway in order to be hired by an occupant  
39 of the motor vehicle and to be transported to work at a different location if  
40 the motor vehicle blocks or impedes the normal movement of traffic.

41 C. It is unlawful for a person who is unlawfully present in the United  
42 States and who is an unauthorized alien to knowingly apply for work, solicit  
43 work in a public place or perform work as an employee or independent  
44 contractor in this state.

1 D. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,  
2 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER  
3 RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO  
4 THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

5 E. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS  
6 MAY BE DETERMINED BY:

7 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL  
8 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

9 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED  
10 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION  
11 1373(c).

12 ~~D.~~ F. A violation of this section is a class 1 misdemeanor.

13 ~~E.~~ G. For the purposes of this section:

14 1. "Solicit" means verbal or nonverbal communication by a gesture or a  
15 nod that would indicate to a reasonable person that a person is willing to be  
16 employed.

17 2. "Unauthorized alien" means an alien who does not have the legal  
18 right or authorization under federal law to work in the United States as  
19 described in 8 United States Code section 1324a(h)(3).

20 Sec. 6. Section 13-2929, Arizona Revised Statutes, as added by Senate  
21 Bill 1070, section 5, forty-ninth legislature, second regular session, as  
22 transmitted to the governor, is amended to read:

23 13-2929. Unlawful transporting, moving, concealing, harboring  
24 or shielding of unlawful aliens; vehicle  
25 impoundment; exception; classification

26 A. It is unlawful for a person who is in violation of a criminal  
27 offense to:

28 1. Transport or move or attempt to transport or move an alien in this  
29 state, in furtherance of the illegal presence of the alien in the United  
30 States, in a means of transportation if the person knows or recklessly  
31 disregards the fact that the alien has come to, has entered or remains in the  
32 United States in violation of law.

33 2. Conceal, harbor or shield or attempt to conceal, harbor or shield  
34 an alien from detection in any place in this state, including any building or  
35 any means of transportation, if the person knows or recklessly disregards the  
36 fact that the alien has come to, has entered or remains in the United States  
37 in violation of law.

38 3. Encourage or induce an alien to come to or reside in this state if  
39 the person knows or recklessly disregards the fact that such coming to,  
40 entering or residing in this state is or will be in violation of law.

41 B. A means of transportation that is used in the commission of a  
42 violation of this section is subject to mandatory vehicle immobilization or  
43 impoundment pursuant to section 28-3511.

1 C. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,  
2 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER  
3 RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO  
4 THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

5 D. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS  
6 MAY BE DETERMINED BY:

7 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL  
8 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

9 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED  
10 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION  
11 1373(c).

12 ~~E.~~ E. This section does not apply to a child protective services  
13 worker acting in the worker's official capacity or a person who is acting in  
14 the capacity of a first responder, an ambulance attendant or an emergency  
15 medical technician and who is transporting or moving an alien in this state  
16 pursuant to title 36, chapter 21.1.

17 ~~F.~~ F. A person who violates this section is guilty of a class 1  
18 misdemeanor and is subject to a fine of at least one thousand dollars, except  
19 that a violation of this section that involves ten or more illegal aliens is  
20 a class 6 felony and the person is subject to a fine of at least one thousand  
21 dollars for each alien who is involved.

22 Sec. 7. Joint border security advisory committee; membership;  
23 duties; report; delayed repeal

24 A. The joint border security advisory committee is established  
25 consisting of the following members:

26 1. The president of the senate or the president's designee.

27 2. The speaker of the house of representatives or the speaker's  
28 designee.

29 3. Two members of the house of representatives who are appointed by  
30 the speaker of the house of representatives.

31 4. Two members of the senate who are appointed by the president of the  
32 senate.

33 5. Six members who are appointed by the governor.

34 B. Committee members are not eligible to receive compensation for  
35 committee activities but may be eligible for reimbursement of expenses  
36 pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

37 C. The president and the speaker of the house of representatives shall  
38 each appoint a cochairperson of the committee.

39 D. The commission shall meet on the call of the two cochairpersons,  
40 but no more frequently than monthly.

41 E. The committee may:

42 1. Take testimony and other evidence regarding the international  
43 border with Mexico.

44 2. Analyze border crossing statistics.

45 3. Analyze related crime statistics.



1           4. Make recommendations designed to increase border security.

2           5. Make other recommendations deemed essential by the committee.

3           F. The committee may use the services of legislative staff as  
4 required.

5           G. Beginning November 30, 2010 and each month thereafter, the  
6 commission shall submit a written report of its findings and recommendations  
7 to the speaker of the house of representatives, the president of the senate  
8 and the governor. The commission shall provide a copy of the report to the  
9 secretary of state.

10          H. Notwithstanding any law to the contrary, the committee may vote to  
11 go into executive session to take testimony or evidence it considers  
12 sensitive or confidential in nature, which if released could compromise the  
13 security or safety of law enforcement or military personnel or a law  
14 enforcement or national guard law enforcement support operation.

15          I. This section is repealed from and after December 31, 2014.

16          Sec. 8. Immigration legislation challenges

17          A. Notwithstanding title 41, chapter 1, Arizona Revised Statutes, and  
18 any other law, through December 31, 2010, the attorney general shall act at  
19 the direction of the governor in any challenge in a state or federal court to  
20 Laws 2010, chapter 113 and any amendments to that law.

21          B. Notwithstanding title 41, chapter 1, Arizona Revised Statutes, and  
22 any other law, through December 31, 2010, the governor may direct counsel  
23 other than the attorney general to appear on behalf of this state to defend  
24 any challenge to Laws 2010, chapter 113 and any amendments to that law.

25          Sec. 9. Conditional enactment

26          Sections 11-1051, 13-1509, 13-2928 and 13-2929, Arizona Revised  
27 Statutes, as amended by this act, do not become effective unless Senate Bill  
28 1070, forty-ninth legislature, second regular session, relating to unlawfully  
29 present aliens, becomes law.