

On April 23, 2010, Governor Jan Brewer Signed Senate Bill 1070 into law. SB1070 was enacted as Laws 2010, Chapter 113. House Bill 2162 made additional changes to Laws 2010, Chapter 113. Below is an engrossed version of SB1070 with the pertinent changes made by the Conference Engrossed HB2162. BLUE text indicates the original language of SB1070 and GREEN HIGHLIGHTED text denotes changes made by HB2162.

House Engrossed Senate Bill

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

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

11 **ARTICLE 8. ENFORCEMENT OF IMMIGRATION LAWS**

12 **11-1051. Cooperation and assistance in enforcement of immigration laws;**
13 **indemnification**

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

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

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

41 **C. IF AN ALIEN WHO IS UNLAWFULLY PRESENT IN THE UNITED STATES IS CONVICTED OF**
42 **A VIOLATION OF STATE OR LOCAL LAW, ON DISCHARGE FROM IMPRISONMENT OR ON THE**
43 **ASSESSMENT OF ANY MONETARY OBLIGATION THAT IS IMPOSED, THE UNITED STATES**
44 **IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED STATES CUSTOMS AND BORDER**
45 **PROTECTION SHALL BE IMMEDIATELY NOTIFIED.**

46 **D. NOTWITHSTANDING ANY OTHER LAW, A LAW ENFORCEMENT AGENCY MAY SECURELY**
47 **TRANSPORT AN ALIEN WHO THE AGENCY HAS RECEIVED VERIFICATION IS UNLAWFULLY**
48 **PRESENT IN THE UNITED STATES AND WHO IS IN THE AGENCY'S CUSTODY TO A FEDERAL**
49 **FACILITY IN THIS STATE OR TO ANY OTHER POINT OF TRANSFER INTO FEDERAL CUSTODY THAT**
50 **IS OUTSIDE THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY. A LAW ENFORCEMENT**
51 **AGENCY SHALL OBTAIN JUDICIAL AUTHORIZATION BEFORE SECURELY TRANSPORTING AN ALIEN**

1 WHO IS UNLAWFULLY PRESENT IN THE UNITED STATES TO A POINT OF TRANSFER THAT IS
2 OUTSIDE OF THIS STATE.

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

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

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

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

16 **1. DETERMINING ELIGIBILITY FOR ANY PUBLIC BENEFIT, SERVICE OR LICENSE**
17 **PROVIDED BY ANY FEDERAL, STATE, LOCAL OR OTHER POLITICAL SUBDIVISION OF THIS STATE.**

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

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

24 **4. PURSUANT TO 8 UNITED STATES CODE SECTION 1373 AND 8 UNITED STATES CODE**
25 **SECTION 1644.**

26 **F. G. THIS SECTION DOES NOT IMPLEMENT, AUTHORIZE OR ESTABLISH AND SHALL NOT**
27 **BE CONSTRUED TO IMPLEMENT, AUTHORIZE OR ESTABLISH THE REAL ID ACT OF 2005 (P.L. 109-**
28 **13, DIVISION B; 119 STAT. 302), INCLUDING THE USE OF A RADIO FREQUENCY IDENTIFICATION**
29 **CHIP.**

30 **G. H. A PERSON WHO IS A LEGAL RESIDENT OF THIS STATE MAY BRING AN ACTION IN**
31 **SUPERIOR COURT TO CHALLENGE ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY,**
32 **TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE THAT ADOPTS OR IMPLEMENTS A**
33 **POLICY OR PRACTICE THAT LIMITS OR RESTRICTS THE ENFORCEMENT OF FEDERAL**
34 **IMMIGRATION LAWS, INCLUDING 8 UNITED STATES CODE SECTIONS 1373 AND 1644, TO LESS**
35 **THAN THE FULL EXTENT PERMITTED BY FEDERAL LAW. IF THERE IS A JUDICIAL FINDING THAT**
36 **AN ENTITY HAS VIOLATED THIS SECTION, THE COURT SHALL ORDER THAT THE ENTITY PAY A**
37 **CIVIL PENALTY OF NOT LESS THAN ONE THOUSAND FIVE HUNDRED DOLLARS AND NOT MORE**
38 **THAN FIVE THOUSAND DOLLARS FOR EACH DAY THAT THE POLICY HAS REMAINED IN EFFECT**
39 **AFTER THE FILING OF AN ACTION PURSUANT TO THIS SUBSECTION.**

40 **H. I. A COURT SHALL COLLECT THE CIVIL PENALTY PRESCRIBED IN SUBSECTION G- H OF**
41 **THIS SECTION AND REMIT THE CIVIL PENALTY TO THE STATE TREASURER FOR DEPOSIT IN THE**
42 **GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND ESTABLISHED BY**
43 **SECTION 41-1724.**

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

48 **J. K. EXCEPT IN RELATION TO MATTERS IN WHICH THE OFFICER IS ADJUDGED TO HAVE**
49 **ACTED IN BAD FAITH, A LAW ENFORCEMENT OFFICER IS INDEMNIFIED BY THE LAW**
50 **ENFORCEMENT OFFICER'S AGENCY AGAINST REASONABLE COSTS AND EXPENSES, INCLUDING**
51 **ATTORNEY FEES, INCURRED BY THE OFFICER IN CONNECTION WITH ANY ACTION, SUIT OR**
52 **PROCEEDING BROUGHT PURSUANT TO THIS SECTION IN WHICH THE OFFICER MAY BE A**

1 DEFENDANT BY REASON OF THE OFFICER BEING OR HAVING BEEN A MEMBER OF THE LAW
2 ENFORCEMENT AGENCY.

3 ~~K. L.~~ THIS SECTION SHALL BE IMPLEMENTED IN A MANNER CONSISTENT WITH FEDERAL
4 LAWS REGULATING IMMIGRATION, PROTECTING THE CIVIL RIGHTS OF ALL PERSONS AND
5 RESPECTING THE PRIVILEGES AND IMMUNITIES OF UNITED STATES CITIZENS.

6 Sec. 3. Title 13, chapter 15, Arizona Revised Statutes, is amended by adding section 13-
7 1509, to read:

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

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

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

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

17 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED
18 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION
19 1373(c).

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

24 ~~C. D.~~ A PERSON WHO IS SENTENCED PURSUANT TO THIS SECTION IS NOT ELIGIBLE FOR
25 SUSPENSION OF SENTENCE, PROBATION, PARDON, COMMUTATION OF SENTENCE, OR RELEASE
26 FROM CONFINEMENT ON ANY BASIS EXCEPT AS AUTHORIZED BY SECTION 31-233, SUBSECTION A
27 OR B UNTIL THE SENTENCE IMPOSED BY THE COURT HAS BEEN SERVED OR THE PERSON IS
28 ELIGIBLE FOR RELEASE PURSUANT TO SECTION 41-1604.07.

29 ~~D. E.~~ IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, THE COURT SHALL
30 ORDER THE PERSON TO PAY JAIL COSTS. ~~AND AN ADDITIONAL ASSESSMENT IN THE FOLLOWING~~
31 ~~AMOUNTS:~~

32 ~~1. AT LEAST FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION.~~

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

35 ~~E. A COURT SHALL COLLECT THE ASSESSMENTS PRESCRIBED IN SUBSECTION D OF THIS~~
36 ~~SECTION AND REMIT THE ASSESSMENTS TO THE DEPARTMENT OF PUBLIC SAFETY, WHICH~~
37 ~~SHALL ESTABLISH A SPECIAL SUBACCOUNT FOR THE MONIES IN THE ACCOUNT ESTABLISHED~~
38 ~~FOR THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION~~
39 ~~APPROPRIATION. MONIES IN THE SPECIAL SUBACCOUNT ARE SUBJECT TO LEGISLATIVE~~
40 ~~APPROPRIATION FOR DISTRIBUTION FOR GANG AND IMMIGRATION ENFORCEMENT AND FOR~~
41 ~~COUNTY JAIL REIMBURSEMENT COSTS RELATING TO ILLEGAL IMMIGRATION.~~

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

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

48 H. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR, EXCEPT THAT ~~THE~~
49 ~~MAXIMUM FINE IS ONE HUNDRED DOLLARS AND FOR A FIRST VIOLATION OF THIS SECTION IS:~~
50 ~~THE COURT SHALL NOT SENTENCE THE PERSON TO MORE THAN TWENTY DAYS IN JAIL AND FOR~~
51 ~~A SECOND OR SUBSEQUENT VIOLATION THE COURT SHALL NOT SENTENCE THE PERSON TO~~
52 ~~MORE THAN THIRTY DAYS IN JAIL.~~

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

- ~~(a) A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401.~~
- ~~(b) PRECURSOR CHEMICALS THAT ARE USED IN THE MANUFACTURING OF METHAMPHETAMINE IN VIOLATION OF SECTION 13-3404.01.~~
- ~~(c) A DEADLY WEAPON OR A DANGEROUS INSTRUMENT, AS DEFINED IN SECTION 13-105.~~
- ~~(d) PROPERTY THAT IS USED FOR THE PURPOSE OF COMMITTING AN ACT OF TERRORISM AS PRESCRIBED IN SECTION 13-2308.01.~~

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

- ~~(a) IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION,~~
- ~~(b) WITHIN SIXTY MONTHS BEFORE THE VIOLATION, HAS BEEN REMOVED FROM THE UNITED STATES PURSUANT TO 8 UNITED STATES CODE SECTION 1229a OR HAS ACCEPTED A VOLUNTARY REMOVAL FROM THE UNITED STATES PURSUANT TO 8 UNITED STATES CODE SECTION 1229c.~~

Sec. 4. Section 13-2319, Arizona Revised Statutes, is amended to read:

13-2319. Smuggling; classification; definitions

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

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

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

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

2. Is a class 3 felony if the offense involves the use or threatened use of deadly physical force and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any other basis except pursuant to section 31-233, subsection A or B until the sentence imposed by the court is served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

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

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

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

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

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

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

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

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

1 Sec. 5. Title 13, chapter 29, Arizona Revised Statutes, is amended by adding sections 13-
2 2928 and 13-2929, to read:

3 **13-2928. Unlawful stopping to hire and pick up passengers for work; unlawful**
4 **application, solicitation or employment; classification; definitions**

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

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

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

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

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

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

25 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED
26 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION
27 1373(c).

28 ~~D.~~ F. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

29 ~~E.~~ G. FOR THE PURPOSES OF THIS SECTION:

30 1. "SOLICIT" MEANS VERBAL OR NONVERBAL COMMUNICATION BY A GESTURE OR A NOD
31 THAT WOULD INDICATE TO A REASONABLE PERSON THAT A PERSON IS WILLING TO BE
32 EMPLOYED.

33 2. "UNAUTHORIZED ALIEN" MEANS AN ALIEN WHO DOES NOT HAVE THE LEGAL RIGHT
34 OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS DESCRIBED IN
35 8 UNITED STATES CODE SECTION 1324a(h)(3).

36 **13-2929. Unlawful transporting, moving, concealing, harboring or shielding of**
37 **unlawful aliens; vehicle impoundment; exception; classification**

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

39 1. TRANSPORT OR MOVE OR ATTEMPT TO TRANSPORT OR MOVE AN ALIEN IN THIS
40 STATE, IN FURTHERANCE OF THE ILLEGAL PRESENCE OF THE ALIEN IN THE UNITED STATES, IN A
41 MEANS OF TRANSPORTATION IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT
42 THAT THE ALIEN HAS COME TO, HAS ENTERED OR REMAINS IN THE UNITED STATES IN
43 VIOLATION OF LAW.

44 2. CONCEAL, HARBOR OR SHIELD OR ATTEMPT TO CONCEAL, HARBOR OR SHIELD AN
45 ALIEN FROM DETECTION IN ANY PLACE IN THIS STATE, INCLUDING ANY BUILDING OR ANY
46 MEANS OF TRANSPORTATION, IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT
47 THAT THE ALIEN HAS COME TO, HAS ENTERED OR REMAINS IN THE UNITED STATES IN
48 VIOLATION OF LAW.

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

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

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

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

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

12 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED
13 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION
14 1373(c).

15 ~~C.~~ E. THIS SECTION DOES NOT APPLY TO A CHILD PROTECTIVE SERVICES WORKER
16 ACTING IN THE WORKER'S OFFICIAL CAPACITY OR A PERSON WHO IS ACTING IN THE CAPACITY
17 OF A FIRST RESPONDER, AN AMBULANCE ATTENDANT OR AN EMERGENCY MEDICAL TECHNICIAN
18 AND WHO IS TRANSPORTING OR MOVING AN ALIEN IN THIS STATE PURSUANT TO TITLE 36,
19 CHAPTER 21.1.

20 ~~D.~~ F. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR
21 AND IS SUBJECT TO A FINE OF AT LEAST ONE THOUSAND DOLLARS, EXCEPT THAT A VIOLATION
22 OF THIS SECTION THAT INVOLVES TEN OR MORE ILLEGAL ALIENS IS A CLASS 6 FELONY AND THE
23 PERSON IS SUBJECT TO A FINE OF AT LEAST ONE THOUSAND DOLLARS FOR EACH ALIEN WHO IS
24 INVOLVED.

25 Sec. 6. Section 13-3883, Arizona Revised Statutes, is amended to read:

26 13-3883. Arrest by officer without warrant

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

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

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

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

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

39 5. ~~THE PERSON TO BE ARRESTED HAS COMMITTED ANY PUBLIC OFFENSE THAT MAKES~~
40 ~~THE PERSON REMOVABLE FROM THE UNITED STATES.~~

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

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

47 23-212. Knowingly employing unauthorized aliens; prohibition; false and
48 frivolous complaints; violation; classification; license suspension
49 and revocation; affirmative defense

50 A. An employer shall not knowingly employ an unauthorized alien. If, in the case when
51 an employer uses a contract, subcontract or other independent contractor agreement to obtain
52 the labor of an alien in this state, the employer knowingly contracts with an unauthorized alien

1 or with a person who employs or contracts with an unauthorized alien to perform the labor, the
2 employer violates this subsection.

3 B. The attorney general shall prescribe a complaint form for a person to allege a
4 violation of subsection A of this section. The complainant shall not be required to list the
5 complainant's social security number on the complaint form or to have the complaint form
6 notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly
7 knowingly employs an unauthorized alien, the attorney general or county attorney shall
8 investigate whether the employer has violated subsection A of this section. If a complaint is
9 received but is not submitted on a prescribed complaint form, the attorney general or county
10 attorney may investigate whether the employer has violated subsection A of this section. This
11 subsection shall not be construed to prohibit the filing of anonymous complaints that are not
12 submitted on a prescribed complaint form. The attorney general or county attorney shall not
13 investigate complaints that are based solely on race, color or national origin. A complaint that is
14 submitted to a county attorney shall be submitted to the county attorney in the county in which
15 the alleged unauthorized alien is or was employed by the employer. The county sheriff or any
16 other local law enforcement agency may assist in investigating a complaint. When investigating a
17 complaint, the attorney general or county attorney shall verify the work authorization of the
18 alleged unauthorized alien with the federal government pursuant to 8 United States Code section
19 1373(c). A state, county or local official shall not attempt to independently make a final
20 determination on whether an alien is authorized to work in the United States. An alien's
21 immigration status or work authorization status shall be verified with the federal government
22 pursuant to 8 United States Code section 1373(c). A person who knowingly files a false and
23 frivolous complaint under this subsection is guilty of a class 3 misdemeanor.

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

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

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

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

33 D. An action for a violation of subsection A of this section shall be brought against the
34 employer by the county attorney in the county where the unauthorized alien employee is or was
35 employed by the employer. The county attorney shall not bring an action against any employer
36 for any violation of subsection A of this section that occurs before January 1, 2008. A second
37 violation of this section shall be based only on an unauthorized alien who is or was employed by
38 the employer after an action has been brought for a violation of subsection A of this section or
39 section 23-212.01, subsection A.

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

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

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

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

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

50 (c) Shall order the employer to file a signed sworn affidavit with the county attorney
51 within three business days after the order is issued. The affidavit shall state that the employer
52 has terminated the employment of all unauthorized aliens in this state and that the employer will

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

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

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

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

39 3. The violation shall be considered:

- 40 (a) A first violation by an employer at a business location if the violation did not occur
41 during a probationary period ordered by the court under this subsection or section 23-212.01,
42 subsection F for that employer's business location.
- 43 (b) A second violation by an employer at a business location if the violation occurred
44 during a probationary period ordered by the court under this subsection or section 23-212.01,
45 subsection F for that employer's business location.

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

50 H. On determining whether an employee is an unauthorized alien, the court shall
51 consider only the federal government's determination pursuant to 8 United States Code section
52 1373(c). The federal government's determination creates a rebuttable presumption of the

1 employee's lawful status. The court may take judicial notice of the federal government's
2 determination and may request the federal government to provide automated or testimonial
3 verification pursuant to 8 United States Code section 1373(c).

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

7 J. For the purposes of this section, an employer that establishes that it has complied in
8 good faith with the requirements of 8 United States Code section 1324a(b) establishes an
9 affirmative defense that the employer did not knowingly employ an unauthorized alien. An
10 employer is considered to have complied with the requirements of 8 United States Code section
11 1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to
12 meet the requirements, if there is a good faith attempt to comply with the requirements.

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

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

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

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

25 L. AN EMPLOYER DOES NOT ESTABLISH ENTRAPMENT IF THE EMPLOYER WAS
26 PREDISPOSED TO VIOLATE SUBSECTION A OF THIS SECTION AND THE LAW ENFORCEMENT
27 OFFICERS OR THEIR AGENTS MERELY PROVIDED THE EMPLOYER WITH AN OPPORTUNITY TO
28 COMMIT THE VIOLATION. IT IS NOT ENTRAPMENT FOR LAW ENFORCEMENT OFFICERS OR THEIR
29 AGENTS MERELY TO USE A RUSE OR TO CONCEAL THEIR IDENTITY. THE CONDUCT OF LAW
30 ENFORCEMENT OFFICERS AND THEIR AGENTS MAY BE CONSIDERED IN DETERMINING IF AN
31 EMPLOYER HAS PROVEN ENTRAPMENT.

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

33 23-212.01. Intentionally employing unauthorized aliens; prohibition; false and
34 frivolous complaints; violation; classification; license
35 suspension and revocation; affirmative defense

36 A. An employer shall not intentionally employ an unauthorized alien. If, in the case when
37 an employer uses a contract, subcontract or other independent contractor agreement to obtain
38 the labor of an alien in this state, the employer intentionally contracts with an unauthorized alien
39 or with a person who employs or contracts with an unauthorized alien to perform the labor, the
40 employer violates this subsection.

41 B. The attorney general shall prescribe a complaint form for a person to allege a
42 violation of subsection A of this section. The complainant shall not be required to list the
43 complainant's social security number on the complaint form or to have the complaint form
44 notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly
45 intentionally employs an unauthorized alien, the attorney general or county attorney shall
46 investigate whether the employer has violated subsection A of this section. If a complaint is
47 received but is not submitted on a prescribed complaint form, the attorney general or county
48 attorney may investigate whether the employer has violated subsection A of this section. This
49 subsection shall not be construed to prohibit the filing of anonymous complaints that are not
50 submitted on a prescribed complaint form. The attorney general or county attorney shall not
51 investigate complaints that are based solely on race, color or national origin. A complaint that is
52 submitted to a county attorney shall be submitted to the county attorney in the county in which

1 the alleged unauthorized alien is or was employed by the employer. The county sheriff or any
2 other local law enforcement agency may assist in investigating a complaint. When investigating a
3 complaint, the attorney general or county attorney shall verify the work authorization of the
4 alleged unauthorized 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 independently make a final
6 determination on whether an alien is authorized to work in the United States. An alien's
7 immigration status or work authorization status shall be verified with the federal government
8 pursuant to 8 United States Code section 1373(c). A person who knowingly files a false and
9 frivolous complaint under this subsection is guilty of a class 3 misdemeanor.

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

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

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

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

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

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

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

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

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

31 (b) Order the employer to be subject to a five year probationary period for the business
32 location where the unauthorized alien performed work. During the probationary period the
33 employer shall file quarterly reports in the form provided in section 23-722.01 with the county
34 attorney of each new 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 in subdivision (d) of
37 this paragraph that are held by the employer for a minimum of ten days. The court shall base its
38 decision on the length of the suspension under this subdivision on any evidence or information
39 submitted to it during the action for a violation of this subsection and shall consider the following
40 factors, if relevant:

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

42 (ii) Any prior misconduct by the employer.

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

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

46 (v) The duration of the violation.

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

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

49 (d) Order the employer to file a signed sworn affidavit with the county attorney. The
50 affidavit shall state that the employer has terminated the employment of all unauthorized aliens
51 in this state and that the employer will not intentionally or knowingly employ an unauthorized
52 alien in this state. The court shall order the appropriate agencies to suspend all licenses subject

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

15 2. For a second violation, as described in paragraph 3 of this subsection, the court shall
16 order the appropriate agencies to permanently revoke all licenses that are held by the employer
17 specific to the business location where the unauthorized alien performed work. If the employer
18 does not hold a license specific to the business location where the unauthorized alien performed
19 work, but a license is necessary to operate the employer's business in general, the court shall
20 order the appropriate agencies to permanently revoke all licenses that are held by the employer
21 at the employer's primary place of business. On receipt of the order and notwithstanding any
22 other law, the appropriate agencies shall immediately revoke the licenses.

23 3. The violation shall be considered:

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

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

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

34 H. On determining whether an employee is an unauthorized alien, the court shall
35 consider only the federal government's determination pursuant to 8 United States Code section
36 1373(c). The federal government's determination creates a rebuttable presumption of the
37 employee's lawful status. The court may take judicial notice of the federal government's
38 determination and may request the federal government to provide automated or testimonial
39 verification pursuant to 8 United States Code section 1373(c).

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

43 J. For the purposes of this section, an employer that establishes that it has complied in
44 good faith with the requirements of 8 United States Code section 1324a(b) establishes an
45 affirmative defense that the employer did not intentionally employ an unauthorized alien. An
46 employer is considered to have complied with the requirements of 8 United States Code section
47 1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to
48 meet the requirements, if there is a good faith attempt to comply with the requirements.

49 **K. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF THIS SECTION**
50 **THAT THE EMPLOYER WAS ENTRAPPED. TO CLAIM ENTRAPMENT, THE EMPLOYER MUST ADMIT**
51 **BY THE EMPLOYER'S TESTIMONY OR OTHER EVIDENCE THE SUBSTANTIAL ELEMENTS OF THE**

1 VIOLATION. AN EMPLOYER WHO ASSERTS AN ENTRAPMENT DEFENSE HAS THE BURDEN OF
2 PROVING THE FOLLOWING BY A PREPONDERANCE OF THE EVIDENCE:

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

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

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

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

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

18 23-214. Verification of employment eligibility; e-verify program; economic
19 development incentives; list of registered employers

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

24 B. In addition to any other requirement for an employer to receive an economic
25 development incentive from a government entity, the employer shall register with and
26 participate in the e-verify program. Before receiving the economic development incentive, the
27 employer shall provide proof to the government entity that the employer is registered with and
28 is participating in the e-verify program. If the government entity determines that the employer is
29 not complying with this subsection, the government entity shall notify the employer by certified
30 mail of the government entity's determination of noncompliance and the employer's right to
31 appeal the determination. On a final determination of noncompliance, the employer shall repay
32 all monies received as an economic development incentive to the government entity within thirty
33 days of the final determination. For the purposes of this subsection:

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

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

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

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

44 28-3511. Removal and immobilization or impoundment of vehicle

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (a) Has a valid driver license.

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

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

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

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

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

50 F. The owner of a vehicle that is removed and either immobilized or impounded
51 pursuant to subsection A, B or C of this section, the spouse of the owner and each person

1 identified on the department's record with an interest in the vehicle shall be provided with an
2 opportunity for an immobilization or poststorage hearing pursuant to section 28-3514.

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

5 **41-1724. Gang and immigration intelligence team enforcement mission fund**

6 **THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND IS**
7 **ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 11-1051 AND MONIES**
8 **APPROPRIATED BY THE LEGISLATURE. THE DEPARTMENT SHALL ADMINISTER THE FUND.**
9 **MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION AND SHALL BE USED FOR**
10 **GANG AND IMMIGRATION ENFORCEMENT AND FOR COUNTY JAIL REIMBURSEMENT COSTS**
11 **RELATING TO ILLEGAL IMMIGRATION.**

12 **Sec. 12. Severability, implementation and construction**

13 **A. If a provision of this act or its application to any person or circumstance is held**
14 **invalid, the invalidity does not affect other provisions or applications of the act that can be given**
15 **effect without the invalid provision or application, and to this end the provisions of this act are**
16 **severable.**

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

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

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

25 **Sec. 13. Short title**

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

27 **Sec. 14. Immigration legislation challenges**

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

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

35 **Sec. 15. Conditional enactment**

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