ACT NO. 2012-491

HB658

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By Representatives Hammon, Davis, Carns, Collins, Henry, Mask, Williams (P), Faust, Brown, Baker, Lee, Clouse, Williams (J), Millican, Bridges, Laird, Roberts, Sanderford, Johnson (W), Hill, McCutcheon, Galliher, Weaver, Greer, Treadaway, Farley, Tuggle, Patterson, Williams (D), Nordgren, Baughn, Hurst, Johnson (R), Vance, Beckman, Moore (B), Wallace, Wren, McMillan, Hubbard (M), Johnson (K) and McClendon

RFD: Public Safety and Homeland Security

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GOVERNOR'S OFFICE

ENROLLED, An Act,

To amend Sections 3, 5, 6, 8, 9, 13, 20, 21, 24, 27, 29, and 30 of Act 2011-535, 2011 Regular Session, now appearing as Sections 31-13-3, 31-13-5, 31-13-6, 31-13-8, 31-13-9, 31-13-13, 31-13-19, 31-13-20, 31-13-23, 31-13-26, 31-13-28, and 31-13-29, Code of Alabama 1975, and Section 32-6-9, Code of Alabama 1975, as amended by Section 18 of Act 2011-535, 2011 Regular Session, to make revisions to the Beason-Hammon Alabama Taxpayer and Citizen Protection Act; to amend Section 32-6-10.1, Code of Alabama 1975, relating to the issuance of driver's licenses to foreign nationals, to provide further for the definition of a foreign national; to require the Attorney General to defend law enforcement officers under certain conditions; to require the Administrative Office of Courts to submit a quarterly report to the Alabama Department of Homeland Security summarizing the number of cases in which an unlawfully present person was detained by law enforcement and appeared in court for any violation of state law; to require the Department of Revenue to conduct annual searches of its records to determine if multiple individuals have filed tax returns under the same Social Security number or the same individual tax identification number; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the

meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 3, 5, 6, 8, 9, 13, 20, 21, 24, 27, 29, and 30 of Act 2011-535, 2011 Regular Session, now appearing as Sections 31-13-3, 31-13-5, 31-13-6, 31-13-8, 31-13-9, 31-13-13, 31-13-19, 31-13-20, 31-13-23, 31-13-26, 31-13-28, and 31-13-29, Code of Alabama 1975, are amended to read as follows:

"§31-13-3.

"For the purposes of this chapter, the following words shall have the following meanings:

"(1) ALIEN. Any person who is not a citizen or national of the United States, as described in 8 U.S.C. § 1101, et seq., and any amendments thereto.

"(2) BUSINESS ENTITY. Any person or group of persons <u>employing one or more persons</u> performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. Business entity shall include, but not be limited to, the following:

"a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited

1 partnerships, limited liability companies, foreign
2 corporations, foreign limited partnerships, foreign limited
3 liability companies authorized to transact business in this
4 state, business trusts, and any business entity that registers
5 with the Secretary of State.
6 "b. Any business entity that possesses a business
7 license, permit, certificate, approval, registration, charter,
8 or similar form of authorization issued by the state, any
9 business entity that is exempt by law from obtaining such a
10 business license, and any business entity that is operating
11 unlawfully without a business license.
12 "(3) CONTRACTOR. A person, employer, or business
13 entity that enters into an agreement to perform any service or
14 work or to provide a certain product in exchange for valuable
15 consideration. This definition shall include, but not be
16 limited to, a general contractor, subcontractor, independent
17 contractor, contract employee, project manager, or a
18 recruiting or staffing entity.
19 "(4) EMPLOYEE. Any person directed, allowed, or
20 permitted to perform labor or service of any kind by an
21 employer. The employees of an independent contractor working
22 for a business entity shall not be regarded as the employees
23 of the business entity, for the purposes of this chapter. <u>This</u>
24 <u>term does not include any inmate in the legal custody of the</u>
25 <u>state, a county, or a municipality.</u>

1 "(5) EMPLOYER. Any person, firm, corporation,
2 partnership, joint stock association, agent, manager,
3 representative, foreman, or other person having control or
4 custody of any employment, place of employment, or of any
5 employee, including any person or entity employing any person
6 for hire within the State of Alabama, including a public
7 employer. This term shall not include the occupant of a
8 household contracting with another person to perform casual
9 domestic labor within the household.
10 "(6) EMPLOYMENT. The act of employing or state of
11 being employed, engaged, or hired to perform work or service
12 of any kind or character within the State of Alabama,
13 including any job, task, work, labor, personal services, or
14 any other activity for which compensation is provided,
15 expected, or due, including, but not limited to, all
16 activities conducted by a business entity or employer. This
17 term shall not include casual domestic labor performed in a
18 household on behalf of the occupant of the household or the
19 relationship between a contractor and the employees of a
20 subcontractor performing work for the contractor.
21 "(7) E-VERIFY. The electronic verification of
22 federal employment authorization program of the Illegal
23 Immigration Reform and Immigrant Responsibility Act of 1996,
24 P.L. 104-208, Division C, Section 403(a); 8 U.S.C. §1324(a),

1 and operated by the United States Department of Homeland
2 Security, or its successor program.
3 "(8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the
4 electronic verification of work authorization programs
5 operated by the United States Department of Homeland Security
6 or an equivalent federal work authorization program operated
7 by the United States Department of Homeland Security to verify
8 information of newly hired employees, under the Immigration
9 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the
10 Illegal Immigration Reform and Immigrant Responsibility Act of
11 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C.
12 §1324(a).
13 "(9) KNOWS or KNOWINGLY. A person acts knowingly or
14 with knowledge with respect to either of the following:
15 "a. The person's conduct or to attendant
16 circumstances when the person is aware of the nature of the
17 person's conduct or that those circumstances exist.
18 "b. A result of the person's conduct when the person
19 is reasonably aware that the person's conduct is likely to
20 cause that result.
21 "(10) LAWFUL PRESENCE or LAWFULLY PRESENT. A person
22 shall be regarded as an alien unlawfully present in the United
23 States only if the person's unlawful immigration status has
24 been verified by the federal government pursuant to 8 U.S.C. §
25 1373(c). No officer of this state or any political subdivision

of this state shall attempt to independently make a final determination of an alien's immigration status. An alien possessing self-identification in any of the following forms is entitled to the presumption that he or she is an alien lawfully present in the United States:

"a. A valid, unexpired Alabama driver's license.

"b. A valid, unexpired Alabama nondriver identification card.

"c. A valid tribal enrollment card or other form of tribal identification bearing a photograph or other biometric identifier.

"d. Any valid United States federal or state government issued identification document bearing a photograph or other biometric identifier, <u>including a valid Uniformed Services Privileges and Identification Card</u> if issued by an entity that requires proof of lawful presence in the United States before issuance.

"e. A foreign passport with an unexpired United States Visa and a corresponding stamp or notation by the United States Department of Homeland Security indicating the bearer's admission to the United States.

"f. A foreign passport issued by a visa waiver country with the corresponding entry stamp and unexpired duration of stay annotation or an I-94W form by the United

States Department of Homeland Security indicating the bearer's admission to the United States.

"(11) POLICY OR PRACTICE. A guiding principle or rule that may be written or adopted through repeated actions or customs~~, which must be sanctioned by an agency or the head of an agency~~.

"(12) PROTECTIVE SERVICES PROVIDER. A child protective services worker; adult protective services worker; protective services provider; or provider of services to victims of domestic violence, stalking, sexual assault, or human trafficking that receives federal grants under the Victim of Crimes Act, the Violence Against Women Act, or the Family Violence Prevention and Services Act.

"(13) PUBLIC EMPLOYER. Every department, agency, or instrumentality of the state or a political subdivision of the state including counties and municipalities.

"(14) STATE-FUNDED ENTITY. Any governmental entity of the state or a political subdivision thereof or any other entity that receives ~~any state monies~~ <u>any monies from the state or a political subdivision thereof; provided, however, an entity that merely provides a service or a product to any governmental entity of the state or a political subdivision thereof, and receives compensation for the same, shall not be considered a state-funded entity.</u>

"(15) SUBCONTRACTOR. ~~A subcontractor, contract employee, staffing agency, or any contractor, regardless of its tier.~~ A person, business entity, or employer who is awarded a portion of an existing contract by a contractor, regardless of its tier.

"(16) UNAUTHORIZED ALIEN. An alien who is not authorized to work in the United States as defined in 8 U.S.C. § 1324a(h)(3).

"§31-13-5.

"(a) No official or agency of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, may adopt a policy or practice that limits or restricts the enforcement of federal immigration laws by limiting communication between its officers and federal immigration officials in violation of 8 U.S.C. § 1373 or 8 U.S.C. § 1644, or that restricts its officers in the enforcement of this chapter. If, in the judgment of the Attorney General of Alabama, an official or agency of this state or any political subdivision thereof, including, but not limited to, an officer of a court in this state, is in violation of this subsection, the Attorney General shall report any violation of this subsection to the Governor and the state Comptroller and that agency or political subdivision shall not be eligible to receive any funds, grants, or appropriations from the State of Alabama

until such violation has ceased and the Attorney General has so certified. Any appeal of the determination of the Attorney General as considered in this section shall be first appealed to the circuit court of the respective jurisdiction in which the alleged offending agency resides.

"(b) All state officials, agencies, and personnel, including, but not limited to, an officer of a court of this state, shall fully comply with and, to the full extent permitted by law, support the enforcement of federal law prohibiting the entry into, presence, or residence in the United States of aliens in violation of federal immigration law.

"(c) Except as provided by federal law, officials or agencies of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, may not be prohibited or in any way be restricted from sending, receiving, or maintaining information relating to the immigration status, lawful or unlawful, of any individual or exchanging that information with any other federal, state, or local governmental entity for any of the following official purposes:

"(1) Determining the eligibility for any public benefit, service, or license provided by any state, local, or other political subdivision of this state.

1 "(2) Verifying any claim of residence or domicile if
2 determination of residence or domicile is required under the
3 laws of this state or a judicial order issued pursuant to a
4 civil or criminal proceeding of this state.
5 "(3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. §
6 1644.
7 "(d) A person who is a United States citizen or an
8 alien who is lawfully present in the United States and is a
9 resident of this state may file a petition with the
10 appropriate local district attorney or the Attorney General
11 requesting that he or she bring an action in circuit court to
12 challenge any official or head of an agency of this state or
13 political subdivision thereof, including, but not limited to,
14 an officer of a court in this state, that adopts or implements
15 a policy or practice that is in violation of 8 U.S.C. § 1373
16 or 8 U.S.C. § 1644. If the district attorney or the Attorney
17 General elects to not bring an action, he or she shall
18 publicly state in writing the justification for such a
19 decision. A district attorney or the Attorney General must
20 either bring an action or publicly state why no action was
21 brought within 90 days of receiving a petition. The petition
22 must be signed under oath and under penalty of perjury, and
23 must allege with specificity any alleged violations. The
24 district attorney or the Attorney General shall give the
25 official or head of an agency, including, but not limited to,

1 an officer of a court of this state, 30 days' notice of his or
2 her intent to file such an action. If there is a judicial
3 finding that an official or head of an agency, including, but
4 not limited to, an officer of a court in this state, has
5 violated this section, the court shall order that the officer,
6 official, or head of an agency pay a civil penalty of not less
7 than one thousand dollars ($1,000) and not more than five
8 thousand dollars ($5,000) for each day that the policy or
9 practice has remained in effect after the filing of an action
10 pursuant to this section.
11 "(e) A court shall collect the civil penalty
12 prescribed in subsection (d) and remit one half of the civil
13 penalty to the Alabama Department of Homeland Security and the
14 second half shall be remitted to the Department of Public
15 Safety.
16 "(f) Every person working for the State of Alabama
17 or a political subdivision thereof, including, but not limited
18 to, a law enforcement agency in the State of Alabama or a
19 political subdivision thereof, shall have a duty to report
20 violations of this section of which the person has knowledge.
21 Any person who willfully fails to report any violation of this
22 section when the person knows that this section is being
23 violated shall be guilty of obstructing governmental
24 operations as defined in Section 13A-10-2.

"(g) For the purposes of this section, the term official or head of an agency of this state shall not include a law enforcement officer or ~~other~~ personnel employed in a jail who is acting within the line and scope of his or her duty, except for a sheriff, a chief of police, or the head of any law enforcement agency.

"(h) For the purposes of this section, any proceedings against an official shall be only in his or her official capacity. ~~Each side on any litigation considered within this section shall bear his or her own costs and fees associated with the litigation unless otherwise ordered by the court.~~ For the purposes of this section, the relevant statute of repose for assessing penalties shall be no more than 30 days prior to the initial allegation of the violations of this section.

"(i) For the purposes of this section, the term "officer of the court" shall not be interpreted to interfere with the relationship between an attorney and his or her client.

"§31-13-6.

"(a) No official or agency of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, may adopt a policy or practice that limits or restricts the enforcement of this chapter to less than the full extent permitted by this chapter

or that in any way limits communication between its officers or officials in furtherance of the enforcement of this chapter. If, in the judgment of the Attorney General of Alabama, an official or agency of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, is in violation of this subsection, the Attorney General shall report any violation of this subsection to the Governor and the state Comptroller and that agency or political subdivision shall not be eligible to receive any funds, grants, or appropriations from the State of Alabama until such violation has ceased and the Attorney General has so certified.

"(b) All state officials, agencies, and personnel, including, but not limited to, an officer of a court of this state, shall fully comply with and, to the full extent permitted by law, support the enforcement of this chapter.

"(c) Except as provided by this chapter, officials or agencies of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, may not be prohibited or in any way be restricted from sending, receiving, or maintaining information relating to the immigration status, lawful or unlawful, of any individual or exchanging that information with any other federal, state, or local governmental entity for any of the following official purposes:

1 "(1) Determining the eligibility for any public
2 benefit, service, or license provided by any state, local, or
3 other political subdivision of this state.
4 "(2) Verifying any claim of residence or domicile if
5 determination of residence or domicile is required under the
6 laws of this state or a judicial order issued pursuant to a
7 civil or criminal proceeding of this state.
8 "(3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. §
9 1644.
10 "(d) A person who is a United States citizen or an
11 alien who is lawfully present in the United States and is a
12 resident of this state may file a petition with the
13 appropriate local district attorney or the Attorney General
14 requesting that he or she bring an action in circuit court to
15 challenge any official or head of an agency of this state or
16 political subdivision thereof, including, but not limited to,
17 an officer of a court in this state, that adopts or implements
18 a policy or practice that limits or restricts the enforcement
19 of this chapter to less than the full extent permitted by this
20 chapter. If the district attorney or the Attorney General
21 elects to not bring an action, he or she shall publicly state
22 in writing the justification for such a decision. A district
23 attorney or the Attorney General must either bring an action
24 or publicly state why no action was brought within 90 days of
25 receiving a petition. The petition must be signed under oath

1 and under penalty of perjury and must allege with specificity
2 any alleged violations. Such person shall have actual
3 knowledge that any official or head of an agency of this state
4 or political subdivision thereof, including, but not limited
5 to, an officer of a court in this state, has adopted or
6 implemented a policy or practice that limits or restricts the
7 enforcement of this chapter to less than the full extent
8 permitted by this chapter. The district attorney or the
9 Attorney General shall give the official or head of an agency,
10 including, but not limited to, an officer of a court in this
11 state, 30 days' notice of his or her intent to file such an
12 action. If there is a judicial finding that an official or
13 head of an agency, including, but not limited to, an officer
14 of a court in this state, has violated this section, the court
15 shall order that the officer, official, or head of an agency
16 pay a civil penalty of not less than one thousand dollars
17 ($1,000) and not more than five thousand dollars ($5,000) for
18 each day that the policy or practice has remained in effect
19 after the filing of an action pursuant to this section.
20 "(e) A court shall collect the civil penalty
21 prescribed in subsection (d) and remit one half of the civil
22 penalty to the Alabama Department of Homeland Security and the
23 second half shall be remitted to the Department of Public
24 Safety.

"(f) Every person working for the State of Alabama or a political subdivision thereof, including, but not limited to, a law enforcement agency in the State of Alabama or a political subdivision thereof, shall have a duty to report violations of this section of which the person has knowledge. ~~Failure to report any violation of this section when there is reasonable cause to believe that this section is being violated is~~ Any person who willfully fails to report any violation of this section when the person knows that this section is being violated shall be guilty of obstructing governmental operations as defined in Section 13A-10-2~~, and shall be punishable pursuant to state law~~.

"(g) For the purposes of this section, the term official or head of an agency of this state shall not include a law enforcement officer or ~~other~~ personnel employed in a jail who is acting within the line and scope of his or her duty, except for a sheriff, a chief of police, or the head of any law enforcement agency.

"(h) For the purposes of this section, the term "officer of the court" shall not be interpreted to interfere with the relationship between an attorney and his or her client.

"§31-13-8.

"An alien who is not lawfully present in the United States shall not be permitted to enroll in or attend any

public postsecondary education institution in this state. ~~An alien attending any public postsecondary institution in this state must either possess lawful permanent residence or an appropriate nonimmigrant visa under 8 U.S.C. § 1101, et seq.~~ For the purposes of this section, a public postsecondary education institution officer may seek federal verification of an alien's immigration status with the federal government pursuant to 8 U.S.C. § 1373(c). A public postsecondary education institution officer or official shall not attempt to independently make a final determination of whether an alien is lawfully present in the United States. Except as otherwise provided by law, an alien who is not lawfully present in the United States shall not be eligible for any postsecondary education benefit, including, but not limited to, scholarships, grants, or financial aid.

"§31-13-9.

"(a) As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, the business entity or employer shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien <u>within the State of Alabama</u> ~~and shall attest to such, by sworn affidavit signed before a notary~~.

"(b) As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees within the state of Alabama, the business entity or employer shall provide documentation establishing that the business entity or employer is enrolled in the E-Verify program. During the performance of the contract, the business entity or employer shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations.

"(c) ~~No~~ Any subcontractor on a project paid for by contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama and ~~shall attest to such by sworn affidavit signed before a notary. The subcontractor~~ shall also enroll in the E-Verify program prior to performing any work on the project. ~~and shall attach to the sworn affidavit documentation establishing that the subcontractor is enrolled in the E-Verify program~~ Furthermore, during the performance of the contract, the subcontractor shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations. This subsection

shall only apply to subcontractors performing work on a project subject to the provisions of this section and not to collateral persons or business entities hired by the subcontractor.

"(d) A contractor of any tier shall not be liable under this section when such contractor contracts with its direct subcontractor who violates subsection (c)~~, if the contractor receives a sworn affidavit from the subcontractor signed before a notary attesting to the fact that the direct subcontractor, in good faith, has complied with subsection (c) with respect to verifying each of its employee's eligibility for employment, unless the contractor knows the direct subcontractor is violating subsection (c).~~ unless it is shown ~~by clear and convincing evidence~~ that the contractor knew or should have known that the direct subcontractor was in violation of subsection (c).

"(e)(1) Upon a finding by a court of competent jurisdiction of a ~~the~~ first violation of subsection (a) by any business entity or employer, including a subcontractor: ~~awarded a contract by the state, any political subdivision thereof, or any state-funded entity the business entity or employer shall be deemed in breach of contract and the state, political subdivision thereof, or state-funded entity may terminate the contract after providing notice and an opportunity to be heard. Upon application by the state entity,~~

~~political subdivision thereof, or state-funded entity, the Attorney General may bring an action to suspend the business licenses and permits of the business entity or employer for a period not to exceed 60 days, according to the procedures described in Section 31-13-15. The court shall order the business entity or employer to file a signed, sworn affidavit with the local district attorney within three days after the order is issued by the court stating that the business entity or employer has terminated the employment of every unauthorized alien and the business entity or employer will not knowingly or intentionally employ an unauthorized alien in this state. Before a business license or permit that has been suspended under this subsection is reinstated, a legal representative of the business entity or employer shall submit to the court a signed, sworn affidavit stating that the business entity or employer is in compliance with the provisions of this chapter and a copy of the memorandum of understanding issued to the business entity or employer at the time of enrollment in E-Verify.~~

"a. The business entity or employer shall be deemed in breach of contract and the state, political subdivision thereof, or state-funded entity may terminate the contract after providing notice and an opportunity to be heard.

"b. The court shall do all of the following:

1 "1. Order the business entity or employer to
2 terminate the employment of every unauthorized alien.
3 "2. Subject the business entity or employer to a
4 three-year probationary period throughout the state. During
5 the probationary period, the business entity or employer shall
6 file quarterly reports with the Department of Industrial
7 Relations of each new employee who is hired by the business
8 entity or employer in the state.
9 "3. Order the business entity or employer to file,
10 subject to the penalty of perjury, a signed, sworn affidavit
11 with the Department of Industrial Relations within three days
12 after the order is issued by the court stating that the
13 business entity or employer has terminated the employment of
14 every unauthorized alien and the business entity or employer
15 will not knowingly or intentionally employ an unauthorized
16 alien in this state.
17 "c.1. If the court determines that the business
18 entity or employer has a policy or practice that violates this
19 section, the court shall direct the applicable state, county,
20 or municipal governing bodies to suspend the business licenses
21 or permits of the business entity or employer for a period not
22 to exceed 60 days specific to the location or locations where
23 the unauthorized alien performed work.
24 "2. Before a business license or permit has been
25 suspended under this paragraph is reinstated, a legal

representative of the business entity or employer shall submit to the court a signed, sworn affidavit stating that the business entity or employer is in compliance with the provisions of this subdivision and a copy of the Memorandum of Understanding issued to the business entity or employer at the time of enrollment in E-Verify.

"(2) Upon a finding by a court of competent jurisdiction of a second ~~or subsequent~~ violation of subsection (a) by ~~any~~ a business entity or employer, including a subcontractor, awarded a contract by the state, any political subdivision thereof, or any state-funded entity that occurs within ten years of a finding by a court of competent jurisdiction of a first violation by the business entity or employer: ~~the business entity or employer shall be deemed in breach of contract and the state, any political subdivision thereof, or any state-funded entity shall terminate the contract after providing notice and an opportunity to be heard. Upon application by the state entity, political subdivision thereof, or state-funded entity, the Attorney General may bring an action to permanently revoke the business licenses and permits of the business entity or employer according to the procedures described in Section 31-13-15.~~

"a. The business entity or employer shall be deemed in breach of contract and the state, political subdivision

1 thereof, or state-funded entity shall terminate the contract
2 after providing notice and an opportunity to be heard.
3 "b. The court shall do all of the following:
4 "1. Order the business entity or employer to
5 terminate the employment of every unauthorized alien.
6 "2. Subject the business entity or employer to a
7 five-year probationary period throughout the state. During the
8 probationary period, the business entity or employer shall
9 file quarterly reports with the Department of Industrial
10 Relations of each new employee who is hired by the business
11 entity or employer in the state.
12 "3. Order the business entity or employer to file,
13 subject to the penalty of perjury, a signed, sworn affidavit
14 with the Department of Industrial Relations within three days
15 after the order is issued by the court stating that the
16 business entity or employer has terminated the employment of
17 every unauthorized alien and the business entity or employer
18 will not knowingly or intentionally employ an unauthorized
19 alien in this state.
20 "c.1. If the court determines that the business
21 entity or employer has a policy or practice that violates this
22 section, the court shall direct the applicable state, county,
23 or municipal governing bodies to suspend the business licenses
24 or permits of the business entity or employer for a period not
25 less than 60 days and not to exceed 120 days specific to the

1 location or locations where the unauthorized alien performed
2 work.
3 "2. Before a business license or permit has been
4 suspended under this paragraph is reinstated, a legal
5 representative of the business entity or employer shall submit
6 to the court a signed, sworn affidavit stating that the
7 business entity or employer is in compliance with the
8 provisions of this subdivision and a copy of the Memorandum of
9 Understanding issued to the business entity or employer at the
10 time of enrollment in E-Verify.
11 d. A finding by a court of competent jurisdiction of
12 a second violation of subsection (a) that does not occur
13 within ten years of a first violation shall still be
14 considered a second violation of subsection (a) by the
15 business entity or employer, even though the penalty for the
16 second violation shall be governed by subsection (e)(1).
17 "(3) Upon a finding by a court of competent
18 jurisdiction of a third violation of subsection (a) by a
19 business entity or employer, including a subcontractor,
20 awarded a contract by the state, any political subdivision
21 thereof, or any state-funded entity:
22 "a. The business entity or employer shall be deemed
23 in breach of contract and the state, political subdivision
24 thereof, or state-funded entity shall terminate the contract
25 after providing notice and an opportunity to be heard.

"b. The court shall direct the applicable state, county, or municipal governing bodies to permanently revoke all business licenses or permits of the business entity or employer.

"~~(f)(1) Upon the first violation of subsection (c) by a subcontractor, the state or political subdivision thereof may bar the subcontractor from doing business with the state, any political subdivision thereof, any state-funded entity, or with any contractor who contracts with the state, any political subdivision thereof, or any state-funded entity after providing notice and an opportunity to be heard. Upon application by the state entity or political subdivision thereof, or state-funded entity, the Attorney General may bring an action to suspend the business licenses and permits of the subcontractor for a period not to exceed 60 days, according to the procedures described in Section 31-13-15. The court shall order the subcontractor to file a signed, sworn affidavit with the local district attorney within three days after the order is issued by the court stating that the subcontractor has terminated the employment of every unauthorized alien and the subcontractor will not knowingly or intentionally employ an unauthorized alien in this state. Before a business license or permit that has been suspended under this subsection is reinstated, a legal representative of the subcontractor shall submit to the court a signed, sworn~~

~~affidavit stating that the subcontractor is in compliance with the provisions of this chapter and a copy of the memorandum of understanding issued to the subcontractor at the time of enrollment in E-Verify.~~

"~~(2) Upon a second or subsequent violation of subsection (c) by a subcontractor and upon application by the state entity or political subdivision thereof, or state-funded entity, the Attorney General may bring an action to permanently suspend the business licenses of the business entity or employer according to the procedures described in Section 31-13-15. The determination of a violation shall be according to the procedures described in Section 31-13-15.~~

"~~(g)~~(f) ~~A business entity or employer that complies with subsection (b) shall not be found to be in violation of subsection (a). A subcontractor that is enrolled in the E-Verify program during the full period of performance of the subcontract shall not be found to be in violation of subsection (c).~~ (1) This section shall not be construed to deny any procedural mechanisms or legal defenses included in the E-Verify program or any other federal work authorization program.

(2) A business entity or employer that has enrolled in the E-Verify program and has used the program to verify the work authorization of an employee shall not be liable under

this section for violations resulting from the hiring of that employee.

"~~(h)~~(g) The Secretary of State ~~shall~~ may adopt rules to administer this section and shall report any rules adopted to the Legislature.

"~~(i)~~(h) Compliance with this section may be verified by the ~~state authorities or law enforcement~~ contracting authority or any state or local law enforcement agency at any time to ensure a contractual agreement as provided for in this section is being met.

"~~(j) The suspension of a business license or permit under subsection (e)(1) and (f)(1) shall terminate one business day after a legal representative of the business entity, employer, or subcontractor submits a signed, sworn affidavit stating that the business entity, employer, or subcontractor is in compliance with this chapter to the court.~~

"(i) Anything to the contrary notwithstanding, this section shall not apply to agreements by the state, any political subdivision thereof, or any state-funded entity relating to debt obligations by such entities.

"(j) Any business entity or employer found in violation of this section that has had their business license or permit suspended shall not, for the duration of the suspension, be allowed, directly or indirectly, to procure or

1 execute a license or permit similar to those that have been
2 suspended.
3 "(k) All contracts or agreements to which the state,
4 a political subdivision, or state-funded entity are a party
5 shall include the following clause: "By signing this contract,
6 the contracting parties affirm, for the duration of the
7 agreement, that they will not violate federal immigration law
8 or knowingly employ, hire for employment, or continue to
9 employ an unauthorized alien within the state of Alabama.
10 Furthermore, a contracting party found to be in violation of
11 this provision shall be deemed in breach of the agreement and
12 shall be responsible for all damages resulting therefrom."
13 "(l) For purposes of this section, "contract" shall
14 mean a contract awarded by the state, any political
15 subdivision thereof, or any state-funded entity that was
16 competitively bid or would, if entered into by the state or an
17 agency thereof, be required to be submitted to the Contract
18 Review Permanent Legislative Oversight Committee.
19 "(m) All actions brought under this section shall be
20 brought in circuit court.
21 "§31-13-13.
22 "(a) It shall be unlawful for a person to do any of
23 the following:
24 "(1) Conceal, harbor, or shield from detection or
25 attempt to conceal, harbor, or shield from detection or

conspire to conceal, harbor, or shield from detection an alien ~~from detection~~ in any place in this state, including any building or any means of transportation, if the person knows or recklessly disregards the fact that the alien has come to, has entered, or remains in the United States in violation of federal law. This subdivision should be interpreted consistent with 8 U.S.C. § 1324(a)(1)(A).

"(2) Encourage or induce an alien to come to or reside in this state if the person knows or recklessly disregards the fact that such alien's coming to, entering, or residing in the United States is or will be in violation of federal law. This subdivision should be interpreted consistent with 8 U.S.C. § 1324(a)(1)(A).

"(3) Transport, or attempt to transport, or conspire to transport in this state an alien in furtherance of the unlawful presence of the alien in the United States, knowingly, or in reckless disregard of the fact, that the alien has come to, entered, or remained in the United States in violation of federal law. Conspiracy to be so transported shall be a violation of this subdivision. This subdivision should be interpreted consistent with 8 U.S.C. § 1324(a)(1)(A).

"~~(4) Harbor an alien unlawfully present in the United States by entering into a rental agreement, as defined by Section 35-9A-141, with an alien to provide accommodations,~~

~~if the person knows or recklessly disregards the fact that the alien is unlawfully present in the United States.~~

"(4) It shall not be a violation of this section for a religious denomination having a bona fide nonprofit religious organization in the United States, or the agents or officers of the denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year. This subdivision should be interpreted consistent with 8 U.S.C. § 1324(a)(1)(C).

"(b) Any person violating this section is guilty of a Class A misdemeanor for each unlawfully present alien, the illegal presence of which in the United States and the State of Alabama, he or she is facilitating or is attempting to facilitate.

"(c) A person violating this section is guilty of a Class C felony when the violation involves ~~10~~ five or more aliens, the illegal presence of which in the United States and the State of Alabama, he or she is facilitating or is attempting to facilitate.

1 "(d) Notwithstanding any other law, a law
2 enforcement agency may securely transport an alien whom the
3 agency has received verification from the federal government
4 pursuant to 8 U.S.C. § 1373(c) is unlawfully present in the
5 United States and who is in the agency's custody to a state
6 approved facility, to a federal facility in this state, or to
7 any other point of transfer into federal custody that is
8 outside the jurisdiction of the law enforcement agency. A law
9 enforcement agency shall obtain judicial or executive
10 authorization from the Governor before securely transporting
11 an alien who is unlawfully present in the United States to a
12 point of transfer that is outside this state.
13 "(e) Notwithstanding any other law, any person
14 acting in his or her official capacity as a first responder or
15 protective services provider may harbor, shelter, move, or
16 transport an alien unlawfully present in the United States
17 pursuant to state law.
18 "(f) Any conveyance, including any vessel, vehicle,
19 or aircraft, that has been or is being used in the commission
20 of a violation of this section, and the gross proceeds of such
21 a violation, shall be subject to civil forfeiture under the
22 procedures of Section 20-2-93.
23 "(g) In the enforcement of this section, an alien's
24 immigration status shall be determined by verification of the
25 alien's immigration status with the federal government

pursuant to 8 U.S.C. § 1373(c). A law enforcement officer shall not attempt to independently make a final determination of whether an alien is lawfully present in the United States.

"(h) Any record that relates to the immigration status of a person is admissible in any court of this state without further foundation or testimony from a custodian of records if the record is certified as authentic by the federal government agency that is responsible for maintaining the record. A verification of an alien's immigration status received from the federal government pursuant to 8 U.S.C. § 1373(c) shall constitute proof of that alien's status. A court of this state shall consider only the federal government's verification in determining whether an alien is lawfully present in the United States.

"§31-13-19.

"If an alien who is unlawfully present in the United States is convicted of a violation of state or local law and is within 30 days of release ~~or has paid any fine as required by operation of law~~, the agency legally responsible for his or her custody ~~incarceration~~ at that time shall notify the United States Bureau of Immigration and Customs Enforcement and the Alabama Department of Homeland Security, pursuant to 8 U.S.C. § 1373. The Alabama Department of Homeland Security shall assist in the coordination of the transfer of the prisoner to the appropriate federal immigration authorities; however, the

~~Alabama Department of Corrections agency responsible for his or her incarceration~~ agency legally responsible for his or her custody at that time shall maintain custody during any transfer of the individual.

"§31-13-20.

"If a person is an alien who is unlawfully present in the United States and is a victim of a criminal act, is the child of a victim of a criminal act, is a biological parent or legal guardian of a victim of a criminal act who is a minor, is a critical witness in any prosecution, is the biological parent or legal guardian of a critical witness in any prosecution who is a minor, or is the child of a critical witness in any prosecution of a state or federal crime, all provisions of this chapter shall be stayed until all of the related legal proceedings are concluded. However, the relevant state, county, or local law enforcement agency shall comply with any request by federal immigration officers to take custody of the person.

"§31-13-23.

"(a) The Alabama Department of Homeland Security shall file ~~a quarterly~~ an annual report to the Legislature on the progress being made regarding the enforcement of this chapter and the status of the progress being made in the effort to reduce the number of illegal aliens in the State of Alabama. The report shall include, but is not limited to, the

statistics and results from the enforcement of the sections of this chapter, and suggestions on what can be done including additional legislation to further assist the federal government in its efforts to apprehend illegal aliens in the State of Alabama. ~~At the start of the 2013 fiscal year, the report shall be filed twice a year. At the start of the 2015 fiscal year, the report is required annually.~~ This report shall also be made available to the public and shall be announced through a press release from the Attorney General's office.

~~"(b) Upon receipt of a written complaint alleging a violation of the provisions of this chapter requiring verification and determination of the immigration status of employees, the Alabama Department of Homeland Security shall have the authority to request from the business entity or employer that is the subject of the complaint, proof of compliance with this chapter. The department shall further have the authority to inspect all records of the business entity or employer which relate to the requests for verification and determination of immigration status of employees through E-Verify.~~

"~~(c)~~ (b) The Alabama Department of Homeland Security shall create a mechanism for receiving tips from the general public regarding possible violations of this chapter, including the unlawful enforcement of this chapter.

"§31-13-26.

"(a) No court of this state shall enforce the terms of, or otherwise regard as valid, any contract between a party and an alien unlawfully present in the United States, if the party had direct or constructive knowledge that the alien was unlawfully present in the United States at the time the contract was entered into, and the performance of the contract required the alien to remain unlawfully present in the United States for more than 24 hours after the time the contract was entered into or performance could not reasonably be expected to occur without such remaining.

"(b) This section shall not apply to a contract for lodging for one night, a contract for the purchase of food to be consumed by the alien, a contract for medical services, or a contract for transportation of the alien that is intended to facilitate the alien's return to his or her country of origin.

"(c) This section shall not apply to a contract authorized by federal law, to a contract entered into prior to the effective date of the act adding this language, or to a contract for the appointment or retention of legal counsel in legal matters.

"(d) In proceedings of the court, the determination of whether an alien is unlawfully present in the United States shall be made by the federal government, pursuant to 8 U.S.C. § 1373(c). The court shall consider only the federal

government's determination when deciding whether an alien is unlawfully present in the United States. The court may take judicial notice of any verification of an individual's immigration status previously provided by the federal government and may request the federal government to provide further automated or testimonial verification.

"§31-13-28.

"(a) Applications for voter registration shall contain voter eligibility requirements and such information as is necessary to prevent duplicative voter registrations and enable the ~~relevant election officer~~ county board of registrars to assess the eligibility of the applicant and to administer voter registration, identify the applicant and to determine the qualifications of the applicant as an elector and the facts authorizing such person to be registered. Applications shall contain a statement that the applicant shall be required to provide qualifying identification when voting.

"(b) The Secretary of State shall create a process for the county ~~election officer~~ board of registrars to check to indicate whether an applicant has provided with the application the information necessary to assess the eligibility of the applicant, including the applicant's United States citizenship. This section shall be interpreted and applied in accordance with federal law. No eligible applicant

whose qualifications have been assessed shall be denied registration.

"(c) The county ~~election officer or Secretary of State's office~~ board of registrars shall accept any completed application for registration, but an applicant shall not be registered until the applicant has provided satisfactory evidence of United States citizenship. Satisfactory evidence of United States citizenship shall be provided in person at the time of filing the application for registration or by including, with a mailed registration application, a photocopy of one of the documents listed as evidence of United States citizenship in subsection (k). After a person has submitted satisfactory evidence of citizenship, the county ~~election officer~~ board of registrars shall indicate this information in the person's permanent voter file.

"(d) Any person who is registered in this state on September 1, 2011, is deemed to have provided satisfactory evidence of United States citizenship and shall not be required to submit evidence of citizenship.

"(e) For purposes of this section, proof of voter registration from another state is not satisfactory evidence of United States citizenship.

"(f) A registered voter who moves from one residence to another within the state or who modifies his or her voter

registration records for any other reason shall not be required to submit evidence of United States citizenship.

"(g) If evidence of United States citizenship is deemed to be unsatisfactory due to an inconsistency between the document submitted as evidence and the name or sex provided on the application for registration, such applicant may sign an affidavit containing both of the following:

"(1) Stating the inconsistency or inconsistencies related to the name or sex, and the reason therefor.

"(2) Swearing under oath that, despite the inconsistency, the applicant is the individual reflected in the document provided as evidence of citizenship.

"(h) There shall be no inconsistency between the date of birth on the document provided as evidence of citizenship and the date of birth provided on the application for registration. If such an affidavit is submitted by the applicant, the county ~~election officer or Secretary of State~~ board of registrars shall assess the eligibility of the applicant without regard to any inconsistency stated in the affidavit.

"(i) All documents submitted as evidence of United States citizenship shall be kept confidential by the county ~~election officer or the Secretary of State~~ board of registrars and maintained as provided by record retention laws.

"(j) Nothing in this section shall prohibit an applicant from providing, or the ~~Secretary of State or county election officer~~ county board of registrars from obtaining, satisfactory evidence of United States citizenship, as described in this section, at a different time or in a different manner than an application for registration is provided, as long as the applicant's eligibility can be adequately assessed by the ~~Secretary of State or county election officer~~ county board of registrars as required by this section.

"(k) Evidence of United States citizenship shall be demonstrated by one of the following documents, or a legible photocopy or a copy in a digital or other electronic format of one of, the following documents:

"(1) The applicant's driver's license or nondriver's identification card issued by the division of motor vehicles or the equivalent governmental agency of another state within the United States provided that the governmental agency of another state within the United States requires proof of lawful presence in the United States as a condition of issuance of the driver's license or nondriver's identification card~~if the agency indicates on the applicant's driver's license or nondriver's identification card that the person has provided satisfactory proof of United States citizenship~~.

"(2) The applicant's birth certificate indicating birth in the United States or one of its territories ~~that verifies United States citizenship to the satisfaction of the county election officer or Secretary of State~~.

"(3) Pertinent pages of the applicant's United States valid or expired passport identifying the applicant and the applicant's passport number, or presentation to the county ~~election officer~~ board of registrars of the applicant's United States passport.

"(4) The applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States Bureau of Citizenship and Immigration Services by the county election officer or the Secretary of State, pursuant to 8 U.S.C. § 1373(c).

"(5) Other documents or methods of proof of United States citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952, and amendments thereto.

"(6) The applicant's Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number.

"(7) The applicant's consular report of birth abroad of a citizen of the United States of America.

"(8) The applicant's certificate of citizenship issued by the United States Citizenship and Immigration Services.

"(9) The applicant's certification of report of birth issued by the United States Department of State.

"(10) The applicant's American Indian card, with KIC classification, issued by the United States Department of Homeland Security.

"(11) The applicant's final adoption decree showing the applicant's name and United States birthplace.

"(12) The applicant's official United States military record of service showing the applicant's place of birth in the United States.

"(13) An extract from a United States hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the United States.

"~~(1) There is hereby established the State Election Board, consisting of the Secretary of State, the Attorney General, and the Lieutenant Governor. The State Election Board shall meet on the call of the Secretary of State. The State Election Board shall do both of the following:~~

1 "~~(1) Assess information provided by any applicant~~
2 ~~for voter registration as evidence of citizenship pursuant to~~
3 ~~subsection (m).~~
4 "~~(2) Adopt rules to implement subsection (m).~~
5 "~~(m)(1) If an applicant is a United States citizen~~
6 ~~but does not have any of the documentation listed in this~~
7 ~~section as satisfactory evidence of United States citizenship,~~
8 ~~the applicant may submit any evidence that the applicant~~
9 ~~believes demonstrates the applicant's United States~~
10 ~~citizenship.~~
11 "~~(2) Any applicant seeking an assessment of evidence~~
12 ~~under this section may directly contact the office of the~~
13 ~~Secretary of State by submitting a voter registration~~
14 ~~application or the national voter registration form and any~~
15 ~~supporting evidence of United States citizenship. Upon receipt~~
16 ~~of this information, the Secretary of State shall notify the~~
17 ~~State Election Board that such application is pending.~~
18 "~~(3) The State Election Board shall give the~~
19 ~~applicant an opportunity for a hearing, upon the applicant's~~
20 ~~request in writing, and an opportunity to present any~~
21 ~~additional evidence to the State Election Board. Notice of~~
22 ~~such hearing shall be given to the applicant at least five~~
23 ~~days prior to the hearing date. An applicant shall have the~~
24 ~~opportunity to be represented by counsel at such hearing.~~

"~~(4) The State Election Board shall assess the evidence provided by the applicant to determine whether the applicant has provided satisfactory evidence of United States citizenship. A decision of the State Election Board shall be determined by a majority vote of the board.~~

"~~(5) If an applicant submits an application and any supporting evidence prior to the close of registration for an election cycle, a determination by the State Election Board shall be issued at least five days before such election date.~~

"~~(6) If the State Election Board finds that the evidence presented by the applicant constitutes satisfactory evidence of United States citizenship, the applicant shall meet the requirements under this section to provide satisfactory evidence of United States citizenship.~~

"~~(7)~~ (1) If an applicant is a United States citizen but does not have any of the documentation listed in this section as satisfactory evidence of United States citizenship, the applicant may submit any evidence that the applicant believes demonstrates the applicant's United States citizenship. Any applicant seeking an assessment of evidence under this section may directly contact the county board of registrars by submitting a voter registration application or the national voter registration form and any supporting evidence of United States citizenship. The county board of registrars shall give the applicant an opportunity for a

hearing, upon the applicant's request in writing, and an opportunity to present any additional evidence to the county board of registrars. Notice of such hearing shall be given to the applicant at least five days prior to the hearing date. An applicant shall have the opportunity to be represented by counsel at such hearing. The county board of registrars shall assess the evidence provided by the applicant to determine whether the applicant has provided satisfactory evidence of United States citizenship. If ~~the State Election Board~~ the county board of registrars finds that the evidence presented by an applicant does not constitute satisfactory evidence of United States citizenship, the applicant shall have the right to appeal such determination by ~~the State Election Board~~ a county board of registrars by instituting an action under 8 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by ~~the State Election Board~~ a county board of registrars shall be reversed if the applicant obtains a declaratory judgment pursuant to 8 U.S.C. § 1503, demonstrating that the applicant is a national of the United States.

"~~(n)~~ (m) (1) The Department of Public Health shall not charge or accept any fee for a certified copy of a birth certificate if the certificate is requested by any person who is 17 years of age or older for purposes of meeting the voter registration requirements of this chapter. The person

requesting a certified copy of a birth certificate shall swear under oath to both of the following:

"a. That the person plans to register to vote in this state.

"b. That the person does not possess any of the documents that constitute evidence of United States citizenship as defined in this chapter.

"(2) The affidavit shall specifically list the documents that constitute evidence of United States citizenship as defined in this chapter.

"§31-13-29.

"(a) For the purposes of this section, ~~business transaction includes any transaction between a person and the state or a political subdivision of the state, including, but not limited to,~~ public records transaction means applying for or renewing a motor vehicle license plate, applying for or renewing a driver's license or nondriver identification card, or applying for or renewing a business license, applying for or renewing a commercial license, or applying for or renewing a professional license. ~~Business transaction~~ Public records transaction does not include applying for a marriage license, any transaction relating to housing under Title 24 or the ownership of real property, including the payment of property taxes, or the payment of any other tax to the state or a political subdivision thereof, or any other transaction.

"(b) An alien not lawfully present in the United States shall not enter into or attempt to enter into a ~~business transaction~~ public records transaction with the state or a political subdivision of the state and no person shall enter into a ~~business transaction~~ public records transaction or attempt to enter into a ~~business transaction~~ public records transaction on behalf of an alien not lawfully present in the United States.

"(c)(1) Any person entering into a ~~business transaction~~ public records transaction or attempting to enter into a ~~business transaction~~ public records transaction with this state or a political subdivision of this state shall be required to demonstrate his or her United States citizenship, as provided in subsection (g), or his or her lawful presence in the United States, as provided in subdivision (10) of Section 31-13-3. An alien's lawful presence in the United States may be verified through the Systematic Alien Verification for Entitlements program operated by the Department of Homeland Security, or by other verification with the Department of Homeland Security pursuant to 8 U.S.C. §1373(c).

"(2)a. A citizen shall not be required to demonstrate citizenship for subsequent public records transactions after an initial verification of citizenship is made.

1 " b. An alien demonstrating lawful permanent
2 residence in the United States by the presentation of proper
3 documentation proving that the alien is a lawfully permanent
4 resident in the United States shall not be required to
5 demonstrate lawful status for subsequent public records
6 transactions after an initial verification is made. ~~or if he~~
7 ~~or she is an alien, his or her lawful presence in the United~~
8 ~~States to the person conducting the business transaction on~~
9 ~~behalf of this state or a political subdivision of this state.~~
10 ~~United States citizenship shall be demonstrated by~~
11 ~~presentation of one of the documents listed in subsection (k)~~
12 ~~of Section 31-13-28. An alien's lawful presence in the United~~
13 ~~States shall be demonstrated by this state's or a political~~
14 ~~subdivision of this state's verification of the alien's lawful~~
15 ~~presence through the Systematic Alien Verification for~~
16 ~~Entitlements program operated by the Department of Homeland~~
17 ~~Security, or by other verification with the Department of~~
18 ~~Homeland Security pursuant to 8 U.S.C. § 1373(c).~~
19 "(d) A violation of this section by an alien not
20 lawfully present or by a person knowingly acting on behalf of
21 an alien not lawfully present is a Class C felony.
22 "(e) An agency of this state or a county, city,
23 town, or other political subdivision of this state may not
24 consider race, color, or national origin in the enforcement of

1 this section except to the extent permitted by the United
2 States Constitution or the Constitution of Alabama of 1901.
3 "(f) In the enforcement of this section, an alien's
4 immigration status shall be determined by verification of the
5 alien's immigration status with the federal government
6 pursuant to 8 U.S.C. § 1373(c). An official of this state or
7 political subdivision of this state shall not attempt to
8 independently make a final determination of whether an alien
9 is lawfully present in the United States.
10 "(g) A person's United States citizenship may be
11 demonstrated or confirmed by any one of, or a legible
12 photocopy or a copy in a digital or other electronic format of
13 one of, the following documents:
14 "(1) A driver's license or nondriver's
15 identification card issued by the Alabama Department of Public
16 Safety or the equivalent governmental agency of another state
17 within the United States, provided that the governmental
18 agency of another state within the United States requires
19 proof of lawful presence in the United States as a condition
20 of issuance of the driver's license or nondriver's
21 identification card.
22 "(2) A birth certificate indicating birth in the
23 United States or one of its territories.

1 "(3) Pertinent pages of a United States valid or
2 expired passport identifying the person and the person's
3 passport number, or the person's United States passport.
4 "(4) United States naturalization documents or the
5 number of the certificate of naturalization.
6 "(5) Other documents or methods of proof of United
7 States citizenship issued by the federal government pursuant
8 to the Immigration and Nationality Act of 1952, as amended.
9 "(6) Bureau of Indian Affairs card number, tribal
10 treaty card number, or tribal enrollment number.
11 "(7) A consular report of birth abroad of a citizen
12 of the United States of America.
13 "(8) A certificate of citizenship issued by the
14 United States Citizenship and Immigration Services.
15 "(9) A certification of report of birth issued by
16 the United States Department of State.
17 "(10) An American Indian card, with KIC
18 classification, issued by the United States Department of
19 Homeland Security.
20 "(11) Final adoption decree showing the person's
21 name and United States birthplace.
22 "(12) An official United States military record of
23 service showing the applicant's place of birth in the United
24 States.

1 "(13) An extract from a United States hospital
2 record of birth created at the time of the person's birth
3 indicating the place of birth in the United States.
4 "(14) AL-verify.
5 "(15) A valid Uniformed Services Privileges and
6 Identification Card.
7 "(16) Any other form of identification that the
8 Alabama Department of Revenue authorizes, through an
9 administrative rule promulgated pursuant to the Alabama
10 Administrative Procedure Act, to be used to demonstrate or
11 confirm a person's United States citizenship or lawful
12 presence in the United States, provided that the
13 identification requires proof of lawful presence in the United
14 States as a condition of issuance.
15 "(h) If the state or a political subdivision thereof
16 is notified by the federal government that a person is an
17 alien unlawfully present in the United States, the person's
18 motor vehicle license plate, driver's license, nondriver
19 identification card, business license, professional license,
20 or commercial license shall, should they exist, be immediately
21 revoked or rescinded by the appropriate authorities and shall
22 not be reinstated until the state or a political subdivision
23 thereof is notified by the federal government that the person
24 is an alien lawfully present in the United States."

Section 2. Section 32-6-10.1, Code of Alabama 1975, is amended to read as follows:

"§32-6-10.1.

"(a) For the purposes of this section, the term "foreign national" shall mean a person who is not a citizen ~~or lawful permanent resident~~ of the United States.

"(b) The application for an Alabama driver's license/non-driver identification card/vessel license to be issued to a foreign national shall contain, in addition to the information on the established application, the applicant's country of origin and the expiration date of the acceptable form of immigration documentation as outlined in this section.

"(c) Applications for a foreign national Alabama driver's license/non-driver identification card/vessel license shall be processed only at driver's license offices designated by the Director of the Alabama Department of Public Safety.

"(d) The driver's license/non-driver identification card/vessel license issued to a foreign national shall include a designation that the license is issued to a foreign national in a manner set forth by the Director of the Department of Public Safety on the license. <u>The designation shall distinguish between foreign nationals with lawful permanent residence in the United States and foreign nationals whose authorized period of stay in the United States is temporary.</u>

"(e) The driver's license/non-driver identification card/vessel license issued to a foreign national shall expire on the date of the expiration of the acceptable form of immigration documentation provided at the time of application.

"(f) In order for a foreign national to renew the driver's license/non-driver identification card/vessel license, the applicant must re-initiate the licensing process in the same manner as a first-time applicant.

"(g) Under no circumstances shall the department issue a driver's license/non-driver identification card/vessel license for a period of less than 160 days.

"(h) The Director of the Department of Public Safety shall establish and promulgate rules and regulations concerning the enforcement of this section."

Section 3. ~~Section 32-1-4, Code of Alabama 1975, is amended to read as follows:~~

"§32-1-4.

~~"(a) Whenever any person is arrested for a violation of any provision of this title punishable as a misdemeanor, the arresting officer shall, unless otherwise provided in this section, take the name and address of such person and the license number of his or her motor vehicle, and shall issue a summons or otherwise notify him or her in writing or by an electronic traffic ticket or e-ticket to appear at a time and place to be specified in such summons, notice, or e-ticket.~~

~~"An electronic traffic ticket or e-ticket, for purposes of this chapter, is defined as a ticket that is generated and printed at the site of a traffic violation after a violation has been electronically transmitted to the court. An arresting officer transfers arrest and licensing information of a violator electronically to the court. The court electronically records the arrest and issues a complaint and summons or notice to appear, which is printed at the site of the offense, and given to the violator.~~

~~"The person arrested, if he or she so desires, shall have a right to an immediate hearing or a hearing within 24 hours at a convenient hour before a magistrate within the county or city where such offense was committed, or if an e-ticket is written, the person shall have a right, if he or she desires, to an immediate hearing or a hearing within 24 hours at a convenient hour before any magistrate within this state. Except when an arresting officer cites a person with an e-ticket, the officer shall, upon the giving by such person of a sufficient written bond, approved by the arresting officer, to appear at such time and place, forthwith release the person from custody.~~

~~"Except when an arresting officer cites a person with an e-ticket, a person refusing to give bond to appear shall be taken immediately by the arresting officer before the nearest or most accessible magistrate. When an e-ticket is~~

~~used by an arresting officer, a person shall be deemed to have given his or her written bond to appear in court on the date as specified on the e-ticket.~~

~~"Any person who willfully violates his or her written bond by failing to timely appear shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested.~~

~~"(b) The provisions of this section shall not apply to any person arrested and charged with a violation of Section 32-6-1 or Section 32-6-19, to any person arrested and charged with an offense causing or contributing to an accident resulting in injury or death to any person, nor to any person charged with driving while under the influence of intoxicating liquor or of narcotic or other drugs, or nor to any person whom the arresting officer shall have good cause to believe has committed any felony, and the arresting officer shall take such person forthwith before the nearest or most accessible magistrate.~~

~~"(c) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and shall be subject to removal from office."~~

Section 32-6-9, Code of Alabama 1975, is amended to read as follows:

§32-6-9

(a) Every licensee shall have his or her license in his or her immediate possession at all times when driving a motor vehicle and shall display the same, upon demand of a judge of any court, a peace officer or a state trooper. However, no person charged with violating this section shall be convicted if he or she produces in court or the office of the arresting officer a driver's license theretofore issued to him or her and valid at the time of his or her arrest.

~~(b) Notwithstanding Section 32-1-4, if a law officer arrests a person for a violation of this section and the officer is unable to determine by any other means that the person has a valid driver's license, the officer shall transport the person to the nearest or most accessible magistrate.~~

~~(c)~~ (b) ~~A~~ For every person found in violation of this section or Section 32-6-1, a reasonable effort shall be made as soon as possible, but not later than within 48 hours, to determine the citizenship of the person and if an alien, whether the alien is lawfully present in the United States by verification with the federal government pursuant to 8 U.S.C. § 1373(c). An officer shall not attempt to independently make a final determination of whether an alien is lawfully present in the United States.

~~(d) A verification inquiry, pursuant to 8 U.S.C. § 1373(c), shall be made within 48 hours to the Law Enforcement~~

~~Support Center of the United States Department of Homeland Security or other office or agency designated for that purpose by the federal government. If the person is determined to be an alien unlawfully present in the United States, the person shall be considered a flight risk and shall be detained until prosecution or until handed over to federal immigration authorities."~~

Section 4. (a) The Legislature finds that the United States Department of Justice has unnecessarily and recklessly threatened Alabama law enforcement officers with personal law suits if the officer appears to make what the Department of Justice deems a misstep in enforcing the Beason-Hammon Alabama Taxpayer and Citizen Protection Act.

(b) Because of this finding, it is necessary for the Legislature to defend Alabama law enforcement officers against federal overreach.

(c) If the Attorney General of Alabama deems that an Alabama law enforcement officer performed his or her duties enforcing Act 2011-535 according to accepted standards of Alabama law enforcement, the state shall defend the law enforcement officer against actions brought personally against the officer by the United States Department of Justice.

Section 5. (a) The Administrative Office of Courts shall submit a quarterly report, organized by county, to the Alabama Department of Homeland Security summarizing the number

of cases in which an unlawfully present alien was detained by law enforcement and appeared in court for any violation of state law and shall include all of the following information in the report:

(1) The name of the unlawfully present alien.

(2) The violation or charge alleged to have been committed by the unlawfully present alien.

(3) The name of the judge presiding over the case.

(4) The final disposition of the case, including whether the unlawfully present alien was released from custody, remained in detention, or was transferred to the custody of the appropriate federal immigration authorities.

(b) The Alabama Department of Homeland Security shall publish on its public website, in a convenient and prominent location, the information provided in the quarterly report from the Administrative Office of Courts. The display of this information on the department's public website shall be searchable by county and presiding judge.

(c) For the purposes of this section, the determination of whether a person is an unlawfully present alien shall be verified by the federal government pursuant to 8 U.S.C. § 1373(c).

Section 6. Notwithstanding any other provision of law to the contrary, it shall be unlawful for a person to harbor an alien unlawfully present in the United States by

1 entering into a rental agreement, as defined by Section
2 35-9A-141, with an alien to provide accommodations, if the
3 person knows or recklessly disregards the fact that the alien
4 is unlawfully present in the United States.
5 Section 7. (a) Any law enforcement agency of the
6 state or any law enforcement agency of a political subdivision
7 of the state shall have sthe authority to enforce the
8 provisions of this chapter.
9 (b) The Attorney General and a district attorney
10 investigating or prosecuting any violation of this chapter
11 shall have the power to issue subpoenas to compel the
12 production of relevant documents and other evidence necessary
13 to enforce the provisions of this chapter.
14 Section 8. (a) The Department of Revenue shall
15 conduct annual searches of its records to determine if
16 multiple individuals have filed tax returns under the same
17 Social Security number or the same individual tax
18 identification number.
19 (b) If the department determines that multiple
20 individuals have filed tax returns under the same Social
21 Security number or the same individual tax identification
22 number, the department shall further investigate the use of
23 the Social Security numbers or individual tax identification
24 numbers.

1 (c) After its investigation, if the department
2 determines that a Social Security Number or an individual tax
3 identification number has been stolen or misused by another
4 individual in violation of Article 10, Chapter 8, of Title
5 13A, Code of Alabama 1975, the department shall report the
6 violation to the Attorney General or the appropriate district
7 attorney.
8 Section 9. The provisions of this act are severable.
9 If any part of this act is declared invalid or
10 unconstitutional, that declaration shall not affect the part
11 which remains.
12 Section 10. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.

Speaker of the House of Representatives

Kay Ivey

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 19-APR-12.

Greg Pappas
Clerk

Senate	16-MAY-12	Amended and Passed
House	16-MAY-12	Concurred in Senate Amendment

APPROVED 5/18/12
TIME 3:39 pm
Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2012-491
Bill Num...: H-658

Recv'd 05/21/12 09:35amSLF

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Johnson (K)
McClendon

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 658

YEAS 68 NAYS 33

GREG PAPPAS, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. _____ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS, Clerk

CONFERENCE COMMITTEE

House Conferees _____

SENATE ACTION

DATE: 20__

RD 1 RFD

This Bill was referred to the Standing Committee of the Senate on _____ and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) 3 w/sub ____ by a vote of yeas 7 nays 3 abstain 0 this 25 day of April 2012 _____, Chairperson

DATE: 20__

RF RD 2 CAL

DATE: 20__

RE-REFERRED ☐ RE-COMMITTED ☐

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB _____

YEAS _____ NAYS _____

PATRICK HARRIS, Secretary

SENATE ACTION
(Continued)

DATE: RD 3 at

PASSED | PASSED AS AMENDED

YEAS NAYS

And was ordered returned forthwith to the H

PATRICK HA

Sec

DATE:

INDEFINITELY POSTPONED YEAS NA

DATE:

RECONSIDERED YEAS NA

CONFERENCE COMMITTEE

Senate Conferees

This bill having been referred to the Comm
Rules pursuant to Senate Rule 23 is reporte
Senate for assignment to the Committee on

This day of , 20

, Chai

Date:

Rereferred

Committee: