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1 A bill to be entitled
2 An act relating to immigration; designating ss. 787.01,
3 787.02, 787.025, 787.03, 787.04, 787.05, and 787.06, F.S.,
4 as pt. I of ch. 787, F.S., and providing a title; creating
5 pt. II of ch. 787, F.S., and providing a title; providing
6 a short title; providing legislative intent; providing
7 definitions; prohibiting an official or agency of the
8 state or of a county, municipality, or other political
9 subdivision of the state from limiting or restricting the
10 enforcement of federal immigration laws to less than the
11 full extent permitted by federal law; requiring that for
12 any lawful stop, detention, or arrest made by a law
13 enforcement officer or a law enforcement agency of the
14 state or of a county, municipality, or other political
15 subdivision of the state in the enforcement of any law or
16 ordinance of a county, municipality, or the state where
17 reasonable suspicion exists that the person stopped,
18 detained, or arrested is an alien and is unlawfully
19 present in the United States a reasonable attempt be made
20 to determine the immigration status of the person;
21 requiring determination of an arrested person's
22 immigration status prior to release; providing a method of
23 verification of immigration status; authorizing a law
24 enforcement officer or agency of this state or a county,
25 municipality, or other political subdivision of this state
26 to obtain access to the federal E-Verify program;
27 prohibiting the consideration of race, color, or national
28 origin in implementing such requirements; specifying forms

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29 | of identification that constitute a presumption of lawful
30 | presence in the United States; requiring notification of
31 | specified federal immigration authorities of the discharge
32 | from imprisonment of an alien who is unlawfully present in
33 | the United States and who has been convicted of a
34 | violation of state or local law; authorizing law
35 | enforcement agencies to transport an alien who is
36 | confirmed to be unlawfully present in the United States
37 | for transfer into federal custody; requiring judicial
38 | authorization prior to transport; providing accepted
39 | methods of determining an alien's immigration status in
40 | the implementation of the act; prohibiting officials or
41 | agencies of the state and of counties, municipalities, and
42 | other political subdivisions of the state from being
43 | prohibited or in any way restricted from sending,
44 | receiving, or maintaining information relating to the
45 | immigration status of any individual or exchanging that
46 | information with any other federal, state, or local
47 | governmental entity for specified official purposes;
48 | providing that the provisions of the act do not implement,
49 | authorize, or establish the Real ID Act of 2005;
50 | authorizing a legal resident of the state to bring a court
51 | action to challenge any official or agency of the state or
52 | of a county, municipality, or other political subdivision
53 | of the state that adopts or implements a policy that
54 | limits or restricts the enforcement of federal immigration
55 | laws to less than the full extent permitted by federal
56 | law; providing a civil penalty for violation; providing

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57 | for deposit of civil penalties; providing for costs and
58 | attorney's fees; requiring indemnification of law
59 | enforcement officers by an employing law enforcement
60 | agency in specified actions; providing requirements with
61 | respect to implementation of the section; providing that
62 | violation of specified federal law constitutes the offense
63 | of willful failure to complete or carry an alien
64 | registration document; providing for determination of an
65 | alien's immigration status; prohibiting consideration of
66 | race, color, or national origin in the enforcement of the
67 | section; providing that a person sentenced under the
68 | section is not eligible for any form of discretionary
69 | early release prior to serving the minimum sentence;
70 | providing applicability; providing for admissibility of
71 | certain records in court; providing penalties;
72 | establishing the offense of smuggling human beings for
73 | profit or commercial purpose; providing penalties;
74 | providing enhanced penalties for the offense of smuggling
75 | human beings for profit or commercial purpose when the
76 | person who is smuggled is under 18 years of age and is not
77 | accompanied by a family member over 18 years of age, or
78 | when the offense involved the use of a deadly weapon or
79 | dangerous instrument; providing enhanced penalties for the
80 | offense of smuggling human beings for profit or commercial
81 | purpose when the offense involves the use or threatened
82 | use of deadly physical force; providing that a person
83 | sentenced for such offense is not eligible for any form of
84 | discretionary early release prior to serving the minimum

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85 sentence; providing that in the enforcement of the section
86 a law enforcement officer may lawfully stop any person who
87 is operating a motor vehicle if the officer has reasonable
88 suspicion to believe the person is in violation of any
89 civil traffic law; providing definitions; providing that
90 it is unlawful for an occupant of a motor vehicle that is
91 stopped on a street, roadway, or highway to attempt to
92 hire or hire and pick up passengers for work at a
93 different location if the motor vehicle blocks or impedes
94 the normal movement of traffic; providing a penalty;
95 providing that it is unlawful for a person to enter such a
96 motor vehicle in order to be hired for work by an occupant
97 of the motor vehicle and then transported to work;
98 providing a penalty; providing that it is unlawful for a
99 person who is unlawfully present in the United States and
100 who is an unauthorized alien to knowingly apply for work,
101 solicit work in a public place, or perform work as an
102 employee or independent contractor in this state;
103 providing a penalty; prohibiting the consideration of
104 race, color, or national origin in the enforcement of the
105 section; providing for determination of an alien's
106 immigration status; providing definitions; prohibiting the
107 actual or attempted transporting or moving of an alien in
108 the state in furtherance of the illegal presence of the
109 alien in the United States in knowing or reckless
110 disregard of the fact of the alien's unlawful presence;
111 prohibiting the actual or attempted concealing, harboring,
112 or shielding of an alien from detection in knowing or

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113 reckless disregard of the fact of the alien's unlawful
114 presence in the United States; prohibiting encouraging or
115 inducing an alien to enter or reside in the state in
116 knowing or reckless disregard of the fact that such entry
117 or residence is or will be a violation of law; providing
118 that a means of transportation used in the commission of a
119 violation of the section is subject to mandatory
120 immobilization or impoundment; prohibiting the
121 consideration of race, color, or national origin in the
122 enforcement of the section; providing for the
123 determination of an alien's immigration status; providing
124 nonapplicability; providing a penalty and specifying a
125 fine; providing an enhanced penalty for violations
126 involving 10 or more illegal aliens; specifying fines;
127 prohibiting an employer from knowingly or intentionally
128 employing an unauthorized alien; providing construction
129 with respect to such employment by contract, subcontract,
130 or other independent contractor agreement; requiring the
131 Attorney General to prescribe a complaint form to allege a
132 violation of such prohibited employment; providing
133 procedures and requirements with respect to submission of
134 complaints and investigation of an alleged violation by
135 the Attorney General or county attorney; prohibiting the
136 Attorney General or county attorney from investigating
137 complaints that are based solely on race, color, or
138 national origin; providing a penalty for knowingly filing
139 a false or frivolous complaint; providing specified notice
140 requirements of the Attorney General or county attorney

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141 when investigating a legitimate complaint; providing for
142 an action to be brought against an employer by the county
143 attorney in the county where the unauthorized alien
144 employee is or was employed; prohibiting actions against
145 any employer for any violation occurring prior to a
146 specified date; providing for expedited court actions;
147 specifying court-ordered penalties for a first violation
148 of the section, including probation of the employer and
149 suspension of licenses; specifying court-ordered penalties
150 for a second violation of the section, including permanent
151 revocation of licenses; requiring the Attorney General to
152 maintain copies of court orders and maintain a database;
153 providing that the Federal Government's determination of
154 lawful or unlawful presence creates a rebuttable
155 presumption of the employee's lawful status; providing
156 that proof of verifying the employment authorization of an
157 employee through the federal E-Verify program creates a
158 rebuttable presumption that an employer did not
159 intentionally employ an unauthorized alien; providing that
160 an employer that establishes that it has complied in good
161 faith with specified federal requirements establishes an
162 affirmative defense that the employer did not
163 intentionally employ an unauthorized alien; providing that
164 entrapment is an affirmative defense to a violation by an
165 employer; specifying requirements with respect to a claim
166 of and the establishment of entrapment; requiring
167 employers, after hiring an employee, to verify the
168 employment eligibility of the employee through the federal

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169 E-Verify program; providing recordkeeping requirements of
170 employers; requiring employer registration and
171 participation in the federal E-Verify program as a
172 precondition to receipt of an economic development
173 incentive from a government entity; providing procedures
174 with respect to compliance with the requirement; requiring
175 repayment to the government entity of all funds received
176 as an economic development incentive upon determination of
177 noncompliance; providing definitions; requiring a law
178 enforcement officer to remove and immobilize or impound a
179 vehicle if the officer determines that a person is
180 operating the vehicle while in furtherance of the illegal
181 presence of an alien in the United States or is
182 transporting or moving or attempting to transport or move
183 an alien in this state in a vehicle in knowing or reckless
184 disregard of the fact that the alien has entered or
185 remains in the United States in violation of law;
186 requiring removal and immobilization or impoundment of a
187 vehicle if the operator is concealing, harboring, or
188 shielding from detection an alien in this state in a
189 vehicle in knowing or reckless disregard of the fact that
190 the alien has entered or remains in the United States in
191 violation of law; specifying the period of impoundment or
192 immobilization; providing that specified persons shall be
193 provided with an opportunity for an immobilization or
194 poststorage hearing to determine the validity of the
195 impoundment or immobilization of a vehicle; providing
196 procedures and requirements with respect to immobilization

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197 or poststorage hearings; providing specified notice
 198 requirements; amending s. 901.15, F.S.; authorizing a law
 199 enforcement officer to arrest a person without a warrant
 200 when the officer has probable cause to believe that the
 201 person to be arrested has committed any public offense
 202 that makes the person removable from the United States;
 203 repealing s. 787.07, F.S., which provides a penalty for
 204 transporting into this state an individual illegally
 205 entering the United States from another country; providing
 206 severability, implementation, and construction of the act;
 207 requiring the Attorney General to act at the direction of
 208 the Governor in any challenge in a state or federal court
 209 to this act and any amendments thereto; authorizing the
 210 Governor to direct counsel other than the Attorney General
 211 to appear on behalf of this state to defend any challenge
 212 to this act and any amendments thereto; providing an
 213 effective date.

214
 215 Be It Enacted by the Legislature of the State of Florida:

216
 217 Section 1. Sections 787.01, 787.02, 787.025, 787.03,
 218 787.04, 787.05, and 787.06, Florida Statutes, are designated as
 219 part I of chapter 787, Florida Statutes, and entitled
 220 "KIDNAPPING; FALSE IMPRISONMENT; LURING OR ENTICING A CHILD;
 221 CUSTODY OFFENSES."

222 Section 2. Part II of chapter 787, Florida Statutes,
 223 consisting of sections 787.10, 787.12, 787.14, 787.16, 787.18,

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224 787.20, 787.22, 787.24, 787.26, 787.28, 787.30, and 787.32, is
 225 created to read:

227 PART II
 228 IMMIGRATION

230 787.10 Short title.—This part may be cited as the "Florida
 231 Immigration Enforcement Act of 2010."

232 787.12 Legislative intent.—The Legislature finds that
 233 there is a compelling interest in the cooperative enforcement of
 234 federal immigration laws throughout all of this state. The
 235 Legislature declares that the intent of this part is to make
 236 attrition through enforcement the public policy of all state and
 237 local government agencies in this state. The provisions of this
 238 part are intended to work together to discourage and deter the
 239 unlawful entry and presence of aliens and economic activity by
 240 persons unlawfully present in the United States.

241 787.14 Definitions.—As used in this part:

242 (1) Except as otherwise specifically provided, the terms
 243 of this part regarding immigration shall be construed to have
 244 the meanings given to them under federal immigration law.

245 (2) "Law enforcement officer" has the same meaning as
 246 provided in s. 943.10.

247 787.16 Cooperation and assistance in enforcement of
 248 immigration laws; indemnification.—

249 (1) An official or agency of this state or of a county,
 250 municipality, or other political subdivision of this state may

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251 not limit or restrict the enforcement of federal immigration
252 laws to less than the full extent permitted by federal law.

253 (2) For any lawful stop, detention, or arrest made by a
254 law enforcement officer or a law enforcement agency of this
255 state or of a county, municipality, or other political
256 subdivision of this state in the enforcement of any other law or
257 ordinance of a county, municipality, or this state where
258 reasonable suspicion exists that the person stopped, detained,
259 or arrested is an alien and is unlawfully present in the United
260 States, a reasonable attempt shall be made, when practicable, to
261 determine the immigration status of the person, except if the
262 determination may hinder or obstruct an investigation. Any
263 person who is arrested shall have his or her immigration status
264 determined before he or she is released. The person's
265 immigration status shall be verified with the Federal Government
266 pursuant to 8 U.S.C. s. 1373(c). A law enforcement officer or
267 agency of this state or a county, municipality, or other
268 political subdivision of this state is authorized to obtain
269 access to the federal E-Verify program in order to implement the
270 requirements of this subsection. A law enforcement officer or
271 agency of this state or a county, municipality, or other
272 political subdivision of this state may not consider race,
273 color, or national origin in implementing the requirements of
274 this subsection except to the extent permitted by the United
275 States Constitution or the Constitution of the State of Florida.
276 A person is presumed to not be an alien who is unlawfully
277 present in the United States if the person provides to the law
278 enforcement officer or agency any of the following:

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279 (a) A valid Florida driver's license.

280 (b)1. A valid identification card issued by the Department
 281 of Highway Safety and Motor Vehicles pursuant to s. 322.051,
 282 which includes any identification card issued by the Department
 283 of Highway Safety and Motor Vehicles or its agents; or

284 2. Any identification card issued by any state or
 285 jurisdiction that issues identification cards recognized in this
 286 state for the purpose of indicating a person's true name and
 287 age.

288 (c) Any valid identification issued by the Federal
 289 Government or a state or local government for which the Federal
 290 Government or the issuing state or local government requires
 291 proof of legal presence in the United States as a condition of
 292 issuance.

293 (3) If an alien who is unlawfully present in the United
 294 States is convicted of a violation of state or local law, upon
 295 his or her discharge from imprisonment or upon the assessment of
 296 any monetary obligation that is imposed, the United States
 297 Immigration and Customs Enforcement or the United States Customs
 298 and Border Protection shall be immediately notified.

299 (4) Notwithstanding any other law, a law enforcement
 300 agency may securely transport an alien about whom the agency has
 301 received verification confirming his or her unlawful presence in
 302 the United States and who is in the agency's custody to a
 303 federal facility in this state or to any other point of transfer
 304 into federal custody that is outside the jurisdiction of the law
 305 enforcement agency. A law enforcement agency shall obtain
 306 judicial authorization before securely transporting an alien who

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307 is unlawfully present in the United States to a point of
308 transfer that is outside of this state.

309 (5) In the implementation of this section, an alien's
310 immigration status may be determined by:

311 (a) A law enforcement officer who is authorized by the
312 Federal Government to verify or ascertain an alien's immigration
313 status.

314 (b) The United States Immigration and Customs Enforcement
315 or the United States Customs and Border Protection pursuant to 8
316 U.S.C. s. 1373(c).

317 (6) Except as provided by federal law, officials or
318 agencies of this state and of counties, municipalities, and
319 other political subdivisions of this state may not be prohibited
320 or in any way restricted from sending, receiving, or maintaining
321 information relating to the immigration status, whether lawful
322 or unlawful, of any individual or exchanging that information
323 with any other federal, state, or local governmental entity for
324 the following official purposes:

325 (a) Determining eligibility for any public benefit,
326 service, or license provided by the Federal Government, this
327 state, or any local government or other political subdivision of
328 this state.

329 (b) Verifying any claim of residence or domicile if
330 determination of residence or domicile is required under the
331 laws of this state or a judicial order issued pursuant to a
332 civil or criminal proceeding in this state.

333 (c) If the person is an alien, determining whether the
334 person is in compliance with the federal registration laws

335 prescribed by Title II, Chapter 7 of the Immigration and
 336 Nationality Act.

337 (d) Pursuant to 8 U.S.C. ss. 1373(c) and 1644.

338 (7) This section does not implement, authorize, or
 339 establish and may not be construed to implement, authorize, or
 340 establish the Real ID Act of 2005, Pub. L. No. 109-13, including
 341 the use of radio frequency identification technology.

342 (8) A person who is a legal resident of this state may
 343 bring an action in the appropriate court in this state to
 344 challenge any official or agency of this state or of a county,
 345 municipality, or other political subdivision of this state that
 346 adopts or implements a policy that limits or restricts the
 347 enforcement of federal immigration laws, including 8 U.S.C. ss.
 348 1373(c) and 1644, to less than the full extent permitted by
 349 federal law. If there is a judicial finding that an entity has
 350 violated this section, the court shall order the entity to pay a
 351 civil penalty of not less than \$500 and not more than \$5,000 for
 352 each day that the policy has remained in effect after the filing
 353 of an action pursuant to this subsection.

354 (9) The court shall collect the civil penalty prescribed
 355 in subsection (8) and deposit the moneys in the Violent Crime
 356 Investigative Emergency and Drug Control Strategy Implementation
 357 Account within the Department of Law Enforcement Operating Trust
 358 Fund pursuant to s. 943.042.

359 (10) The court may award court costs and reasonable
 360 attorney's fees to any person or any official or agency of this
 361 state or of a county, municipality, or other political

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362 subdivision of this state that prevails by an adjudication on
 363 the merits in a proceeding brought pursuant to this section.

364 (11) Except in relation to matters in which the officer is
 365 adjudged to have acted in bad faith, a law enforcement officer
 366 shall be indemnified by his or her employing agency against
 367 reasonable costs and expenses, including attorney's fees,
 368 incurred by the officer in connection with any action, suit, or
 369 proceeding brought pursuant to this section in which the officer
 370 may be a defendant by reason of his or her being or having been
 371 a member of the law enforcement agency.

372 (12) This section shall be implemented in a manner
 373 consistent with federal laws regulating immigration, protecting
 374 the civil rights of all persons, and respecting the privileges
 375 and immunities of United States citizens.

376 787.18 Willful failure to complete or carry an alien
 377 registration document; assessment; exception; authenticated
 378 records; classification.—

379 (1) In addition to any violation of federal law, a person
 380 commits willful failure to complete or carry an alien
 381 registration document if the person is in violation of 8 U.S.C.
 382 s. 1304(e) or s. 1306(a).

383 (2) In the enforcement of this section, an alien's
 384 immigration status may be determined by:

385 (a) A law enforcement officer who is authorized by the
 386 Federal Government to verify or ascertain an alien's immigration
 387 status.

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388 (b) The United States Immigration and Customs Enforcement
 389 or the United States Customs and Border Protection pursuant to 8
 390 U.S.C. s. 1373(c).

391
 392 A law enforcement officer or agency of this state or a county,
 393 municipality, or other political subdivision of this state is
 394 authorized to obtain access to the federal E-Verify program in
 395 order to verify or ascertain an alien's immigration status.

396 (3) A law enforcement officer or agency of this state or
 397 of a county, municipality, or other political subdivision of
 398 this state may not consider race, color, or national origin in
 399 the enforcement of this section except to the extent permitted
 400 by the United States Constitution or the Constitution of the
 401 State of Florida.

402 (4) A person sentenced under this section is not eligible
 403 for any form of discretionary early release, other than pardon
 404 or executive clemency, or conditional medical release under s.
 405 947.149, prior to serving the minimum sentence.

406 (5) This section does not apply to a person who maintains
 407 authorization from the Federal Government to remain in the
 408 United States.

409 (6) Any record that relates to the immigration status of a
 410 person is admissible in any court without further foundation or
 411 testimony from a custodian of records if the record is certified
 412 as authentic by the government agency that is responsible for
 413 maintaining the record.

414 (7) A violation of this section is a misdemeanor of the
 415 second degree, punishable as provided in s. 775.082 and by a
 416 fine not to exceed \$100, and:

417 (a) For a first violation, a term of imprisonment not to
 418 exceed 20 days in a county or municipal detention facility.

419 (b) For a second violation, a term of imprisonment not to
 420 exceed 30 days in a county or municipal detention facility.

421 787.20 Smuggling of human beings; classification;
 422 definitions.—

423 (1)(a) It is unlawful for a person to:

- 424 1. Intentionally engage in or attempt to engage in;
- 425 2. Intentionally cause or solicit another person to engage
 426 in or attempt to cause or solicit another person to engage in;
- 427 3. Conspire to engage in; or
- 428 4. Facilitate or further

429
 430 the smuggling of human beings for profit or commercial purpose.

431 (b) Except as provided in subsection (2), a person who
 432 violates paragraph (a) commits a felony of the third degree,
 433 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

434 (2) A person who violates paragraph (1)(a):

435 (a)1. When the human being who is smuggled is under 18
 436 years of age and is not accompanied by a family member over 18
 437 years of age; or

438 2. When the offense involved the use of a deadly weapon or
 439 dangerous instrument,

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441 commits a felony of the second degree, punishable as provided in
442 s. 775.082, s. 775.083, or s. 775.084. A person sentenced under
443 this paragraph is not eligible for any form of discretionary
444 early release, other than pardon or executive clemency, or
445 conditional medical release under s. 947.149, prior to serving
446 the minimum sentence.

447 (b) When the offense involves the use or threatened use of
448 deadly physical force, commits a felony of the first degree,
449 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
450 A person sentenced under this paragraph is not eligible for
451 statutory gain-time under s. 944.275 or any form of
452 discretionary early release, other than pardon or executive
453 clemency, or conditional medical release under s. 947.149, prior
454 to serving the minimum sentence.

455 (3) Notwithstanding any other law, in the enforcement of
456 this section a law enforcement officer may lawfully stop any
457 person who is operating a motor vehicle if the officer has
458 reasonable suspicion to believe the person is in violation of
459 any civil traffic law.

460 (4) For the purposes of this section, the tem:

461 (a) "Drop house" means property or real property that is
462 used to facilitate the smuggling of human beings.

463 (b) "Family member" means the person's parent,
464 grandparent, sibling, or any other person who is related to the
465 person by consanguinity or affinity within the second degree.

466 (c) "Procurement of transportation" means any
467 participation in or facilitation of transportation and includes:

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468 1. Providing services that facilitate transportation,
 469 including travel arrangement services or money transmission
 470 services.

471 2. Providing property that facilitates transportation,
 472 including:

473 a. A weapon.

474 b. A vehicle or other means of transportation.

475 c. False identification.

476 d. Selling, leasing, renting, or otherwise making
 477 available a drop house.

478 (d) "Smuggling of human beings" means the transportation,
 479 procurement of transportation, or use of property or real
 480 property by a person or an entity that knows or has reason to
 481 know that the person or persons transported or to be transported
 482 are:

483 1. Not United States citizens, permanent resident aliens,
 484 or persons otherwise lawfully in this state; or

485 2. Have attempted to enter, entered, or remained in the
 486 United States in violation of law.

487 787.22 Unlawful stopping to hire and pick up passengers
 488 for work; unlawful application, solicitation, or employment;
 489 classification; definitions.—

490 (1) It is unlawful for an occupant of a motor vehicle that
 491 is stopped on a street, roadway, or highway to attempt to hire
 492 or hire and pick up passengers for work at a different location
 493 if the motor vehicle blocks or impedes the normal movement of
 494 traffic.

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495 (2) It is unlawful for a person to enter a motor vehicle
 496 that is stopped on a street, roadway, or highway in order to be
 497 hired for work by an occupant of the motor vehicle and to be
 498 transported to work at a different location if the motor vehicle
 499 blocks or impedes the normal movement of traffic.

500 (3) It is unlawful for a person who is unlawfully present
 501 in the United States and who is an unauthorized alien to
 502 knowingly apply for work, solicit work in a public place, or
 503 perform work as an employee or independent contractor in this
 504 state.

505 (4) A law enforcement officer or agency of this state or a
 506 county, municipality, or other political subdivision of this
 507 state may not consider race, color, or national origin in the
 508 enforcement of this section except to the extent permitted by
 509 the Constitution of the United States or the Constitution of the
 510 State of Florida.

511 (5) In the enforcement of this section, an alien's
 512 immigration status may be determined by:

513 (a) A law enforcement officer who is authorized by the
 514 Federal Government to verify or ascertain an alien's immigration
 515 status.

516 (b) The United States Immigration and Customs Enforcement
 517 or the United States Customs and Border Protection pursuant to 8
 518 U.S.C. s. 1373(c).

519
 520 A law enforcement officer or agency of this state or a county,
 521 municipality, or other political subdivision of this state is

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522 authorized to obtain access to the federal E-Verify program in
 523 order to verify or ascertain an alien's immigration status.

524 (6) A violation of this section is a misdemeanor of the
 525 first degree, punishable as provided in s. 775.082 or s.
 526 775.083.

527 (7) For the purposes of this section, the term:

528 (a) "Solicit" means verbal communication, or nonverbal
 529 communication by a gesture or a nod, that would indicate to a
 530 reasonable person that an individual:

- 531 1. Wishes to hire a person to perform work; or
- 532 2. Is willing to accept an offer of employment.

533 (b) "Unauthorized alien" means an alien who does not have
 534 the legal right or authorization under federal law to work in
 535 the United States as described in 8 U.S.C. s. 1324a(h) (3).

536 787.24 Unlawful transporting, moving, concealing,
 537 harboring, or shielding of unlawful aliens; vehicle impoundment;
 538 exception; classification.-

539 (1) It is unlawful for a person to:

540 (a) Transport or move, or attempt to transport or move, an
 541 alien in this state in furtherance of the illegal presence of
 542 the alien in the United States in a means of transportation if
 543 the person knows or recklessly disregards the fact that the
 544 alien has come to, has entered, or remains in the United States
 545 in violation of law.

546 (b) Conceal, harbor, or shield, or attempt to conceal,
 547 harbor, or shield, an alien from detection in any place in this
 548 state, including any building or any means of transportation, if
 549 the person knows or recklessly disregards the fact that the

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550 alien has come to, has entered, or remains in the United States
551 in violation of law.

552 (c) Encourage or induce an alien to come to, enter, or
553 reside in this state if the person knows or recklessly
554 disregards the fact that such coming to, entering, or residing
555 in this state is or will be in violation of law.

556 (2) A means of transportation that is used in the
557 commission of a violation of this section is subject to
558 mandatory vehicle immobilization or impoundment.

559 (3) A law enforcement officer or agency of this state or a
560 county, municipality, or other political subdivision of this
561 state may not consider race, color, or national origin in the
562 enforcement of this section except to the extent permitted by
563 the Constitution of the United States or the Constitution of the
564 State of Florida.

565 (4) In the enforcement of this section, an alien's
566 immigration status may be determined by:

567 (a) A law enforcement officer who is authorized by the
568 Federal Government to verify or ascertain an alien's immigration
569 status.

570 (b) The United States Immigration and Customs Enforcement
571 or the United States Customs and Border Protection pursuant to 8
572 U.S.C. s. 1373(c).

573
574 A law enforcement officer or agency of this state or a county,
575 municipality, or other political subdivision of this state is
576 authorized to obtain access to the federal E-Verify program in
577 order to verify or ascertain an alien's immigration status.

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578 (5) This section does not apply to:
 579 (a) A child protective services worker acting in his or
 580 her official capacity;
 581 (b) A person who is acting in the capacity of a first
 582 responder; or
 583 (c) An ambulance attendant or an emergency medical
 584 technician who is transporting or moving an alien in this state.
 585 (6) (a) A person who violates this section commits a
 586 misdemeanor of the first degree, punishable as provided in s.
 587 775.082 or s. 775.083. Any person sentenced under this paragraph
 588 shall be ordered to pay a minimum fine of \$1,000 in addition to
 589 any other penalty imposed by the court.
 590 (b) A person who violates this section when the violation
 591 involves 10 or more illegal aliens commits a felony of the third
 592 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 593 775.084. Any person sentenced under this paragraph shall be
 594 ordered to pay a minimum fine of \$1,000 for each alien involved
 595 in the violation in addition to any other penalty imposed by the
 596 court.
 597 787.26 Knowingly or intentionally employing an
 598 unauthorized alien; prohibition; false or frivolous complaints;
 599 violation; classification; license suspension and revocation;
 600 affirmative defense.—
 601 (1) An employer may not knowingly or intentionally employ
 602 an unauthorized alien. If, in the case when an employer uses a
 603 contract, subcontract, or other independent contractor agreement
 604 to obtain the labor of an alien in this state, the employer
 605 intentionally contracts with an unauthorized alien or with a

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606 person who employs or contracts with an unauthorized alien to
607 perform the labor, the employer violates this subsection.

608 (2) The Attorney General shall prescribe a complaint form
609 for a person to allege a violation of subsection (1). The
610 complainant may not be required to list his or her social
611 security number on the complaint form or to have the complaint
612 form notarized. Upon receipt of a complaint on a prescribed
613 complaint form that an employer allegedly intentionally employs
614 an unauthorized alien, the Attorney General or county attorney
615 shall investigate whether the employer has violated subsection
616 (1). If a complaint is received but is not submitted on a
617 prescribed complaint form, the Attorney General or county
618 attorney may investigate whether the employer has violated
619 subsection (1). This subsection may not be construed to prohibit
620 the filing of anonymous complaints that are not submitted on a
621 prescribed complaint form. The Attorney General or county
622 attorney may not investigate complaints that are based solely on
623 race, color, or national origin. A complaint that is submitted
624 to a county attorney shall be submitted to the county attorney
625 in the county in which the alleged unauthorized alien is or was
626 employed by the employer. The county sheriff or any other local
627 law enforcement agency may assist in investigating a complaint.
628 When investigating a complaint, the Attorney General or county
629 attorney shall verify the work authorization of the alleged
630 unauthorized alien with the Federal Government pursuant to 8
631 U.S.C. s. 1373(c). A state, county, or local official may not
632 attempt to independently make a final determination on whether
633 an alien is authorized to work in the United States. An alien's

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634 immigration status or work authorization status shall be
635 verified with the Federal Government pursuant to 8 U.S.C. s.
636 1373(c). A person who knowingly files a false or frivolous
637 complaint under this subsection commits a misdemeanor of the
638 second degree, punishable as provided in s. 775.082 or s
639 775.083.

640 (3) If, after an investigation, the Attorney General or
641 county attorney determines that the complaint is not false or
642 frivolous:

643 (a) The Attorney General or county attorney shall notify
644 the United States Immigration and Customs Enforcement of the
645 unauthorized alien.

646 (b) The Attorney General or county attorney shall notify
647 the local law enforcement agency of the unauthorized alien.

648 (c) The Attorney General shall notify the appropriate
649 county attorney to bring an action pursuant to subsection (4) if
650 the complaint was originally filed with the Attorney General.

651 (4) An action for a violation of subsection (1) shall be
652 brought against the employer by the county attorney in the
653 county where the unauthorized alien employee is or was employed
654 by the employer. The county attorney may not bring an action
655 against any employer for any violation of subsection (1) that
656 occurs before October 1, 2010. A second violation of this
657 section shall be based only on the employment of an unauthorized
658 alien who is or was knowingly or intentionally employed by the
659 employer after an action has been brought for a violation of
660 subsection (1).

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661 (5) For any court action under this section, the court
662 shall expedite the action, including assigning the hearing at
663 the earliest practicable date.

664 (6) Upon a finding of a violation of subsection (1):

665 (a) For a first violation, as described in subparagraph
666 (c)1., the court shall:

667 1. Order the employer to terminate the employment of all
668 unauthorized aliens.

669 2. Order the employer to be subject to a 5-year
670 probationary period for the business location where the
671 unauthorized alien performed work. During the probationary
672 period the employer shall file with the county attorney
673 quarterly reports containing the information prescribed in s.
674 409.2576(3) with respect to each new employee who is hired by
675 the employer at the business location where the unauthorized
676 alien performed work.

677 3. Order the appropriate agency or agencies to suspend all
678 licenses described in subparagraph 4. that are held by the
679 employer for a minimum of 10 days. The court shall base its
680 decision on the length of the suspension under this subparagraph
681 on any evidence or information submitted to it during the action
682 for a violation of this subsection and shall consider the
683 following factors, if relevant:

684 a. The number of unauthorized aliens employed by the
685 employer.

686 b. Any prior misconduct by the employer.

687 c. The degree of harm resulting from the violation.

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688 d. Whether the employer made good-faith efforts to comply
689 with any applicable requirements.

690 e. The duration of the violation.

691 f. The role of the directors, officers, or principals of
692 the employer in the violation.

693 g. Any other factors the court deems appropriate.

694 4. Order the employer to file a signed sworn affidavit
695 with the county attorney. The affidavit shall state that the
696 employer has terminated the employment of all unauthorized
697 aliens in this state and that the employer will not
698 intentionally or knowingly employ an unauthorized alien in this
699 state. If the employer fails to file a signed sworn affidavit
700 with the county attorney within 3 business days after the order
701 is issued, the court shall order the appropriate agency or
702 agencies to suspend all licenses subject to this subparagraph
703 that are held by the employer. All licenses that are suspended
704 under this subparagraph for failure to file a signed sworn
705 affidavit shall remain suspended until the employer files a
706 signed sworn affidavit with the county attorney. For the
707 purposes of this subparagraph, the licenses that are subject to
708 suspension are all licenses that are held by the employer
709 specific to the business location where the unauthorized alien
710 performed work. If the employer does not hold a license specific
711 to the business location where the unauthorized alien performed
712 work, but a license is necessary to operate the employer's
713 business in general, the licenses that are subject to suspension
714 under this subparagraph are all licenses that are held by the
715 employer at the employer's primary place of business. Upon

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716 receipt of the court's order and notwithstanding any other law,
717 the appropriate agencies shall suspend the licenses according to
718 the court's order. The court shall send a copy of the court's
719 order to the Attorney General and the Attorney General shall
720 maintain the copy pursuant to subsection (7).

721 (b) For a second violation, as described in subparagraph
722 (c)2., the court shall order the appropriate agencies to
723 permanently revoke all licenses that are held by the employer
724 specific to the business location where the unauthorized alien
725 performed work. If the employer does not hold a license specific
726 to the business location where the unauthorized alien performed
727 work, but a license is necessary to operate the employer's
728 business in general, the court shall order the appropriate
729 agencies to permanently revoke all licenses that are held by the
730 employer at the employer's primary place of business. Upon
731 receipt of the order and notwithstanding any other law, the
732 appropriate agencies shall immediately revoke the licenses.

733 (c) The violation shall be considered:

734 1. A first violation by an employer at a business location
735 if the violation did not occur during a probationary period
736 ordered by the court under this subsection for that employer's
737 business location.

738 2. A second violation by an employer at a business
739 location if the violation occurred during a probationary period
740 ordered by the court under this subsection for that employer's
741 business location.

742 (7) The Attorney General shall maintain copies of court
743 orders that are received pursuant to subsection (6) and shall

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744 maintain a database of the employers and business locations that
745 have a first violation of subsection (1) and make the court
746 orders available on the Attorney General's website.

747 (8) Upon determining whether an employee is an
748 unauthorized alien, the court shall consider only the Federal
749 Government's determination pursuant to 8 U.S.C. s. 1373(c). The
750 Federal Government's determination creates a rebuttable
751 presumption of the employee's lawful status. The court may take
752 judicial notice of the Federal Government's determination and
753 may request the Federal Government to provide automated or
754 testimonial verification pursuant to 8 U.S.C. s. 1373(c).

755 (9) For the purposes of this section, proof of verifying
756 the employment authorization of an employee through the federal
757 E-Verify program operated by the United States Department of
758 Homeland Security creates a rebuttable presumption that an
759 employer did not intentionally employ an unauthorized alien.

760 (10) For the purposes of this section, an employer that
761 establishes that it has complied in good faith with the
762 requirements of 8 U.S.C. s. 1324a(b) establishes an affirmative
763 defense that the employer did not intentionally employ an
764 unauthorized alien. An employer is considered to have complied
765 with the requirements of 8 U.S.C. s. 1324a(b), notwithstanding
766 an isolated, sporadic, or accidental technical or procedural
767 failure to meet the requirements, if there is a good-faith
768 attempt to comply with the requirements.

769 (11) It is an affirmative defense to a violation of
770 subsection (1) that the employer was entrapped. To claim
771 entrapment, the employer must admit by the employer's testimony

772 or other evidence the substantial elements of the violation. An
 773 employer who asserts an entrapment defense has the burden of
 774 proving the following by a preponderance of the evidence:

775 (a) The idea of committing the violation started with law
 776 enforcement officers or their agents rather than with the
 777 employer.

778 (b) The law enforcement officers or their agents urged and
 779 induced the employer to commit the violation.

780 (c) The employer was not predisposed to commit the
 781 violation before the law enforcement officers or their agents
 782 urged and induced the employer to commit the violation.

783 (12) An employer does not establish entrapment if the
 784 employer was predisposed to violate subsection (1) and the law
 785 enforcement officers or their agents merely provided the
 786 employer with an opportunity to commit the violation. It is not
 787 entrapment for law enforcement officers or their agents merely
 788 to use a ruse or to conceal their identity. The conduct of law
 789 enforcement officers and their agents may be considered in
 790 determining if an employer has proven entrapment.

791 787.28 Verification of employment eligibility; federal E-
 792 Verify program; economic development incentives; list of
 793 registered employers.-

794 (1) Beginning October 1, 2010, every employer, after
 795 hiring an employee, shall verify the employment eligibility of
 796 the employee through the federal E-Verify program and shall keep
 797 a record of the verification for the duration of the employee's
 798 employment or at least 3 years, whichever is longer.

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799 (2) (a) In addition to any other requirement for an
800 employer to receive an economic development incentive from a
801 government entity, the employer shall register with and
802 participate in the federal E-Verify program. Before receiving
803 the economic development incentive, the employer shall provide
804 proof to the government entity that the employer is registered
805 with and is participating in the E-Verify program. If the
806 government entity determines that the employer is not complying
807 with this subsection, the government entity shall notify the
808 employer by certified mail of the entity's determination of
809 noncompliance and the employer's right to appeal the
810 determination. On a final determination of noncompliance, the
811 employer shall repay all moneys received as an economic
812 development incentive to the government entity within 30 days
813 after the final determination.

814 (b) For the purposes of this subsection, the term:

815 1. "Economic development incentive" means any grant, loan,
816 or performance-based incentive from any government entity that
817 is awarded after October 1, 2010, but does not include any tax
818 provision under chapters 192-221.

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

821 (3) Every 3 months the Attorney General shall request from
822 the United States Department of Homeland Security a list of
823 employers from this state that are registered with the federal
824 E-Verify program. Upon receipt of the list of employers, the
825 Attorney General shall make the list available on the Attorney
826 General's website.

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827 787.30 Removal and immobilization or impoundment of
 828 vehicle.-

829 (1) A law enforcement officer shall cause the removal and
 830 either immobilization or impoundment of a vehicle if the officer
 831 determines that a person is operating the vehicle while any of
 832 the following applies:

833 (a) In furtherance of the illegal presence of an alien in
 834 the United States and in violation of a criminal offense, the
 835 person is transporting or moving, or attempting to transport or
 836 move, an alien in this state in a vehicle in knowing or reckless
 837 disregard of the fact that the alien has come to, entered, or
 838 remains in the United States in violation of law.

839 (b) The person is concealing, harboring, or shielding from
 840 detection, or attempting to conceal, harbor, or shield from
 841 detection, an alien in this state in a vehicle in knowing or
 842 reckless disregard of the fact that the alien has come to,
 843 entered, or remains in the United States in violation of law.

844
 845 A law enforcement officer is authorized to obtain access to the
 846 federal E-Verify program in order to implement the requirements
 847 of this subsection.

848 (2) A vehicle that is removed and either immobilized or
 849 impounded pursuant to subsection (1) shall be immobilized or
 850 impounded for 30 days. An insurance company does not have a duty
 851 to pay any benefits for charges or fees for such immobilization
 852 or impoundment.

853 (3) The owner of a vehicle that is removed and either
 854 immobilized or impounded pursuant to subsection (1), the spouse

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855 of the owner, and each person identified on the Department of
856 Highway Safety and Motor Vehicle's record with an interest in
857 the vehicle shall be provided with an opportunity for an
858 immobilization or poststorage hearing pursuant to s. 787.32.

859 787.32 Immobilization or poststorage hearings.-

860 (1) If a law enforcement officer removes and immobilizes
861 or impounds a vehicle pursuant to s. 787.30, the immobilizing or
862 impounding agency may provide the owner, the spouse of the
863 owner, and any other person identified on the Department of
864 Highway Safety and Motor Vehicle's record as having an interest
865 in the vehicle with the opportunity for an immobilization or
866 poststorage hearing to determine the validity of the
867 immobilization or storage or consider any mitigating
868 circumstances relating to the immobilization or storage or
869 release of the vehicle before the end of the 30-day
870 immobilization or impoundment period. If the immobilizing or
871 impounding agency provides the opportunity for an immobilization
872 or poststorage hearing, the immobilizing or impounding agency
873 shall conduct the hearing:

874 (a) In the immobilizing or impounding agency's
875 jurisdiction;

876 (b) Telephonically; or

877 (c) Pursuant to procedures prescribed by the immobilizing
878 or impounding agency to transfer the authority to conduct the
879 immobilization or poststorage hearing to a law enforcement
880 agency in the jurisdiction in which the owner, the spouse of the
881 owner, the owner's agent, or any person identified in the
882 department's record as having an interest in the vehicle

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883 resides.

884 (2) If the immobilizing or impounding agency does not
885 provide an opportunity for an immobilization or poststorage
886 hearing, a court shall conduct the immobilization or poststorage
887 hearing. If an immobilization or poststorage hearing is
888 conducted by a court, the immobilizing or impounding agency
889 shall appear and show evidence.

890 (3) Within 3 business days after immobilization or
891 impoundment, excluding weekends and holidays, the immobilizing
892 or impounding agency shall send a notice of storage by first
893 class mail to each person, other than the owner, identified on
894 the department's record as having an interest in the vehicle.
895 Service of notice of immobilization or storage is complete on
896 mailing. If the immobilizing or impounding agency fails to
897 notify a person, other than the owner, identified on the
898 department's record as having an interest in the vehicle within
899 3 business days after immobilization or impoundment, excluding
900 weekends and holidays, the immobilizing agency or the person in
901 possession of the vehicle may not charge any administrative fees
902 or more than 15 days' immobilization or impoundment charge when
903 the person redeems the impounded vehicle or has the
904 immobilization device removed from the vehicle.

905 (4) Within 3 business days after immobilization or
906 impoundment, excluding weekends and holidays, the immobilizing
907 or impounding agency shall mail or personally deliver notice of
908 immobilization or storage to the owner of the vehicle.

909 (5) The notice of immobilization or storage shall include
910 the following information:

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911 (a) A statement that the vehicle was immobilized or
912 impounded.

913 (b) The name, address, and telephone number of the
914 immobilizing or impounding agency providing the notice.

915 (c) The name, address and telephone number of the
916 immobilizing or impounding agency or court that will provide the
917 immobilization or poststorage hearing.

918 (d) The location of the place of storage and a description
919 of the vehicle, including, if available, the manufacturer,
920 model, license plate number, and mileage of the vehicle.

921 (e) A statement that in order to receive an immobilization
922 or poststorage hearing, the owner, the spouse of the owner, the
923 owner's agent, or the person identified in the department's
924 record as having an interest in the vehicle, within 10 days
925 after the date on the notice, shall request an immobilization or
926 poststorage hearing by contacting the immobilizing or impounding
927 agency in person or in writing or by filing a request with the
928 court if the impounding agency does not provide for a hearing
929 and paying a fee.

930 (f) A statement that if the immobilizing or impounding
931 agency does not provide the opportunity for an immobilization or
932 poststorage hearing, the owner, the spouse of the owner, the
933 owner's agent, or any person identified in the department's
934 record as having an interest in the vehicle may request that the
935 immobilization or poststorage hearing be conducted by the court
936 in the immobilizing or impounding agency's jurisdiction or the
937 jurisdiction in which the owner, the spouse of the owner, the
938 owner's agent, or the person identified in the department's

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939 record as having an interest in the vehicle resides.

940 (6) The immobilization or poststorage hearing shall be
941 conducted by the immobilizing or impounding agency or court
942 within 5 business days, excluding weekends and holidays, after
943 receipt of the request.

944 (7) Failure of the owner, the spouse of the owner, or
945 other person, or the other person's agent to request an
946 immobilization or poststorage hearing within 10 days after the
947 date on the notice prescribed in subsection (5) or to attend a
948 scheduled hearing satisfies the immobilization or poststorage
949 hearing requirement.

950 (8) The immobilizing or impounding agency employing the
951 person who directed the immobilization or storage is responsible
952 for the costs incurred for immobilization, towing, and storage
953 if it is determined in the immobilization or poststorage hearing
954 that reasonable grounds for the immobilization or impoundment
955 and storage are not established.

956 (9) In compliance with the requirements of this section,
957 the vehicle owner, the vehicle owner's spouse, or other person
958 having an interest in the vehicle shall have an opportunity for
959 a single poststorage hearing for the release of the vehicle by
960 either the immobilizing or impounding agency or a court but not
961 both.

962 Section 3. Subsection (16) is added to section 901.15,
963 Florida Statutes, to read:

964 901.15 When arrest by officer without warrant is lawful.—A
965 law enforcement officer may arrest a person without a warrant
966 when:

967 (16) The officer has determined that he or she has
 968 probable cause to believe that the person to be arrested has
 969 committed any public offense that makes the person removable
 970 from the United States.

971 Section 4. Section 787.07, Florida Statutes, is repealed.

972 Section 5. Severability; implementation; construction.-

973 (1) If any provision of this act or its application to any
 974 person or circumstance is held invalid, the invalidity does not
 975 affect other provisions or applications of the act that can be
 976 given effect without the invalid provision or application, and
 977 to this end the provisions of this act are severable.

978 (2) This act shall be implemented in a manner consistent
 979 with federal laws regulating immigration, protecting the civil
 980 rights of all persons, and respecting the privileges and
 981 immunities of United States citizens.

982 (3) Nothing in this act implements or shall be construed
 983 or interpreted to implement or establish the Real ID Act of
 984 2005, Pub. L. 109-13, including the use of radio frequency
 985 identification technology.

986 Section 6. Immigration legislation challenges.-

987 (1) Notwithstanding any other law, the Attorney General
 988 shall act at the direction of the Governor in any challenge in a
 989 state or federal court to this act and any amendments thereto.

990 (2) Notwithstanding any other law, the Governor may direct
 991 counsel other than the Attorney General to appear on behalf of
 992 this state to defend any challenge to this act and any
 993 amendments thereto.

994 Section 7. This act shall take effect October 1, 2010.