

1 SB541
2 140781-3
3 By Senator Beason
4 RFD: Job Creation and Economic Development
5 First Read: 19-APR-12

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8 SYNOPSIS: This bill would make revisions to the
9 Beason-Hammon Alabama Taxpayer and Citizen
10 Protection Act.

11 Amendment 621 of the Constitution of Alabama
12 of 1901, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of
14 Alabama of 1901, as amended, prohibits a general
15 law whose purpose or effect would be to require a
16 new or increased expenditure of local funds from
17 becoming effective with regard to a local
18 governmental entity without enactment by a 2/3 vote
19 unless: it comes within one of a number of
20 specified exceptions; it is approved by the
21 affected entity; or the Legislature appropriates
22 funds, or provides a local source of revenue, to
23 the entity for the purpose.

24 The purpose or effect of this bill would be
25 to require a new or increased expenditure of local
26 funds within the meaning of the amendment. However,
27 this bill does not require approval of a local

1 governmental entity or enactment by a 2/3 vote to
2 become effective because it comes within one of the
3 specified exceptions contained in the amendment.
4

5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 To amend Sections 3, 5, 6, 8, 9, 11, 13, 15, 20, 21,
10 24, 27, 29, and 30 of Act 2011-535, 2011 Regular Session, now
11 appearing as Sections 31-13-3, 31-13-5, 31-13-6, 31-13-8,
12 31-13-9, 31-13-11, 31-13-13, 31-13-15, 31-13-19, 31-13-20,
13 31-13-23, 31-13-26, 31-13-28, and 31-13-29, Code of Alabama
14 1975, and Section 32-6-9, Code of Alabama 1975, as amended by
15 Section 17 of Act 2011-535, 2011 Regular Session, to make
16 revisions to the Beason-Hammon Alabama Taxpayer and Citizen
17 Protection Act; and in connection therewith would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds within the meaning of Amendment 621
20 of the Constitution of Alabama of 1901, now appearing as
21 Section 111.05 of the Official Recompilation of the
22 Constitution of Alabama of 1901, as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) The Legislature finds that the United
25 States Department of Justice has unnecessarily and recklessly
26 threatened Alabama law enforcement officers with personal law
27 suits if the officer appears to make what the Department of

1 Justice deems a misstep in enforcing the Beason-Hammon Alabama
2 Taxpayer and Citizen Protection Act.

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

6 (c) If the Attorney General deems that the law
7 enforcement officer performed his or her duties enforcing Act
8 2011-535 according to accepted standards of Alabama law
9 enforcement, the state shall defend the law enforcement
10 officer against actions brought personally against the officer
11 by the United States Department of Justice.

12 Section 2. (a) The Administrative Office of Courts
13 shall submit a quarterly report, organized by county, to the
14 Alabama Department of Homeland Security summarizing the number
15 of cases in which an unlawfully present person was detained by
16 law enforcement and appeared in court for any violation of
17 state law and shall include all of the following information
18 in the report:

19 (1) The name of the unlawfully present person.

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

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

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

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

7 Section 3. Sections 3, 5, 6, 8, 9, 11, 13, 15, 20,
8 21, 24, 27, 29, and 30 of Act 2011-535, 2011 Regular Session,
9 now appearing as Sections 31-13-3, 31-13-5, 31-13-6, 31-13-8,
10 31-13-9, 31-13-11, 31-13-13, 31-13-15, 31-13-19, 31-13-20,
11 31-13-23, 31-13-26, 31-13-28, and 31-13-29, Code of Alabama
12 1975, are amended to read as follows:

13 "§31-13-3.

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

16 "(1) ALIEN. Any person who is not a citizen or
17 national of the United States, as described in 8 U.S.C. §
18 1101, et seq., and any amendments thereto.

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

25 "a. Self-employed individuals, business entities
26 filing articles of incorporation, partnerships, limited
27 partnerships, limited liability companies, foreign

1 corporations, foreign limited partnerships, foreign limited
2 liability companies authorized to transact business in this
3 state, business trusts, and any business entity that registers
4 with the Secretary of State.

5 "b. Any business entity that possesses a business
6 license, permit, certificate, approval, registration, charter,
7 or similar form of authorization issued by the state, any
8 business entity that is exempt by law from obtaining such a
9 business license, and any business entity that is operating
10 unlawfully without a business license.

11 "(3) CONTRACTOR. A person, employer, or business
12 entity that enters into an agreement to perform any service or
13 work ~~or to provide a certain product~~ in exchange for valuable
14 consideration. This definition shall include, but not be
15 limited to, a general contractor, subcontractor, independent
16 contractor, contract employee, project manager, or a
17 recruiting or staffing entity.

18 "(4) EMPLOYEE. Any person directed, allowed, or
19 permitted to perform labor or service of any kind by an
20 employer. The employees of an independent contractor working
21 for a business entity shall not be regarded as the employees
22 of the business entity, for the purposes of this chapter. This
23 term does not include any inmate in the legal custody of the
24 state, a county, or a municipality.

25 "(5) EMPLOYER. Any person, firm, corporation,
26 partnership, joint stock association, agent, manager,
27 representative, foreman, or other person having control or

1 custody of any employment, place of employment, or of any
2 employee, including any person or entity employing any person
3 for hire within the State of Alabama, including a public
4 employer. This term shall not include the occupant of a
5 household contracting with another person to perform casual
6 domestic labor within the household.

7 "(6) EMPLOYMENT. The act of employing or state of
8 being employed, engaged, or hired to perform work or service
9 of any kind or character within the State of Alabama,
10 including any job, task, work, labor, personal services, or
11 any other activity for which compensation is provided,
12 expected, or due, including, but not limited to, all
13 activities conducted by a business entity or employer. This
14 term shall not include casual domestic labor performed in a
15 household on behalf of the occupant of the household or the
16 relationship between a contractor and the employees of a
17 subcontractor performing work for the contractor.

18 "(7) E-VERIFY. The electronic verification of
19 federal employment authorization program of the Illegal
20 Immigration Reform and Immigrant Responsibility Act of 1996,
21 P.L. 104-208, Division C, Section 403(a); 8 U.S.C. §1324(a),
22 and operated by the United States Department of Homeland
23 Security, or its successor program.

24 "(8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the
25 electronic verification of work authorization programs
26 operated by the United States Department of Homeland Security
27 or an equivalent federal work authorization program operated

1 by the United States Department of Homeland Security to verify
2 information of newly hired employees, under the Immigration
3 Reform and Control Act of 1986 (IRCA), P.L. 99-603 or the
4 Illegal Immigration Reform and Immigrant Responsibility Act of
5 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C.
6 §1324(a).

7 "(9) KNOWS or KNOWINGLY. A person acts knowingly or
8 with knowledge with respect to either of the following:

9 "a. The person's conduct or to attendant
10 circumstances when the person is aware of the nature of the
11 person's conduct or that those circumstances exist.

12 "b. A result of the person's conduct when the person
13 is reasonably aware that the person's conduct is likely to
14 cause that result.

15 "(10) LAWFUL PRESENCE or LAWFULLY PRESENT. A person
16 shall be regarded as an alien unlawfully present in the United
17 States only if the person's unlawful immigration status has
18 been verified by the federal government pursuant to 8 U.S.C. §
19 1373(c). No officer of this state or any political subdivision
20 of this state shall attempt to independently make a final
21 determination of an alien's immigration status. An alien
22 possessing self-identification in any of the following forms
23 is entitled to the presumption that he or she is an alien
24 lawfully present in the United States:

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

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

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

4 "d. Any valid United States federal or state
5 government issued identification document bearing a photograph
6 or other biometric identifier, if issued by an entity that
7 requires proof of lawful presence in the United States before
8 issuance.

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

13 "f. A foreign passport issued by a visa waiver
14 country with the corresponding entry stamp and unexpired
15 duration of stay annotation or an I-94W form by the United
16 States Department of Homeland Security indicating the bearer's
17 admission to the United States.

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

22 "(12) PROTECTIVE SERVICES PROVIDER. A child
23 protective services worker; adult protective services worker;
24 protective services provider; or provider of services to
25 victims of domestic violence, stalking, sexual assault, or
26 human trafficking that receives federal grants under the

1 Victim of Crimes Act, the Violence Against Women Act, or the
2 Family Violence Prevention and Services Act.

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

6 "(14) STATE-FUNDED ENTITY. Any governmental entity
7 of the state or a political subdivision thereof or any other
8 entity that receives any state monies.

9 "(15) SUBCONTRACTOR. A subcontractor, contract
10 employee, staffing agency, or any contractor, regardless of
11 its tier.

12 "(16) UNAUTHORIZED ALIEN. An alien who is not
13 authorized to work in the United States as defined in 8 U.S.C.
14 § 1324a(h) (3).

15 "§31-13-5.

16 "(a) No official or agency of this state or any
17 political subdivision thereof, including, but not limited to,
18 an officer of a court of this state, may adopt a policy or
19 practice that limits or restricts the enforcement of federal
20 immigration laws by limiting communication between its
21 officers and federal immigration officials in violation of 8
22 U.S.C. § 1373 or 8 U.S.C. § 1644, or that restricts its
23 officers in the enforcement of this chapter. If, in the
24 judgment of the Attorney General of Alabama, an official or
25 agency of this state or any political subdivision thereof,
26 including, but not limited to, an officer of a court in this
27 state, is in violation of this subsection, the Attorney

1 General shall report any violation of this subsection to the
2 Governor and the state Comptroller and that agency or
3 political subdivision shall not be eligible to receive any
4 funds, grants, or appropriations from the State of Alabama
5 until such violation has ceased and the Attorney General has
6 so certified. Any appeal of the determination of the Attorney
7 General as considered in this section shall be first appealed
8 to the circuit court of the respective jurisdiction in which
9 the alleged offending agency resides.

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

17 "(c) Except as provided by federal law, officials or
18 agencies of this state or any political subdivision thereof,
19 including, but not limited to, an officer of a court of this
20 state, may not be prohibited or in any way be restricted from
21 sending, receiving, or maintaining information relating to the
22 immigration status, lawful or unlawful, of any individual or
23 exchanging that information with any other federal, state, or
24 local governmental entity for any of the following official
25 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 bring an action in circuit court to
13 challenge any official or head of an agency of this state or
14 political subdivision thereof, including, but not limited to,
15 an officer of a court in this state, that adopts or implements
16 a policy or practice that is in violation of 8 U.S.C. § 1373
17 or 8 U.S.C. § 1644. If there is a judicial finding that an
18 official or head of an agency, including, but not limited to,
19 an officer of a court in this state, has violated this
20 section, the court shall order that the officer, official, or
21 head of an agency pay a civil penalty of not less than one
22 thousand dollars (\$1,000) and not more than five thousand
23 dollars (\$5,000) for each day that the policy or practice has
24 remained in effect after the filing of an action pursuant to
25 this section.

26 "(e) A court shall collect the civil penalty
27 prescribed in subsection (d) and remit one half of the civil

1 penalty to the Alabama Department of Homeland Security and the
2 second half shall be remitted to the Department of Public
3 Safety.

4 "(f) Every person working for the State of Alabama
5 or a political subdivision thereof, including, but not limited
6 to, a law enforcement agency in the State of Alabama or a
7 political subdivision thereof, shall have a duty to report
8 violations of this section. Any person who willfully fails to
9 report any violation of this section when the person knows
10 that this section is being violated shall be guilty of
11 obstructing governmental operations as defined in Section
12 13A-10-2.

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

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

27 "§31-13-6.

1 "(a) No official or agency of this state or any
2 political subdivision thereof, including, but not limited to,
3 an officer of a court of this state, may adopt a policy or
4 practice that limits or restricts the enforcement of this
5 chapter to less than the full extent permitted by this chapter
6 or that in any way limits communication between its officers
7 or officials in furtherance of the enforcement of this
8 chapter. If, in the judgment of the Attorney General of
9 Alabama, an official or agency of this state or any political
10 subdivision thereof, including, but not limited to, an officer
11 of a court of this state, is in violation of this subsection,
12 the Attorney General shall report any violation of this
13 subsection to the Governor and the state Comptroller and that
14 agency or political subdivision shall not be eligible to
15 receive any funds, grants, or appropriations from the State of
16 Alabama until such violation has ceased and the Attorney
17 General has so certified.

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

22 "(c) Except as provided by this chapter, officials
23 or agencies of this state or any political subdivision
24 thereof, including, but not limited to, an officer of a court
25 of this state, may not be prohibited or in any way be
26 restricted from sending, receiving, or maintaining information
27 relating to the immigration status, lawful or unlawful, of any

1 individual or exchanging that information with any other
2 federal, state, or local governmental entity for any of the
3 following official purposes:

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

7 "(2) Verifying any claim of residence or domicile if
8 determination of residence or domicile is required under the
9 laws of this state or a judicial order issued pursuant to a
10 civil or criminal proceeding of this state.

11 "(3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. §
12 1644.

13 "(d) A person who is a United States citizen or an
14 alien who is lawfully present in the United States and is a
15 resident of this state may bring an action in circuit court to
16 challenge any official or head of an agency of this state or
17 political subdivision thereof, including, but not limited to,
18 an officer of a court in this state, that adopts or implements
19 a policy or practice that limits or restricts the enforcement
20 of this chapter to less than the full extent permitted by this
21 chapter. Such person shall have actual knowledge that any
22 official or head of an agency of this state or political
23 subdivision thereof, including, but not limited to, an officer
24 of a court in this state, has adopted or implemented a policy
25 or practice that limits or restricts the enforcement of this
26 chapter to less than the full extent permitted by this
27 chapter. If there is a judicial finding that an official or

1 head of an agency, including, but not limited to, an officer
2 of a court in this state, has violated this section, the court
3 shall order that the officer, official, or head of an agency
4 pay a civil penalty of not less than one thousand dollars
5 (\$1,000) and not more than five thousand dollars (\$5,000) for
6 each day that the policy or practice has remained in effect
7 after the filing of an action pursuant to this section.

8 "(e) A court shall collect the civil penalty
9 prescribed in subsection (d) and remit one half of the civil
10 penalty to the Alabama Department of Homeland Security and the
11 second half shall be remitted to the Department of Public
12 Safety.

13 "(f) Every person working for the State of Alabama
14 or a political subdivision thereof, including, but not limited
15 to, a law enforcement agency in the State of Alabama or a
16 political subdivision thereof, shall have a duty to report
17 violations of this section. ~~Failure to report any violation of~~
18 ~~this section when there is reasonable cause to believe that~~
19 ~~this section is being violated is~~ Any person who willfully
20 fails to report any violation of this section when the person
21 knows that this section is being violated shall be guilty of
22 obstructing governmental operations as defined in Section
23 13A-10-2, ~~and shall be punishable pursuant to state law.~~

24 "(g) For the purposes of this section, the term
25 official or head of an agency of this state shall not include
26 a law enforcement officer or ~~other~~ personnel employed in a

1 jail who is acting within the line and scope of his or her
2 duty, except for a sheriff or a chief of police.

3 "§31-13-8.

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

21 "§31-13-9.

22 "(a) As a condition for the award of any contract,
23 grant, or incentive by the state, any political subdivision
24 thereof, or any state-funded entity to a business entity or
25 employer that employs one or more employees, the business
26 entity or employer shall not knowingly employ, for a project
27 beginning on or renewed after October 1, 2011, hire for

1 employment, or continue to employ an unauthorized alien and
2 shall attest to such, by sworn affidavit signed before a
3 notary if the awarded contract, grant, or incentive from the
4 state or a political subdivision thereof was competitively bid
5 or would, if entered into, be required to be submitted to the
6 Contract Review Permanent Legislative Oversight Committee.

7 "(b) As a condition for the award of any contract,
8 grant, or incentive by the state, any political subdivision
9 thereof, or any state-funded entity to a business entity or
10 employer that employs one or more employees, for a project
11 beginning on or renewed after October 1, 2011, the business
12 entity or employer that has received a contract, grant, or
13 incentive from the state or a political subdivision thereof
14 was competitively bid or would, if entered into, be required
15 to be submitted to the Contract Review Permanent Legislative
16 Oversight Committee shall provide documentation establishing
17 that the business entity or employer is enrolled in the
18 E-Verify program. During the performance of the contract, the
19 business entity or employer shall participate in the E-Verify
20 program and shall verify every employee that is required to be
21 verified according to the applicable federal rules and
22 regulations.

23 "(c) No subcontractor on a project beginning on or
24 renewed after October 1, 2011, paid for by contract, grant, or
25 incentive by the state, any political subdivision thereof, or
26 any state-funded entity shall knowingly employ, hire for
27 employment, or continue to employ an unauthorized alien and

1 shall attest to such by sworn affidavit signed before a notary
2 if the awarded contract, grant, or incentive from the state or
3 a political subdivision thereof was competitively bid or
4 would, if entered into, be required to be submitted to the
5 Contract Review Permanent Legislative Oversight Committee. The
6 subcontractor shall provide the attestation of compliance with
7 this section to the contractor. The subcontractor shall also
8 enroll in the E-Verify program prior to performing any work on
9 the project and shall attach to the sworn affidavit
10 documentation establishing that the subcontractor is enrolled
11 in the E-Verify program. This subsection shall only apply to
12 subcontractors performing work on the project and not
13 collateral persons or business entities hired by the
14 subcontractor.

15 "(d) A contractor of any tier shall not be liable
16 under this section when such contractor contracts with its
17 direct subcontractor who violates subsection (c), if the
18 contractor receives a sworn affidavit from the subcontractor
19 signed before a notary attesting to the fact that the direct
20 subcontractor, in good faith, has complied with subsection (c)
21 with respect to verifying each of its employee's eligibility
22 for employment, unless the contractor knows the direct
23 subcontractor is violating subsection (c).

24 "(e) (1) Upon the first violation of subsection (a)
25 by any business entity or employer awarded a contract by the
26 state, any political subdivision thereof, or any state-funded
27 entity the business entity or employer shall be deemed in

1 breach of contract and the state, political subdivision
2 thereof, or state-funded entity may terminate the contract
3 after providing notice and an opportunity to be heard. Upon
4 application by the state entity, political subdivision
5 thereof, or state-funded entity, the Attorney General may
6 bring an action to suspend the business licenses and permits
7 of the business entity or employer for a period not to exceed
8 60 days, according to the procedures described in Section
9 31-13-15. The court shall order the business entity or
10 employer to file a signed, sworn affidavit with the local
11 district attorney within three days after the order is issued
12 by the court stating that the business entity or employer has
13 terminated the employment of every unauthorized alien and the
14 business entity or employer will not knowingly or
15 intentionally employ an unauthorized alien in this state.
16 Before a business license or permit that has been suspended
17 under this subsection is reinstated, a legal representative of
18 the business entity or employer shall submit to the court a
19 signed, sworn affidavit stating that the business entity or
20 employer is in compliance with the provisions of this chapter
21 and a copy of the memorandum of understanding issued to the
22 business entity or employer at the time of enrollment in
23 E-Verify.

24 "(2) Upon a second or subsequent violation of
25 subsection (a) by any business entity or employer awarded a
26 contract by the state, any political subdivision thereof, or
27 any state-funded entity the business entity or employer shall

1 be deemed in breach of contract and the state, any political
2 subdivision thereof, or any state-funded entity shall
3 terminate the contract after providing notice and an
4 opportunity to be heard. Upon application by the state entity,
5 political subdivision thereof, or state-funded entity, the
6 Attorney General may bring an action to permanently revoke the
7 business licenses and permits of the business entity or
8 employer according to the procedures described in Section
9 31-13-15.

10 "(f) (1) Upon the first violation of subsection (c)
11 by a subcontractor, the state or political subdivision thereof
12 may bar the subcontractor from doing business with the state,
13 any political subdivision thereof, any state-funded entity, or
14 with any contractor who contracts with the state, any
15 political subdivision thereof, or any state-funded entity
16 after providing notice and an opportunity to be heard. Upon
17 application by the state entity or political subdivision
18 thereof, or state-funded entity, the Attorney General may
19 bring an action to suspend the business licenses and permits
20 of the subcontractor for a period not to exceed 60 days,
21 according to the procedures described in Section 31-13-15. The
22 court shall order the subcontractor to file a signed, sworn
23 affidavit with the local district attorney within three days
24 after the order is issued by the court stating that the
25 subcontractor has terminated the employment of every
26 unauthorized alien and the subcontractor will not knowingly or
27 intentionally employ an unauthorized alien in this state.

1 Before a business license or permit that has been suspended
2 under this subsection is reinstated, a legal representative of
3 the subcontractor shall submit to the court a signed, sworn
4 affidavit stating that the subcontractor is in compliance with
5 the provisions of this chapter and a copy of the memorandum of
6 understanding issued to the subcontractor at the time of
7 enrollment in E-Verify.

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

16 "(g) A business entity or employer that complies
17 with subsection (b) shall not be found to be in violation of
18 subsection (a). A subcontractor that is enrolled in the
19 E-Verify program during the full period of performance of the
20 subcontract shall not be found to be in violation of
21 subsection (c).

22 "(h) The state or any political subdivision thereof
23 shall include a contractual provision in any contract
24 negotiated and awarded that the business entity shall not
25 knowingly employ, hire for employment, or continue to employ
26 an unauthorized alien as provided in subsection (a). The
27 following contractual damages shall be included in the

1 contract and may be awarded by the court in addition to any
2 other damages as prescribed by law:

3 "(1) Upon the first violation of the contractual
4 provision required by this subsection by any business entity
5 awarded a contract by the state or any political subdivision
6 thereof, the business entity shall be deemed in breach of
7 contract and the state or political subdivision thereof may
8 terminate the contract and, in addition to such other remedies
9 as may be provided by law, withhold from amounts due or
10 recover as liquidated damages of no less than 10 percent or
11 more than 25 percent of the total amount of the contract with
12 the business entity.

13 "(2) Upon a second or subsequent violation of the
14 contractual provision required by this subsection by any
15 business entity awarded a contract by the state or any
16 political subdivision thereof, the business entity shall be
17 deemed in breach of contract and the state or political
18 subdivision thereof may terminate the contract and, in
19 addition to such other remedies as may be provided by law,
20 shall withhold from amounts due or recover as liquidated
21 damages 25 percent of the total amount of the contract with
22 the business entity.

23 "~~(h)~~ (i) The Secretary of State shall adopt rules to
24 administer this section and shall report any rules adopted to
25 the Legislature.

26 "~~(i)~~ (j) Compliance with this section may be
27 verified by the state authorities or law enforcement at any

1 time to ensure a contractual agreement as provided for in this
2 section is being met.

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

9 "§31-13-11.

10 "(a) It is unlawful for a person who is an
11 unauthorized alien to knowingly ~~apply for work, solicit work~~
12 ~~in a public or private place, or~~ perform work as an employee
13 or independent contractor in this state.

14 "(b) In the enforcement of this section, an alien's
15 immigration status shall be determined by verification of the
16 alien's immigration status with the federal government
17 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer
18 shall not attempt to independently make a final determination
19 on whether an alien is authorized to work in the United
20 States.

21 "(c) A law enforcement official or agency of this
22 state or a county, city, or other political subdivision of
23 this state may not consider race, color, or national origin in
24 the enforcement of this section except to the extent permitted
25 by the United States Constitution and the Constitution of
26 Alabama of 1901.

1 "(d) This section does not apply to a person who
2 maintains authorization from the federal government to be
3 employed in the United States.

4 "(e) Any record that relates to the employment
5 authorization of a person is admissible in any court of this
6 state without further foundation or testimony from a custodian
7 of records if the record is certified as authentic by the
8 federal government agency that is responsible for maintaining
9 the record. A verification of an alien's immigration status
10 received from the federal government pursuant to 8 U.S.C. §
11 1373(c) shall constitute proof of that alien's status. A court
12 of this state shall consider only the federal government's
13 verification in determining whether a person is an
14 unauthorized alien.

15 "~~(f) It is unlawful for an occupant of a motor
16 vehicle that is stopped on a street, roadway, or highway to
17 attempt to hire or hire and pick up passengers for work at a
18 different location if the motor vehicle blocks or impedes the
19 normal movement of traffic.~~

20 "~~(g) It is unlawful for a person to enter a motor
21 vehicle that is stopped on a street, roadway or highway in
22 order to be hired by an occupant of the motor vehicle and to
23 be transported to work at a different location if the motor
24 vehicle blocks or impedes the normal movement of traffic.~~

25 "~~(h)~~ (f) A person who is in violation of this section
26 shall be guilty of a Class C misdemeanor and subject to a fine
27 of not more than five hundred dollars (\$500).

1 "~~(i)~~(g) A court shall collect the assessments
2 prescribed in subsection ~~(h)~~ (f) and remit 50 percent of the
3 assessments to the general fund of the local government where
4 the person was apprehended to be earmarked for law enforcement
5 purposes, 25 percent of the assessments to the Alabama
6 Department of Homeland Security, and 25 percent of the
7 assessments to the Department of Public Safety.

8 "~~(j)~~(h) The terms of this section shall be
9 interpreted consistently with 8 U.S.C. § 1324a and any
10 applicable federal rules and regulations.

11 "§31-13-13.

12 "(a) It shall be unlawful for a person to do any of
13 the following:

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

23 "(2) Encourage or induce an alien to come to or
24 reside ~~in this state~~ in the United States if the person knows
25 or recklessly disregards the fact that such coming to,
26 entering, or residing in the United States is or will be in
27 violation of federal law.

1 "(3) Transport, or attempt to transport, or conspire
2 to transport ~~in this state~~ an alien in furtherance of the
3 unlawful presence of the alien in the United States,
4 knowingly, or in reckless disregard of the fact, that the
5 alien has come to, entered, or remained in the United States
6 in violation of federal law. Conspiracy to be so transported
7 shall be a violation of this subdivision.

8 "(4) Harbor an alien unlawfully present in the
9 United States by entering into a rental agreement, as defined
10 by Section 35-9A-141, with an alien to provide accommodations,
11 if the person knows or recklessly disregards the fact that the
12 alien is unlawfully present in the United States.

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

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

23 "(d) Notwithstanding any other law, a law
24 enforcement agency may securely transport an alien whom the
25 agency has received verification from the federal government
26 pursuant to 8 U.S.C. § 1373(c) is unlawfully present in the
27 United States and who is in the agency's custody to a state

1 approved facility, to a federal facility in this state, or to
2 any other point of transfer into federal custody that is
3 outside the jurisdiction of the law enforcement agency. A law
4 enforcement agency shall obtain judicial or executive
5 authorization from the Governor before securely transporting
6 an alien who is unlawfully present in the United States to a
7 point of transfer that is outside this state.

8 "(e) Notwithstanding any other law, any person
9 acting in his or her official capacity as a first responder or
10 protective services provider may harbor, shelter, move, or
11 transport an alien unlawfully present in the United States
12 pursuant to state law.

13 "(f) Any conveyance, including any vessel, vehicle,
14 or aircraft, that has been or is being used in the commission
15 of a violation of this section, and the gross proceeds of such
16 a violation, shall be subject to civil forfeiture under the
17 procedures of Section 20-2-93.

18 "(g) In the enforcement of this section, an alien's
19 immigration status shall be determined by verification of the
20 alien's immigration status with the federal government
21 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer
22 shall not attempt to independently make a final determination
23 of whether an alien is lawfully present in the United States.

24 "(h) Any record that relates to the immigration
25 status of a person is admissible in any court of this state
26 without further foundation or testimony from a custodian of
27 records if the record is certified as authentic by the federal

1 government agency that is responsible for maintaining the
2 record. A verification of an alien's immigration status
3 received from the federal government pursuant to 8 U.S.C. §
4 1373(c) shall constitute proof of that alien's status. A court
5 of this state shall consider only the federal government's
6 verification in determining whether an alien is lawfully
7 present in the United States.

8 "§31-13-15.

9 "(a) No business entity, employer, or public
10 employer shall knowingly employ, hire for employment, or
11 continue to employ an unauthorized alien to perform work
12 within the State of Alabama. Knowingly employ, hire for
13 employment, or continue to employ an unauthorized alien means
14 the actions described in 8 U.S.C. § 1324a.

15 "(b) Effective April 1, 2012, every business entity
16 or employer in this state shall enroll in E-Verify and
17 thereafter, according to the federal statutes and regulations
18 governing E-Verify, shall verify the employment eligibility of
19 the employee through E-Verify. A business entity or employer
20 that uses E-Verify to verify the work authorization of an
21 employee shall not be deemed to have violated this section
22 with respect to the employment of that employee.

23 "(c) On a finding of a first violation by a court of
24 competent jurisdiction that a business entity or employer
25 knowingly violated subsection (a), the court shall do all of
26 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 local district attorney of
7 each new employee who is hired by the business entity or
8 employer in the state.

9 "(3) Order the business entity or employer to file a
10 signed, sworn affidavit with the local district attorney
11 within three days after the order is issued by the court
12 stating that the business entity or employer has terminated
13 the employment of every unauthorized alien and the business
14 entity or employer will not knowingly or intentionally employ
15 an unauthorized alien in this state.

16 "(4) Direct the applicable state, county, or
17 municipal governing bodies to suspend the business licenses
18 and permits, if such exist, of the business entity or employer
19 for a period not to exceed 10 business days specific to the
20 business location where the unauthorized alien performed work.

21 "(d) (1) Before a business license or permit that has
22 been suspended under subsection (c) is reinstated, a legal
23 representative of the business entity or employer shall submit
24 to the court a signed, sworn affidavit stating that the
25 business entity or employer is in compliance with the
26 provisions of this chapter and a copy of the memorandum of

1 understanding issued to the business entity or employer at the
2 time of enrollment in E-Verify.

3 "(2) The suspension of a business license or permit
4 under subsection (c) shall terminate one business day after a
5 legal representative of the business entity or employer
6 submits a signed, sworn affidavit stating that the business
7 entity or employer is in compliance with the provisions of
8 this chapter to the court.

9 "(d) Upon a finding by a court of competent
10 jurisdiction of a second violation of subsection (a) by a
11 business entity or employer that occurs within five years of a
12 finding by a court of competent jurisdiction of a first
13 violation by the business entity or employer:

14 "(e) For a second violation of subsection (a) by a
15 business entity or employer, the court shall direct the
16 applicable state, county, or municipal governing body to
17 permanently revoke all business licenses and permits, if such
18 exist, held by the business entity or employer specific to the
19 business location where the unauthorized alien performed work.
20 On receipt of the order, and notwithstanding any other law,
21 the appropriate agencies shall immediately revoke the licenses
22 and permits held by the business entity or employer.

23 "(f) For a subsequent violation of subsection (a),
24 the court shall direct the applicable governing bodies to
25 forever suspend the business licenses and permits, if such
26 exist, of the business entity or employer throughout the
27 state.

1 "(g) This section shall not be construed to deny any
2 procedural mechanisms or legal defenses included in the
3 E-Verify program or any other federal work authorization
4 program. A person or entity that establishes that it has
5 complied in good faith with the requirements of 8 U.S.C. §
6 1324a(b) establishes an affirmative defense that the business
7 entity or employer did not knowingly hire or employ an
8 unauthorized alien.

9 "(h) In proceedings of the court, the determination
10 of whether an employee is an unauthorized alien shall be made
11 by the federal government, pursuant to 8 U.S.C. § 1373(c). The
12 court shall consider only the federal government's
13 determination when deciding whether an employee is an
14 unauthorized alien. The court may take judicial notice of any
15 verification of an individual's immigration status previously
16 provided by the federal government and may request the federal
17 government to provide further automated or testimonial
18 verification.

19 "(i) Any business entity or employer that terminates
20 an employee to comply with this section shall not be liable
21 for any claims made against the business entity or employer by
22 the terminated employee, provided that such termination is
23 made without regard to the race, ethnicity, or national origin
24 of the employee and that such termination is consistent with
25 the anti-discrimination laws of this state and of the United
26 States.

1 "(j) If any agency of the state or any political
2 subdivision thereof fails to suspend the business licenses or
3 permits, if such exist, as a result of a violation of this
4 section, the agency shall be deemed to have violated
5 subsection (a) of Section 31-13-5 and shall be subject to the
6 penalties thereunder.

7 "(k) In addition to the district attorneys of this
8 state, the Attorney General shall also have authority to bring
9 a civil complaint in any court of competent jurisdiction to
10 enforce the requirements of this section.

11 "(1) Any resident of this state may petition the
12 Attorney General to bring an enforcement action against a
13 specific business entity or employer by means of a written,
14 signed petition. A valid petition shall include an allegation
15 that describes the alleged violator or violators, as well as
16 the action constituting the violation, and the date and
17 location where the action occurred.

18 "(2) A petition that alleges a violation on the
19 basis of national origin, ethnicity, or race shall be deemed
20 invalid and shall not be acted upon.

21 "(3) The Attorney General shall respond to any
22 petition under this subsection within 60 days of receiving the
23 petition, either by filing a civil complaint in a court of
24 competent jurisdiction or by informing the petitioner in
25 writing that the Attorney General has determined that filing a
26 civil complaint is not warranted.

1 "(1) This section does not apply to the relationship
2 between a party and the employees of an independent contractor
3 performing work for the party and does not apply to casual
4 domestic labor performed within a household.

5 "(m) It is an affirmative defense to a violation of
6 subsection (a) of this section that a business entity or
7 employer was entrapped.

8 "(1) To claim entrapment, the business entity or
9 employer must admit by testimony or other evidence the
10 substantial elements of the violation.

11 "(2) A business entity or employer who asserts an
12 entrapment defense has the burden of proving by clear and
13 convincing evidence the following:

14 "a. The idea of committing the violation started
15 with law enforcement officers or their agents rather than with
16 the business entity or employer.

17 "b. The law enforcement officers or their agents
18 urged and induced the business entity or employer to commit
19 the violation.

20 "c. The business entity or employer was not already
21 predisposed to commit the violation before the law enforcement
22 officers or their agents urged and induced the employer to
23 commit the violation.

24 "(n) In addition to actions taken by the state or
25 political subdivisions thereof, the Attorney General or the
26 district attorney of the relevant county may bring an action
27 to enforce the requirements of this section in any ~~county~~

1 district court of this state wherein the business entity or
2 employer does business.

3 "(o) The terms of this section shall be interpreted
4 consistently with 8 U.S.C. § 1324a and any applicable federal
5 rules and regulations.

6 "§31-13-19.

7 "If an alien who is unlawfully present in the United
8 States is convicted of a violation of state or local law and
9 is within 30 days of release ~~or has paid any fine as required~~
10 ~~by operation of law~~, the agency responsible for his or her
11 incarceration shall notify the United States Bureau of
12 Immigration and Customs Enforcement and the Alabama Department
13 of Homeland Security, pursuant to 8 U.S.C. § 1373. The Alabama
14 Department of Homeland Security shall assist in the
15 coordination of the transfer of the prisoner to the
16 appropriate federal immigration authorities; however, the
17 ~~Alabama Department of Corrections~~ agency responsible for his
18 or her incarceration shall maintain custody during any
19 transfer of the individual.

20 "§31-13-20.

21 "If a person is an alien who is unlawfully present
22 in the United States and is a victim of a criminal act, is the
23 child of a victim of a criminal act, is a parent or guardian
24 of a victim of a criminal act who is a minor, is a critical
25 witness in any prosecution, is the parent or guardian of a
26 critical witness in any prosecution who is a minor, or is the
27 child of a critical witness in any prosecution of a state or

1 federal crime, all provisions of this chapter shall be stayed
2 until all of the related legal proceedings are concluded.
3 However, the relevant state, county, or local law enforcement
4 agency shall comply with any request by federal immigration
5 officers to take custody of the person.

6 "§31-13-23.

7 "(a) The Alabama Department of Homeland Security
8 shall file ~~a quarterly~~ an annual report to the Legislature on
9 the progress being made regarding the enforcement of this
10 chapter and the status of the progress being made in the
11 effort to reduce the number of illegal aliens in the State of
12 Alabama. The report shall include, but is not limited to, the
13 statistics and results from the enforcement of the sections of
14 this chapter, and suggestions on what can be done including
15 additional legislation to further assist the federal
16 government in its efforts to apprehend illegal aliens in the
17 State of Alabama. ~~At the start of the 2013 fiscal year, the~~
18 ~~report shall be filed twice a year. At the start of the 2015~~
19 ~~fiscal year, the report is required annually.~~ This report
20 shall also be made available to the public and shall be
21 announced through a press release from the Attorney General's
22 office.

23 "(b) The Alabama Department of Homeland Security
24 shall create a mechanism for receiving tips or complaints from
25 the general public regarding possible violations of this
26 chapter, including the unlawful enforcement of this chapter.

1 "(c) Upon receipt of a complaint alleging a
2 violation of the provisions of this chapter, the Alabama
3 Department of Homeland Security shall have the authority to
4 request from the business entity or employer that is the
5 subject of the complaint, proof of lawful status of the
6 business entity or employer's employees. The department shall
7 further have the authority to inspect all records of the
8 business entity which relate to the requests for verification
9 and determination of status through E-Verify.

10 "§31-13-26.

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

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

26 "(c) This section shall not apply to a contract
27 authorized by federal law, to a contract entered into prior to

1 October 1, 2011, or to a contract for the appointment or
2 retention of legal counsel in legal matters.

3 "(d) In proceedings of the court, the determination
4 of whether an alien is unlawfully present in the United States
5 shall be made by the federal government, pursuant to 8 U.S.C.
6 § 1373(c). The court shall consider only the federal
7 government's determination when deciding whether an alien is
8 unlawfully present in the United States. The court may take
9 judicial notice of any verification of an individual's
10 immigration status previously provided by the federal
11 government and may request the federal government to provide
12 further automated or testimonial verification.

13 "§31-13-28.

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

25 "(b) The Secretary of State shall create a process
26 for the county ~~election officer~~ board of registrars to check
27 to indicate whether an applicant has provided with the

1 application the information necessary to assess the
2 eligibility of the applicant, including the applicant's United
3 States citizenship. This section shall be interpreted and
4 applied in accordance with federal law. No eligible applicant
5 whose qualifications have been assessed shall be denied
6 registration.

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

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

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

1 "(f) A registered voter who moves from one residence
2 to another within the state or who modifies his or her voter
3 registration records for any other reason shall not be
4 required to submit evidence of United States citizenship.

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

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

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

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

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

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

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

15 "(1) The applicant's driver's license or nondriver's
16 identification card issued by the division of motor vehicles
17 or the equivalent governmental agency of another state within
18 the United States if the issuing agency verifies ~~indicates on~~
19 ~~the applicant's driver's license or nondriver's identification~~
20 ~~card~~ that the person has provided satisfactory proof of United
21 States citizenship.

22 "(2) The applicant's birth certificate that verifies
23 United States citizenship to the satisfaction of the county
24 ~~election officer or Secretary of State~~ board of registrars.

25 "(3) Pertinent pages of the applicant's United
26 States valid or expired passport identifying the applicant and
27 the applicant's passport number, or presentation to the county

1 ~~election officer~~ board of registrars of the applicant's United
2 States passport.

3 "(4) The applicant's United States naturalization
4 documents or the number of the certificate of naturalization.
5 If only the number of the certificate of naturalization is
6 provided, the applicant shall not be included in the
7 registration rolls until the number of the certificate of
8 naturalization is verified with the United States Bureau of
9 Citizenship and Immigration Services by the county election
10 officer or the Secretary of State, pursuant to 8 U.S.C. §
11 1373(c).

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

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

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

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

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

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

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

6 "(12) The applicant's official United States
7 military record of service showing the applicant's place of
8 birth in the United States, including, but not limited to, a
9 valid Uniformed Services Privileges and Identification Card.

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

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

19 "(1) Assess information provided by any applicant
20 for voter registration as evidence of citizenship pursuant to
21 subsection (m).

22 "(2) Adopt rules to implement subsection (m).

23 "(m) (1) If an applicant is a United States citizen
24 but does not have any of the documentation listed in this
25 section as satisfactory evidence of United States citizenship,
26 the applicant may submit any evidence that the applicant

1 believes demonstrates the applicant's United States
2 citizenship.

3 "(2) Any applicant seeking an assessment of evidence
4 under this section may directly contact the office of the
5 Secretary of State by submitting a voter registration
6 application or the national voter registration form and any
7 supporting evidence of United States citizenship. Upon receipt
8 of this information, the Secretary of State shall notify the
9 State Election Board that such application is pending.

10 "(3) The State Election Board shall give the
11 applicant an opportunity for a hearing, upon the applicant's
12 request in writing, and an opportunity to present any
13 additional evidence to the State Election Board. Notice of
14 such hearing shall be given to the applicant at least five
15 days prior to the hearing date. An applicant shall have the
16 opportunity to be represented by counsel at such hearing.

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

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

26 "(6) If the State Election Board finds that the
27 evidence presented by the applicant constitutes satisfactory

1 evidence of United States citizenship, the applicant shall
2 meet the requirements under this section to provide
3 satisfactory evidence of United States citizenship.

4 "(7) If the State Election Board finds that the
5 evidence presented by an applicant does not constitute
6 satisfactory evidence of United States citizenship, the
7 applicant shall have the right to appeal such determination by
8 the State Election Board by instituting an action under 8
9 U.S.C. § 1503. Any negative assessment of an applicant's
10 eligibility by the State Election Board shall be reversed if
11 the applicant obtains a declaratory judgment pursuant to 8
12 U.S.C. § 1503, demonstrating that the applicant is a national
13 of the United States.

14 "(n) (1) The Department of Public Health shall not
15 charge or accept any fee for a certified copy of a birth
16 certificate if the certificate is requested by any person who
17 is 17 years of age or older for purposes of meeting the voter
18 registration requirements of this chapter. The person
19 requesting a certified copy of a birth certificate shall swear
20 under oath to both of the following:

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

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

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

4 "§31-13-29.

5 "(a) For the purposes of this section, ~~business~~
6 license transaction includes any transaction between a person
7 or a business entity and the state or a political subdivision
8 of the state in which the state or political subdivision
9 issues a license to the person, including, but not limited to,
10 applying for or renewing a motor vehicle license plate,
11 applying for or renewing a driver's license or nondriver
12 identification card, applying for incorporation status, or
13 applying for or renewing a business license, ~~but excluding-~~
14 ~~Business transaction does not include applying~~ an application
15 for a marriage license, any transaction relating to housing
16 under Title 24 or the ownership of real property, including
17 the payment of property taxes, or the payment of any other tax
18 to the state or a political subdivision of the state.

19 "(b) An alien not lawfully present in the United
20 States shall not enter into or attempt to enter into a
21 ~~business~~ license transaction with the state or a political
22 subdivision of the state except for the application of a
23 marriage license, any transaction relating to housing under
24 Title 24 or the ownership of real property, including the
25 payment of property taxes, or the payment of any other tax to
26 the state or a political subdivision of the state, and no
27 person shall enter into a ~~business~~ license transaction or

1 attempt to enter into a ~~business~~ license transaction on behalf
2 of an alien not lawfully present in the United States. The
3 state or a political subdivision of the state entering into a
4 license transaction as authorized by this section shall make a
5 notation on its record of the transaction that the person was
6 not lawfully present.

7 "(c) Any person entering into a ~~business~~ license
8 transaction or attempting to enter into a ~~business~~ license
9 transaction with this state or a political subdivision of this
10 state shall be required to demonstrate his or her United
11 States citizenship to the person conducting the license
12 transaction upon the initial application or upon the first
13 renewal after the effective date of the act adding this
14 language. A record of this verification may be kept by the
15 state or political subdivision thereof. ~~or if~~ If he or she is
16 an alien, he or she must demonstrate his or her lawful
17 presence in the United States to the person conducting the
18 ~~business~~ license transaction on behalf of this state or a
19 political subdivision of this state. United States citizenship
20 shall be demonstrated by presentation of one of the documents
21 listed in subsection (k) of Section 31-13-28. An alien's
22 lawful presence in the United States shall be demonstrated by
23 this state's or a political subdivision of this state's
24 verification of the alien's lawful presence through the
25 Systematic Alien Verification for Entitlements program
26 operated by the Department of Homeland Security, or by other
27 verification with the Department of Homeland Security pursuant

1 to 8 U.S.C. § 1373(c) or by presenting one of the documents
2 listed in subdivision (10) of Section 31-13-10.

3 "(d) A violation of ~~this section~~ subsection (b) or
4 (c) by any person presenting the required documentation, an
5 alien not lawfully present in the United States, or by a
6 person knowingly acting on behalf of an alien not lawfully
7 present in the United States is a Class C felony.

8 "(e) An agency of this state or a county, city,
9 town, or other political subdivision of this state may not
10 consider race, color, or national origin in the enforcement of
11 this section except to the extent permitted by the United
12 States Constitution or the Constitution of Alabama of 1901.

13 "(f) In the enforcement of this section, an alien's
14 immigration status shall be determined by verification of the
15 alien's immigration status with the federal government
16 pursuant to 8 U.S.C. § 1373(c). An official of this state or
17 political subdivision of this state shall not attempt to
18 independently make a final determination of whether an alien
19 is lawfully present in the United States."

20 Section 4. Section 32-6-9, Code of Alabama 1975, as
21 amended by Section 17 of Act 2011-535, 2011 Regular Session,
22 "§32-6-9.

23 (a) Every licensee shall have his or her license in
24 his or her immediate possession at all times when driving a
25 motor vehicle and shall display the same, upon demand of a
26 judge of any court, a peace officer or a state trooper.
27 However, no person charged with violating this section shall

1 be convicted if he or she produces in court or the office of
2 the arresting officer a driver's license theretofore issued to
3 him or her and valid at the time of his or her arrest.

4 (b) Notwithstanding Section 32-1-4, ~~if~~ a law officer
5 ~~arrests~~ shall arrest a person for a violation of this section
6 ~~and if~~ the officer is unable to determine by any other means
7 that the person has a valid driver's license, the officer
8 shall transport the person to the nearest or most accessible
9 magistrate for a determination of citizenship pursuant to
10 subsection (c).

11 (c) A reasonable effort shall be made to determine
12 the citizenship of the person and if an alien, whether the
13 alien is lawfully present in the United States by verification
14 with the federal government pursuant to 8 U.S.C. § 1373(c). An
15 officer shall not attempt to independently make a final
16 determination of whether an alien is lawfully present in the
17 United States.

18 (d) A verification inquiry, pursuant to 8 U.S.C. §
19 1373(c), shall be made within 48 hours to the Law Enforcement
20 Support Center of the United States Department of Homeland
21 Security or other office or agency designated for that purpose
22 by the federal government. If the person is determined to be
23 an alien unlawfully present in the United States, the person
24 shall be considered a flight risk and shall be detained until
25 prosecution or until handed over to federal immigration
26 authorities.

1 Section 5. The provisions of this act are severable.
2 If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains.

5 Section 6. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.