

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".