

By Senator Evers

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1 A bill to be entitled
2 An act relating to enforcement of laws; providing a
3 short title; creating ch. 820, F.S., entitled "Illegal
4 Immigration"; creating ss. 820.01, 820.02, 820.03,
5 820.04, 820.05, 820.06, 820.07, 820.08, 820.09, and
6 820.10, F.S.; providing legislative findings and
7 intent; providing for construction and implementation
8 of provisions; prohibiting state or local government
9 policies that limit or restrict the enforcement of
10 federal immigration laws to less than the full extent
11 permitted by federal law; requiring that a law
12 enforcement officer determine a person's immigration
13 status when there is reasonable suspicion that the
14 person is an alien who is unlawfully present in the
15 United States; requiring the transfer of a person
16 unlawfully present in the United States to the custody
17 of the appropriate United States agency when the
18 person is convicted of an offense; authorizing a law
19 enforcement agency to transport an alien who is
20 unlawfully present to a federal facility; authorizing
21 warrantless arrests of certain persons; authorizing an
22 official or agency of this state or a political
23 subdivision of this state to send, receive, or
24 maintain information relating to the immigration
25 status of any person or to exchange that information
26 with another governmental entity for certain purposes;
27 providing for individual actions to challenge a
28 governmental policy that limits or restricts the
29 enforcement of federal immigration laws; providing for

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30 costs, attorney's fees, and civil penalties; requiring
31 the court to deposit the civil penalties into a
32 certain account within the Department of Law
33 Enforcement Operating Trust Fund; providing indemnity
34 for law enforcement officers for certain actions;
35 providing an exception; providing that an alien who is
36 unlawfully present in the United States commits an
37 illegal trespass if present in this state; providing
38 for final determination of an alien's immigration
39 status; requiring that an unlawfully present alien pay
40 the costs of incarceration and additional assessments;
41 providing for disposition of assessments; providing
42 criminal penalties; providing enhanced penalties for
43 certain violations; prohibiting transporting, or
44 providing services that facilitate transporting, into
45 this state an individual who the person knows, or
46 should know, is illegally entering the United States;
47 defining terms; providing criminal penalties;
48 prohibiting intentionally engaging in the smuggling of
49 human beings for profit or commercial purpose;
50 providing criminal penalties; providing enhanced
51 penalties for certain violations; providing that
52 provisions relating to attempt, solicitation, and
53 conspiracy do not apply to certain violations;
54 authorizing a law enforcement officer to stop any
55 person who is operating a motor vehicle if the officer
56 has reasonable suspicion to believe the person is in
57 violation of any noncriminal traffic law and smuggling
58 provisions; defining terms; prohibiting an occupant of

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59 a motor vehicle from stopping to hire and pick up
60 persons for work in certain situations; prohibiting a
61 person looking for work from entering certain vehicles
62 in certain situations; prohibiting a person unlawfully
63 present in the United States from applying for work,
64 soliciting work in a public place, or performing work;
65 providing criminal penalties; prohibiting the
66 transporting, moving, concealing, harboring, or
67 shielding of aliens unlawfully present in the United
68 States; prohibiting inducing or encouraging an alien
69 to come to, or reside in, this state in violation of
70 law; providing for the seizure and forfeiture of
71 specified property; providing criminal penalties;
72 providing enhanced penalties for certain violations;
73 prohibiting an employer from knowingly employing
74 unauthorized aliens; requiring the Attorney General to
75 prepare a complaint form to be used by a person
76 alleging a violation of the act; authorizing a
77 complainant to file a complaint without listing a
78 social security number or having the form notarized;
79 providing for the investigation of complaints filed
80 alleging violations of the act; prohibiting the
81 Attorney General or state attorney from investigating
82 complaints that are based solely on race, color, or
83 national origin; requiring that a complaint form that
84 is submitted to a state attorney be submitted to the
85 state attorney for the county in which the alien is,
86 or was, employed; authorizing the sheriff or local law
87 enforcement agency to investigate a complaint;

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88 requiring that the Attorney General or state attorney
89 verify the work authorization status with the Federal
90 Government; prohibiting a state, county, or local
91 official from independently making a final
92 determination on an alien's work authorization status;
93 prohibiting the submission of false reports of
94 violations of the act; providing criminal penalties;
95 requiring that the Attorney General or state attorney
96 take specified actions if the complaint is determined
97 not to be false and frivolous; providing for sanctions
98 against violators of the act; prohibiting the state
99 attorney from bringing an action against an employer
100 if the violation occurred on or before a certain date;
101 requiring that the court order appropriate agencies to
102 suspend the licenses of an employer for a first
103 violation if a specified affidavit is not filed within
104 the specified period of time; requiring that the
105 appropriate agencies suspend an employer's licenses
106 upon receipt of the court order; requiring that the
107 court send a copy of the court order to the Attorney
108 General; requiring that the Attorney General maintain
109 copies of certain court orders; requiring that the
110 court consider certain factors before suspending a
111 license; requiring that the court order appropriate
112 agencies to permanently revoke an employer's licenses
113 for a second or subsequent violation of the act;
114 requiring that appropriate agencies revoke an
115 employer's licenses upon receipt of the court order;
116 requiring that the Attorney General maintain a certain

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117 database and make certain court orders available on
118 the website; requiring that the court consider only
119 the Federal Government's determination of an
120 employee's work authorization status; creating a
121 rebuttable presumption in favor of employers who
122 verify the employment authorization of an employee
123 through a specified program; providing an affirmative
124 defense for an employer who complies with specified
125 federal law provisions; providing requirements for an
126 employer's defense of entrapment; prohibiting an
127 employer from intentionally employing an alien
128 unauthorized to be in this country; requiring that the
129 Attorney General prepare a complaint form to be used
130 by a person alleging a violation of the act; providing
131 for the investigation of complaints filed alleging
132 violations of the act; prohibiting the submission of
133 false reports of violations of the act; providing
134 criminal penalties; requiring specified actions if the
135 complaint is determined not to be false and frivolous;
136 requiring that the court expedite the action;
137 providing for sanctions against violators of the act,
138 including the suspension of the licenses of an
139 employer found to have committed a violation of the
140 act; requiring the permanent revocation of the
141 licenses of an employer found to have committed a
142 second or subsequent violation; requiring that the
143 Attorney General maintain copies of certain court
144 orders; requiring that the court consider only the
145 Federal Government's determination of an employee's

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146 work authorization status; creating a rebuttable
147 presumption in favor of an employer who verifies the
148 employment authorization of an employee through a
149 specified program; providing an affirmative defense
150 for an employer who complies with specified federal
151 law provisions; providing requirements for an
152 employer's defense of entrapment; requiring an
153 employer to verify the employment eligibility of a new
154 employee through a specified federal program and to
155 keep specified records; requiring an employer who
156 participates in an economic development incentive
157 program from a governmental entity to register with,
158 and participate in, a specified federal program for
159 employment verification; providing definitions;
160 requiring that the Attorney General periodically
161 obtain a list of employers from this state who are
162 registered with a specified federal employment
163 verification program and make the list available on
164 its website; creating s. 932.709, F.S.; providing for
165 removal and immobilization or impoundment of vehicles
166 under specified circumstances; providing exceptions;
167 requiring immobilization or impoundment for a
168 specified period in certain circumstances; providing
169 for hearings; creating s. 943.0425, F.S.; creating the
170 Gang and Immigration Intelligence and Enforcement
171 Account within the Department of Law Enforcement
172 Operating Trust Fund; providing purposes for funds;
173 repealing s. 787.07, F.S., relating to human
174 smuggling; providing an effective date.

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176 Be It Enacted by the Legislature of the State of Florida:

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178 Section 1. Short title.—This act may be cited as the
179 “Support Our Law Enforcement and Safe Neighborhoods Act.”

180 Section 2. Chapter 820, Florida Statutes, consisting of
181 sections 820.01, 820.02, 820.03, 820.04, 820.05, 820.06, 820.07,
182 820.08, 820.09, and 820.10, is created to read:

183

CHAPTER 820

184

ILLEGAL IMMIGRATION

185 820.01 Findings and intent.—The Legislature finds that
186 there is a compelling interest in the cooperative enforcement of
187 federal immigration laws throughout the state. It is the intent
188 of the Legislature to make attrition through enforcement the
189 public policy of all state and local governmental agencies. This
190 chapter is intended to work to discourage and deter the unlawful
191 entry and presence of, and economic activity by, illegal
192 immigrants in the United States.

193

820.02 Construction and implementation.—

194 (1) The terms of this chapter regarding immigration shall
195 have the same meaning as provided in federal immigration law.

196

197 (2) This chapter shall be implemented in a manner
198 consistent with federal laws regulating immigration, protecting
199 the civil rights of all persons, and respecting the privileges
and immunities of United States citizens.

200

820.03 Enforcement of immigration laws.—

201 (1) An official or agency of this state or a political
202 subdivision of this state may not adopt a policy that limits or
203 restricts the enforcement of federal immigration laws to less

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204 than the full extent permitted by federal law.

205 (2) A law enforcement agency shall make a reasonable
206 attempt, when practicable, to determine the immigration status
207 of a person if reasonable suspicion exists that the person is an
208 alien who is unlawfully present in the United States. The
209 person's immigration status shall be verified by the Federal
210 Government pursuant to 8 U.S.C. s. 1373(c).

211 (3) If an alien who is unlawfully present in the United
212 States is convicted of a violation of a state or local law, upon
213 discharge from imprisonment or payment of a fine imposed on the
214 alien, the alien shall be transferred immediately to the custody
215 of the United States Immigration and Customs Enforcement or the
216 United States Customs and Border Protection.

217 (4) Notwithstanding any other law, a law enforcement agency
218 may securely transport an alien who is unlawfully present in the
219 United States and who is in the agency's custody to a federal
220 facility in this state or to any other point of transfer into
221 federal custody which is outside the jurisdiction of the law
222 enforcement agency.

223 (5) A law enforcement officer, without a warrant, may
224 arrest a person if the officer has probable cause to believe
225 that the person is unlawfully present in the United States and
226 has committed any offense that makes the person removable from
227 the United States.

228 (6) Except as provided in federal law, an official or
229 agency of this state or a political subdivision of this state
230 may, without restriction, send, receive, or maintain information
231 relating to the immigration status of a person, or exchange that
232 information with a federal, state, or local governmental entity

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233 for the following official purposes:

234 (a) Determining eligibility for any public benefit,
235 service, or license provided by a federal, state, or local
236 governmental entity or a political subdivision of this state.

237 (b) Verifying a claim of residence or domicile if
238 determining the residence or domicile of the person is required
239 under the laws of this state or a judicial order issued pursuant
240 to a civil or criminal proceeding in this state.

241 (c) Confirming the identity of a person who is detained.

242 (d) If the person is an alien, determining if the person is
243 in compliance with the federal registration laws prescribed by 8
244 U.S.C. ss. 1301 et seq.

245 (7) A person may bring an action in circuit court to
246 challenge an official or agency of this state or a political
247 subdivision of this state which adopts or implements a policy
248 that limits or restricts the enforcement of federal immigration
249 laws to less than the full extent permitted by federal law. If
250 there is a judicial finding that an agency of this state or a
251 political subdivision of this state has violated this section,
252 the court shall order any of the following:

253 (a) That the person who brought the action recover court
254 costs and attorney's fees.

255 (b) That the agency of this state or the political
256 subdivision of this state pay a civil penalty of not less than
257 \$1,000 and not more than \$5,000 for each day that the policy has
258 remained in effect after the filing of an action pursuant to
259 this subsection.

260 (8) A court shall collect the civil penalty prescribed in
261 subsection (7) and remit the civil penalty to the Department of

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262 Law Enforcement for deposit into the Gang and Immigration
263 Intelligence and Enforcement Account within the Department of
264 Law Enforcement Operating Trust Fund as provided in s. 943.0425.

265 (9) A law enforcement officer shall be indemnified by the
266 law enforcement officer's agency against reasonable costs and
267 expenses, including attorney's fees, incurred by the officer in
268 connection with any action, suit, or proceeding brought pursuant
269 to this section to which the officer may be a party by reason of
270 the officer being or having been a member of the law enforcement
271 agency, except in relation to matters in which the officer acted
272 in bad faith.

273 820.04 Trespassing by illegal aliens.-

274 (1) In addition to any violation of federal law, a person
275 commits an illegal trespass if the person is:

276 (a) Present on any public or private land in this state;
277 and

278 (b) In violation of 8 U.S.C. s. 1304(e) or s. 1306(a).

279 (2) In enforcing this section, the final determination of
280 an alien's immigration status shall be determined by a law
281 enforcement officer or agency that:

282 (a) Is authorized by the Federal Government to verify an
283 alien's immigration status; or

284 (b) Communicates with the United States Immigration and
285 Customs Enforcement or the United States Customs and Border
286 Protection pursuant to 8 U.S.C. s. 1373(c).

287 (3) This section does not apply to a person who possesses
288 proof of authorization from the Federal Government to remain in
289 the United States.

290 (4) A person who is sentenced pursuant to this section is

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291 not eligible for suspension or commutation of sentence or
292 release on any basis until the sentence imposed is served.

293 (5) (a) In addition to any other penalty prescribed by law,
294 the court shall order the person to pay the costs of
295 incarceration and an additional assessment in the following
296 amounts:

297 1. At least \$500 for a first violation.

298 2. Twice the amount specified in subparagraph 1. if the
299 person was previously subject to an assessment pursuant to this
300 subsection.

301 (b) A court shall collect the assessments prescribed in
302 this subsection and remit the assessments to the Gang and
303 Immigration Intelligence and Enforcement Account within the
304 Department of Law Enforcement Operating Trust Fund as provided
305 in s. 943.0425.

306 (6) Except as provided in paragraph (a) or paragraph (b), a
307 violation of this section is a misdemeanor of the first degree,
308 punishable as provided in s. 775.082 or s. 775.083. However, a
309 violation of this section is:

310 (a) A felony of the third degree, punishable as provided in
311 s. 775.082, s. 775.083, or s. 775.084, if the person violates
312 this section while in possession of any of the following:

313 1. Precursor chemicals that are used in the manufacturing
314 of methamphetamine in violation of s. 893.149.

315 2. A firearm or weapon as defined in s. 790.001.

316 3. Property that is used for the purpose of committing an
317 act of terrorism as defined in s. 775.30.

318 (b) A felony of the second degree, punishable as provided
319 in s. 775.082, s. 775.083, or s. 775.084, if the person:

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320 1. Is convicted of a second or subsequent violation of this
321 section; or

322 2. Within 60 months before the present violation, was
323 removed from the United States pursuant to 8 U.S.C. s. 1229a or
324 accepted a voluntary removal from the United States pursuant to
325 8 U.S.C. s. 1229c.

326 820.05 Smuggling; classification; definitions.-

327 (1) As used in this section, the term:

328 (a) "Drop house" means real property that is used to
329 facilitate smuggling under this section.

330 (b) "Family member" means a parent, grandparent, sibling,
331 or any other person related to a person by consanguinity or
332 affinity to the second degree.

333 (c) "Procures transportation" means any participation in,
334 or facilitation of, transportation and includes providing:

335 1. Services that facilitate transportation, including
336 travel arrangement services or money transmission services.

337 2. Property that facilitates transportation, including a
338 weapon, a false identification card, fuel, or a vehicle or other
339 means of transportation, or selling, leasing, renting, or
340 otherwise making a drop house available to the smuggler.

341 (d) "Smuggling of human beings" means procuring
342 transportation or use of real property by a person who knows, or
343 has reason to know, that the individual or individuals
344 transported or to be transported are not United States citizens,
345 permanent resident aliens, or individuals otherwise lawfully
346 admitted to this country or that the individual or individuals
347 have attempted to enter, entered, or remained in the United
348 States in violation of law.

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349 (2) (a) A person who procures transportation for an
350 individual who the person knows, or has reason to know, is
351 illegally entering the United States from another country
352 commits a misdemeanor of the first degree, punishable as
353 provided in s. 775.082 or s. 775.083.

354 (b) A person commits a separate offense for each individual
355 he or she procures transportation for into this state in
356 violation of this section.

357 (3) (a) A person may not intentionally engage in the
358 smuggling of human beings for profit or commercial purpose.

359 (b) Except as provided in subparagraph 1. or subparagraph
360 2., a violation of paragraph (a) is a felony of the third
361 degree, punishable as provided in s. 775.082, s. 775.083, or s.
362 775.084. However, a violation of paragraph (a) is:

363 1. A felony of the second degree, punishable as provided in
364 s. 775.082, s. 775.083, or s. 775.084, if the human being who is
365 smuggled is 18 years of age or younger and is not accompanied by
366 a family member who is at least 18 years of age and if the
367 offense involves the use of a deadly weapon or dangerous
368 instrument.

369 2. A felony of the first degree, punishable as provided in
370 s. 775.082, s. 775.083, or s. 775.084, if the offense involves
371 the use or threatened use of deadly physical force.

372 (4) Section 777.04 does not apply to a violation of
373 subparagraph (3) (b) 1.

374 (5) Notwithstanding any other law, a law enforcement
375 officer may stop a person who is operating a motor vehicle if
376 the officer has reasonable suspicion to believe the person is in
377 violation of a noncriminal traffic law and this section.

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378 820.06 Unlawful stopping to hire and pick up passengers for
379 work; unlawful application, solicitation, or employment.-

380 (1) As used in this section, the term:

381 (a) "Solicit" means verbal or nonverbal communication,
382 including a gesture or a nod, which would indicate to a
383 reasonable person that a person is willing to be employed.

384 (b) "Unauthorized alien" means an alien who does not have
385 the legal right or authorization under federal law to work in
386 the United States.

387 (2) An occupant of a motor vehicle may not stop on a
388 street, roadway, or highway in order to attempt to hire or in
389 order to hire and pick up passengers for work at a different
390 location if the motor vehicle obstructs the normal movement of
391 traffic.

392 (3) A person may not enter a motor vehicle that stops on a
393 street, roadway, or highway in order to be hired by an occupant
394 of the motor vehicle and to be transported to work at a
395 different location if the motor vehicle obstructs the normal
396 movement of traffic.

397 (4) A person who is unlawfully present in the United States
398 and who is an unauthorized alien may not knowingly apply for
399 work, solicit work in a public place, or perform work as an
400 employee or independent contractor in this state.

401 (5) A person who violates this section commits a
402 misdemeanor of the first degree, punishable as provided in s.
403 775.082 or s. 775.083.

404 820.07 Unlawful transporting, moving, concealing,
405 harboring, or shielding of unlawfully present alien.-

406 (1) A person may not:

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407 (a) Transport or move, or attempt to transport or move, in
408 this state an alien who is unlawfully present in the United
409 States if the person knows or recklessly disregards the fact
410 that the alien has entered, or remains in, the United States in
411 violation of law.

412 (b) Conceal, harbor, or shield, or attempt to conceal,
413 harbor, or shield, an alien from detection in any place in this
414 state, including a building or a means of transportation, if the
415 person knows or recklessly disregards the fact that the alien
416 has entered, or remains in, the United States in violation of
417 law.

418 (c) Encourage or induce an alien to come to, or reside in,
419 this state if the person knows or recklessly disregards the fact
420 that, by coming to, or residing in, this state, the alien is or
421 will be in violation of law.

422 (2) A motor vehicle, vessel, or aircraft that is used to
423 commit a violation of subsection (1) is subject to seizure and
424 forfeiture under s. 932.709.

425 (3) (a) A person who violates subsection (1) commits a
426 misdemeanor of the first degree, punishable as provided in s.
427 775.082, and is subject to a fine of not less than \$1,000 and
428 not more than \$5,000.

429 (b) A person who violates subsection (1), which violation
430 involves 10 or more aliens unlawfully present in the United
431 States, commits a felony of the third degree, punishable as
432 provided in s. 775.082 or s. 775.083, and is subject to a fine
433 of not less than \$1,000 and not more than \$2,000 for each alien.

434 820.08 Knowingly employing unauthorized aliens; false and
435 frivolous complaints; license suspension and revocation;

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436 affirmative defense.—

437 (1) (a) An employer may not knowingly employ an unauthorized
438 alien.

439 (b) An employer violates paragraph (a) if the employer uses
440 a contract, subcontract, or other independent contractor
441 agreement to obtain the labor of an unauthorized alien in this
442 state or if the employer knowingly contracts with a person who
443 employs or contracts with an unauthorized alien to perform the
444 labor.

445 (2) (a) The Attorney General shall develop a complaint form
446 to be used by a person who alleges that an employer has
447 violated, or is violating, subsection (1).

448 (b) The complainant is not required to list the
449 complainant's social security number on the complaint form or to
450 have the complaint form notarized.

451 (c) 1. Upon receipt of a proper complaint form alleging that
452 an employer knowingly employs an unauthorized alien, the
453 Attorney General or state attorney shall investigate whether the
454 employer has violated subsection (1).

455 2. If a complaint is received but is not submitted on a
456 proper complaint form, the Attorney General or state attorney
457 may investigate whether the employer has violated subsection
458 (1).

459 3. This subsection does not prohibit the filing of an
460 anonymous complaint that is not submitted on a proper complaint
461 form.

462 (d) The Attorney General or state attorney may not
463 investigate complaints that are based solely on race, color, or
464 national origin.

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465 (e) A complaint form that is submitted to a state attorney
466 must be submitted to the state attorney for the county in which
467 the alleged unauthorized alien is, or was, employed by the
468 employer. The sheriff or any other local law enforcement agency
469 in that county may assist in investigating the complaint.

470 (f) When investigating a complaint, the Attorney General or
471 state attorney shall verify with the Federal Government the work
472 authorization status of the alleged unauthorized alien. A state,
473 county, or local official may not attempt to independently make
474 a final determination of whether an alien is authorized to work.
475 An alien's immigration status or work authorization status shall
476 be verified with the Federal Government pursuant to 8 U.S.C. s.
477 1373(c).

478 (g) A person who knowingly files a false and frivolous
479 complaint under this subsection commits a misdemeanor of the
480 second degree, punishable as provided in s. 775.082 or s.
481 775.083.

482 (3) If, after an investigation, the Attorney General or
483 state attorney determines that the complaint is not false and
484 frivolous:

485 (a) The Attorney General or state attorney shall notify the
486 United States Immigration and Customs Enforcement of the
487 existence of the unauthorized alien.

488 (b) The Attorney General or state attorney shall notify the
489 local law enforcement agency of the existence and location, if
490 known, of the unauthorized alien.

491 (c) If the complaint was originally filed with the Attorney
492 General, the Attorney General shall notify the appropriate state
493 attorney to bring an action pursuant to subsection (4).

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494 (4) (a) An action alleging a violation of subsection (1)
495 shall be brought against an employer by the state attorney in
496 the county where the unauthorized alien employee is, or was,
497 employed by the employer.

498 (b) The state attorney may not bring an action against an
499 employer for a violation of subsection (1) if the violation
500 occurred on or before January 1, 2012.

501 (5) For any action filed in circuit court under this
502 section, the court shall expedite the action, including
503 assigning the hearing at the earliest practicable date.

504 (6) If the court finds that the employer violated
505 subsection (1):

506 (a) For a first violation, the court:

507 1. Shall order the employer to terminate the employment of
508 all unauthorized aliens.

509 2. Shall order the employer to be subject to a 3-year
510 probationary period for the business location at which the
511 unauthorized alien performed work.

512 3.a. Shall order the employer to file a signed, sworn
513 affidavit with the state attorney within 3 business days after
514 the court order is issued. The affidavit shall state that the
515 employer has terminated the employment of all unauthorized
516 aliens in this state and that the employer will not
517 intentionally or knowingly employ an unauthorized alien in this
518 state. If the employer fails to file the affidavit with the
519 state attorney within the allotted time, the court shall order
520 the appropriate agencies to suspend all licenses that are held
521 by the employer. Any license that is suspended under this
522 subparagraph remains suspended until the employer files the

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523 affidavit with the state attorney. Notwithstanding any other
524 law, the filing of the affidavit immediately reinstates the
525 suspended licenses. For the purposes of this subparagraph, the
526 licenses that are subject to suspension under this subparagraph
527 are all licenses that are held by the employer and are specific
528 to the business location where the unauthorized alien performed
529 work.

530 b. If the employer does not hold a license that is specific
531 to the business location at which the unauthorized alien
532 performed work, but a license is necessary to operate the
533 employer's business in general, the licenses that are subject to
534 suspension under this subparagraph are all licenses that are
535 held by the employer at the employer's primary place of
536 business.

537 c. Upon receipt of the court order and notwithstanding any
538 other law, the appropriate agencies shall suspend the employer's
539 licenses according to the court order. The court shall send a
540 copy of the court order to the Attorney General, and the
541 Attorney General shall maintain the copy pursuant to subsection
542 (7).

543 4. May order the appropriate agencies to suspend, for a
544 period not to exceed 10 business days, all licenses described in
545 subparagraph 3. which are held by the employer. Before
546 suspending a license, the court shall consider the following
547 factors, if relevant:

548 a. The number of unauthorized aliens employed by the
549 employer.

550 b. Any prior immigration misconduct by the employer.

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

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552 d. Any good faith effort the employer made in order to
553 comply with any applicable requirements.

554 e. The duration of the violation.

555 f. The role of the directors, officers, or principals of
556 the employer in the violation.

557 g. Any other factors the court deems appropriate.

558 (b)1. For a second or subsequent violation, the court shall
559 order the appropriate agencies to permanently revoke all
560 licenses that are held by the employer and that are specific to
561 the business location at which the unauthorized alien performed
562 work.

563 2. If the employer does not hold a license that is specific
564 to the business location where the unauthorized alien performed
565 work, but a license is necessary to operate the employer's
566 business in general, the court shall order the appropriate
567 agencies to permanently revoke all licenses that are held by the
568 employer at the employer's primary place of business.

569 3. Upon receipt of the order and notwithstanding any other
570 law, the appropriate agencies shall immediately revoke the
571 licenses.

572 (c) A violation of subsection (1) is:

573 1. A first violation by an employer at a business location
574 if the violation did not occur during a probationary period
575 ordered by the court under this subsection or s. 820.09(6) for
576 that employer's business location.

577 2. A second violation by an employer at a business location
578 if the violation occurred during a probationary period ordered
579 by the court under this subsection or s. 820.09(6) for that
580 employer's business location.

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581 (7) The Attorney General shall maintain copies of court
582 orders that are received pursuant to subsection (6) and shall
583 maintain a database of the employers and business locations that
584 have a first violation of subsection (1) and make the court
585 orders available on the Attorney General's website.

586 (8) When determining whether an employee is an unauthorized
587 alien, the court shall consider only the Federal Government's
588 determination pursuant to 8 U.S.C. s. 1373(c). The Federal
589 Government's determination creates a rebuttable presumption of
590 the employee's lawful status. The court may take judicial notice
591 of the Federal Government's determination and may request the
592 Federal Government to provide automated or testimonial
593 verification pursuant to 8 U.S.C. s. 1373(c).

594 (9) For the purposes of this section:

595 (a) Proof of the employer's participation in the E-Verify
596 program creates a rebuttable presumption that an employer did
597 not knowingly employ an unauthorized alien.

598 (b) An employer who establishes that he or she has complied
599 in good faith with the requirements of 8 U.S.C. s. 1324a(b)
600 establishes an affirmative defense that the employer did not
601 knowingly employ an unauthorized alien. An employer is
602 considered to have complied with the requirements of 8 U.S.C. s.
603 1324a(b), notwithstanding an isolated, sporadic, or accidental
604 technical or procedural failure to meet the requirements, if
605 there is a good faith attempt to comply with the requirements.

606 (10) An employer may claim as an affirmative defense to a
607 violation of subsection (1) that the employer was entrapped. In
608 order to claim entrapment, the employer must admit by the
609 employer's testimony or other evidence the substantial elements

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610 of the violation. An employer who asserts an entrapment defense
611 has the burden of proving all of the following by clear and
612 convincing evidence:

613 (a) The idea of committing the violation started with law
614 enforcement officers or their agents rather than with the
615 employer.

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

618 (c) The employer was not predisposed to commit the
619 violation before the law enforcement officers or their agents
620 urged and induced the employer to commit the violation.

621 (11) An employer does not establish entrapment if the
622 employer was predisposed to violate subsection (1) and the law
623 enforcement officers or their agents merely provided the
624 employer with an opportunity to commit the violation. It is not
625 entrapment for law enforcement officers or their agents to
626 merely use a ruse or conceal their identity. The conduct of law
627 enforcement officers and their agents may be considered in
628 determining if an employer has proven entrapment.

629 820.09 Intentionally employing unauthorized aliens; false
630 and frivolous complaints; license suspension and revocation;
631 affirmative defense.-

632 (1) (a) An employer may not intentionally employ an
633 unauthorized alien.

634 (b) An employer violates paragraph (a) if the employer uses
635 a contract, subcontract, or other independent contractor
636 agreement to obtain the labor of an unauthorized alien in this
637 state or if the employer intentionally contracts with a person
638 who employs or contracts with an unauthorized alien to perform

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639 the labor.

640 (2) (a) The Attorney General shall develop a complaint form
641 to be used by a person who alleges that an employer has
642 violated, or is violating, subsection (1).

643 (b) The complainant is not required to list the
644 complainant's social security number on the complaint form or to
645 have the complaint form notarized.

646 (c)1. Upon receipt of a proper complaint form alleging that
647 an employer knowingly employs an unauthorized alien, the
648 Attorney General or state attorney shall investigate whether the
649 employer has violated subsection (1).

650 2. If a complaint is received but is not submitted on a
651 proper complaint form, the Attorney General or state attorney
652 may investigate whether the employer has violated subsection
653 (1).

654 3. This subsection does not prohibit the filing of an
655 anonymous complaint that is not submitted on a proper complaint
656 form.

657 (d) The Attorney General or state attorney may not
658 investigate complaints that are based solely on race, color, or
659 national origin.

660 (e) A complaint form that is submitted to a state attorney
661 must be submitted to the state attorney for the county in which
662 the alleged unauthorized alien is, or was, employed by the
663 employer. The sheriff or any other local law enforcement agency
664 in that county may assist in investigating a complaint.

665 (f) When investigating a complaint, the Attorney General or
666 state attorney shall verify with the Federal Government the work
667 authorization status of the alleged unauthorized alien. A state,

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668 county, or local official may not attempt to independently make
669 a final determination on whether an alien is authorized to work.
670 An alien's immigration status or work authorization status shall
671 be verified with the Federal Government pursuant to 8 U.S.C. s.
672 1373(c).

673 (g) A person who knowingly files a false and frivolous
674 complaint under this subsection commits a misdemeanor of the
675 second degree, punishable as provided in s. 775.082 or s.
676 775.083.

677 (3) If, after an investigation, the Attorney General or
678 state attorney determines that the complaint is not false and
679 frivolous:

680 (a) The Attorney General or state attorney shall notify the
681 United States Immigration and Customs Enforcement of the
682 existence of the unauthorized alien.

683 (b) The Attorney General or state attorney shall notify the
684 local law enforcement agency of the existence and location, if
685 known, of the unauthorized alien.

686 (c) If the complaint was originally filed with the Attorney
687 General, the Attorney General shall notify the appropriate state
688 attorney to bring an action pursuant to subsection (4).

689 (4) (a) An action alleging a violation of subsection (1)
690 shall be brought against an employer by the state attorney in
691 the county where the unauthorized alien employee is, or was,
692 employed by the employer.

693 (b) The state attorney may not bring an action against an
694 employer for a violation of subsection (1) if the violation
695 occurred on or before January 1, 2012.

696 (5) For any action filed in circuit court under this

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697 section, the court shall expedite the action, including
698 assigning the hearing at the earliest practicable date.

699 (6) If the court finds that the employer violated
700 subsection (1):

701 (a) For a first violation, the court:

702 1. Shall order the employer to terminate the employment of
703 all unauthorized aliens.

704 2. Shall order the employer to be subject to a 3-year
705 probationary period for the business location at which the
706 unauthorized alien performed work.

707 3.a. Shall order the employer to file a signed, sworn
708 affidavit with the state attorney within 3 business days after
709 the court order is issued. The affidavit shall state that the
710 employer has terminated the employment of all unauthorized
711 aliens in this state and that the employer will not
712 intentionally or knowingly employ an unauthorized alien in this
713 state. If the employer fails to file the affidavit with the
714 state attorney within the allotted time, the court shall order
715 the appropriate agencies to suspend all licenses that are held
716 by the employer. Any license that is suspended under this
717 subparagraph remains suspended until the employer files the
718 affidavit with the state attorney. Notwithstanding any other
719 law, the filing of the affidavit immediately reinstates the
720 suspended licenses. For the purposes of this subparagraph, the
721 licenses that are subject to suspension under this subparagraph
722 are all licenses that are held by the employer and are specific
723 to the business location where the unauthorized alien performed
724 work.

725 b. If the employer does not hold a license that is specific

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726 to the business location at which the unauthorized alien
727 performed work, but a license is necessary to operate the
728 employer's business in general, the licenses that are subject to
729 suspension under this subparagraph are all licenses that are
730 held by the employer at the employer's primary place of
731 business.

732 c. Upon receipt of the court order and notwithstanding any
733 other law, the appropriate agencies shall suspend the employer's
734 licenses according to the court order. The court shall send a
735 copy of the court order to the Attorney General, and the
736 Attorney General shall maintain the copy pursuant to subsection
737 (7).

738 4. May order the appropriate agencies to suspend, for a
739 period not to exceed 10 business days, all licenses described in
740 subparagraph 3. which are held by the employer. Before
741 suspending a license, the court shall consider the following
742 factors, if relevant:

743 a. The number of unauthorized aliens employed by the
744 employer.

745 b. Any prior immigration misconduct by the employer.

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

747 d. Any good faith effort the employer made in order to
748 comply with any applicable requirements.

749 e. The duration of the violation.

750 f. The role of the directors, officers, or principals of
751 the employer in the violation.

752 g. Any other factors the court deems appropriate.

753 (b)1. For a second or subsequent violation, the court shall
754 order the appropriate agencies to permanently revoke all

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755 licenses that are held by the employer and that are specific to
756 the business location at which the unauthorized alien performed
757 work.

758 2. If the employer does not hold a license that is specific
759 to the business location where the unauthorized alien performed
760 work, but a license is necessary to operate the employer's
761 business in general, the court shall order the appropriate
762 agencies to permanently revoke all licenses that are held by the
763 employer at the employer's primary place of business.

764 3. Upon receipt of the order and notwithstanding any other
765 law, the appropriate agencies shall immediately revoke the
766 licenses.

767 (c) A violation of subsection (1) is:

768 1. A first violation by an employer at a business location
769 if the violation did not occur during a probationary period
770 ordered by the court under this subsection or s. 820.08(6) for
771 that employer's business location.

772 2. A second violation by an employer at a business location
773 if the violation occurred during a probationary period ordered
774 by the court under this subsection or s. 820.08(6) for that
775 employer's business location.

776 (7) The Attorney General shall maintain copies of court
777 orders that are received pursuant to subsection (6) and shall
778 maintain a database of the employers and business locations that
779 have a first violation of subsection (1) and make the court
780 orders available on the Attorney General's website.

781 (8) When determining whether an employee is an unauthorized
782 alien, the court shall consider only the Federal Government's
783 determination pursuant to 8 U.S.C. s. 1373(c). The Federal

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784 Government's determination creates a rebuttable presumption of
785 the employee's lawful status. The court may take judicial notice
786 of the Federal Government's determination and may request the
787 Federal Government to provide automated or testimonial
788 verification pursuant to 8 U.S.C. s. 1373(c).

789 (9) For the purposes of this section:

790 (a) Proof of the employer's participation in the E-Verify
791 program creates a rebuttable presumption that an employer did
792 not knowingly employ an unauthorized alien.

793 (b) An employer who establishes that he or she has complied
794 in good faith with the requirements of 8 U.S.C. s. 1324a(b)
795 establishes an affirmative defense that the employer did not
796 knowingly employ an unauthorized alien. An employer is
797 considered to have complied with the requirements of 8 U.S.C. s.
798 1324a(b), notwithstanding an isolated, sporadic, or accidental
799 technical or procedural failure to meet the requirements, if
800 there is a good faith attempt to comply with the requirements.

801 (10) An employer may claim as an affirmative defense to a
802 violation of subsection (1) that the employer was entrapped. In
803 order to claim entrapment, the employer must admit by the
804 employer's testimony or other evidence the substantial elements
805 of the violation. An employer who asserts an entrapment defense
806 has the burden of proving all of the following by clear and
807 convincing evidence:

808 (a) The idea of committing the violation started with law
809 enforcement officers or their agents rather than with the
810 employer.

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

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813 (c) The employer was not predisposed to commit the
814 violation before the law enforcement officers or their agents
815 urged and induced the employer to commit the violation.

816 (11) An employer does not establish entrapment if the
817 employer was predisposed to violate subsection (1) and the law
818 enforcement officers or their agents merely provided the
819 employer with an opportunity to commit the violation. It is not
820 entrapment for law enforcement officers or their agents to
821 merely use a ruse or conceal their identity. The conduct of law
822 enforcement officers and their agents may be considered in
823 determining if an employer has proven entrapment.

824 820.10 Verification of employment eligibility; E-Verify;
825 economic development incentives; list of registered employers.-

826 (1) On and after December 31, 2011, every employer, after
827 hiring an employee, shall verify the employment eligibility of
828 the employee through the E-Verify program of the Department of
829 Homeland Security and shall keep a record of the verification
830 for the duration of the employee's employment or at least 3
831 years, whichever is longer.

832 (2) In order for an employer to be eligible for, or to
833 receive, an economic development incentive grant from a
834 governmental entity, the employer shall register with, and
835 participate in, the E-Verify program. The employer shall provide
836 proof to the governmental entity that the employer is registered
837 with, and is participating in, the E-Verify program. If the
838 governmental entity determines that the employer is not
839 complying with this subsection, the governmental entity shall
840 notify the employer by certified mail of the governmental
841 entity's determination of noncompliance and the employer's right

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842 to appeal the determination. On a final determination of
843 noncompliance, the employer shall repay all moneys received as
844 an economic development incentive grant to the governmental
845 entity within 30 days after the final determination.

846 (3) As used in this section, the term:

847 (a) "Economic development incentive grant" means any grant,
848 loan, or performance-based incentive from any governmental
849 entity which is awarded on or after July 1, 2011. The term does
850 not include any tax provision under Title XIV of the Social
851 Security Act.

852 (b) "Governmental entity" means this state and any
853 political subdivision of this state which receives and uses tax
854 revenues.

855 (4) Every 3 months the Attorney General shall request from
856 the United States Department of Homeland Security a list of
857 employers from this state who are registered with the E-Verify
858 program. Upon receipt of the list of employers, the Attorney
859 General shall make the list available on the Attorney General's
860 website.

861 Section 3. Section 932.709, Florida Statutes, is created to
862 read:

863 932.709 Removal and immobilization or impoundment of
864 vehicle.—

865 (1) A law enforcement officer shall remove and immobilize
866 or impound a vehicle if the law enforcement officer determines
867 that a person is driving the vehicle while any of the following
868 applies:

869 (a) The person's driving privilege is suspended or revoked
870 for any reason.

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871 (b) The person has not been issued a valid driver's license
872 or permit by this state and does not produce evidence of ever
873 having a valid driver's license or permit issued by another
874 jurisdiction. This paragraph does not apply to the operation of
875 an implement of husbandry.

876 (c) The person has been ordered to install an ignition
877 interlock device pursuant to s. 316.1937 or s. 322.2715, and the
878 person operating the vehicle has disabled or removed the
879 ignition interlock device.

880 (d) The person commits a criminal offense by transporting,
881 moving, concealing, harboring, or shielding, or attempting to
882 transport, move, conceal, harbor, or shield, an alien in this
883 state in a vehicle if the person knows or recklessly disregards
884 the fact that the alien has entered, or remains in, the United
885 States in violation of law.

886 (2) A law enforcement officer shall remove and impound a
887 vehicle if the law enforcement officer determines that a person
888 is driving the vehicle and that all of the following apply:

889 (a) The person's driving privilege is canceled, suspended,
890 or revoked for any reason, or the person has never been issued a
891 driver's license or permit by this state and the person does not
892 produce evidence of ever having a driver's license or permit
893 issued by another jurisdiction.

894 (b) The person is not in compliance with the financial
895 responsibility requirements of chapter 324.

896 (c) The person is driving a vehicle that is involved in an
897 accident that results in property damage or injury to, or death
898 of, another person.

899 (3) Except as provided in subsection (4), while a law

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900 enforcement officer has control of the vehicle, the law
901 enforcement officer shall remove, immobilize, or impound the
902 vehicle if the law enforcement officer has probable cause to
903 arrest the driver of the vehicle for a violation of s. 316.193
904 or s. 322.2616.

905 (4) A law enforcement officer may not remove, immobilize,
906 or impound a vehicle pursuant to subsection (3) if all of the
907 following apply:

908 (a) The law enforcement officer determines that the vehicle
909 is currently registered and that the driver or the vehicle is in
910 compliance with the financial responsibility requirements of
911 chapter 324.

912 (b) The spouse of the driver is with the driver at the time
913 of the arrest.

914 (c) The law enforcement officer has reasonable grounds to
915 believe that the spouse of the driver:

916 1. Has a valid driver's license.

917 2. Is not impaired by an intoxicating liquor, a drug, a
918 vapor-releasing substance containing a toxic substance, or a
919 combination of liquor, drugs, or vapor-releasing substances.

920 3. Does not have any spirituous liquor in his or her body
921 if the spouse is under 21 years of age.

922 (d) The spouse notifies the law enforcement officer that
923 the spouse will drive the vehicle from the place of arrest to
924 the driver's home or other place of safety.

925 (5) Except as otherwise provided in this chapter, a vehicle
926 that is removed, immobilized, or impounded pursuant to
927 subsection (1), subsection (2), or subsection (3) shall be
928 immobilized or impounded for 30 days. An insurance company does

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929 not have a duty to pay any benefits for charges or fees for
930 immobilization or impoundment.

931 (6) The owner of a vehicle that is removed, immobilized, or
932 impounded pursuant to subsection (1), subsection (2), or
933 subsection (3), the spouse of the owner, and each person
934 identified on the records of the Department of Highway Safety
935 and Motor Vehicles who has an interest in the vehicle shall be
936 provided with an opportunity for a hearing pursuant to s.
937 316.193.

938 Section 4. Section 943.0425, Florida Statutes, is created
939 to read:

940 943.0425 Gang and Immigration Intelligence and Enforcement
941 Account.—There is created the Gang and Immigration Intelligence
942 and Enforcement Account within the Department of Law Enforcement
943 Operating Trust Fund. Funds in the account are subject to
944 legislative appropriation for the purpose of providing emergency
945 supplemental funds to gang and immigration enforcement and for
946 reimbursement of county jail costs relating to illegal
947 immigration.

948 Section 5. Section 787.07, Florida Statutes, is repealed.

949 Section 6. This act shall take effect July 1, 2011.