

1 SB39
2 115193-1
3 By Senator Mitchem
4 RFD: Fiscal Responsibility and Accountability
5 First Read: 12-JAN-10
6 PFD: 11/30/2009

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8 SYNOPSIS: This bill would require any person 19 years
9 of age or older to provide proof of being lawfully
10 in the United States before receiving certain
11 public benefits.

12 This bill would provide exemptions.

13 This bill would specify ways for an agency
14 or political subdivision of the state to verify
15 whether a person is lawfully present in the United
16 States.

17 This bill would provide penalties for
18 violations.

19 This bill would also provide for
20 verification of the lawful presence of certain
21 aliens through the federal Systematic Alien
22 Verification of Entitlement (SAVE) program,
23 operated by the United States Department of
24 Homeland Security.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the
27 Official Recompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 Relating to public benefits; to require any person
24 age 19 or older to provide proof of being lawfully in the
25 United States before receiving certain public benefits; to
26 provide exemptions; to specify means of verification; to
27 provide penalties for violations; to provide for the

1 verification of certain aliens through the federal Systematic
2 Alien Verification of Entitlement (SAVE) program, operated by
3 the United States Department of Homeland Security; and in
4 connection therewith would have as its purpose or effect the
5 requirement of a new or increased expenditure of local funds
6 within the meaning of Amendment 621 of the Constitution of
7 Alabama of 1901, now appearing as Section 111.05 of the
8 Official Recompilation of the Constitution of Alabama of 1901,
9 as amended.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Any person 19 years of age or older shall
12 provide proof that he or she is lawfully present in the United
13 States before receiving certain public benefits.

14 Section 2. As used in this act, the following terms
15 have the following meanings:

16 (1) EMERGENCY MEDICAL CONDITION. The same meaning as
17 provided in 42 U.S.C. § 1396b(v) (3).

18 (2) FEDERAL PUBLIC BENEFITS. The same meaning as
19 provided in 8 U.S.C. § 1611.

20 (3) STATE OR LOCAL PUBLIC BENEFITS. The same meaning
21 as provided in 8 U.S.C. § 1621.

22 Section 3. (a) Except as otherwise provided in
23 subsection (c) or where exempted by federal law, commencing on
24 the effective date of this act, each agency or political
25 subdivision of the state shall verify the lawful presence in
26 the United States of each natural person 19 years of age or

1 older who applies for state or local public benefits or for
2 federal public benefits for the applicant.

3 (b) This act shall be enforced without regard to
4 race, religion, gender, ethnicity, or national origin.

5 (c) Verification of lawful presence in the United
6 States shall not be required for any of the following:

7 (1) For any purpose for which lawful presence in the
8 United States is not required by law, ordinance, or rule.

9 (2) For obtaining health care items and services
10 that are necessary for the treatment of an emergency medical
11 condition of the person involved and are not related to an
12 organ transplant procedure.

13 (3) For short-term, noncash, in-kind emergency
14 disaster relief.

15 (4) For public health assistance for immunizations
16 with respect to immunizable diseases, family planning
17 services, Women's, Infants and Children supplemental nutrition
18 program, and for testing and treatment of symptoms of
19 communicable diseases, whether or not such symptoms are caused
20 by a communicable disease.

21 (5) For programs, services, or assistance, such as
22 soup kitchens, crisis counseling and intervention, and
23 short-term shelter specified by federal law or regulation that
24 satisfy all of the following:

25 a. Deliver in-kind services at the community level,
26 including services through public or private nonprofit
27 agencies.

1 b. Do not condition the provision of assistance, the
2 amount of assistance provided, or the cost of assistance
3 provided on the income or resources of the individual
4 recipient.

5 c. Are necessary for the protection of life or
6 safety.

7 (6) For prenatal care.

8 (7) For child welfare and adult service programs
9 necessary for the protection of life or safety.

10 Section 4. An agency or a political subdivision
11 shall verify the lawful presence in the United States of each
12 applicant 19 years of age or older for federal public benefits
13 or state or local public benefits by requiring the applicant
14 to either:

15 (1) Produce any of the following documents:

16 a. A valid Alabama driver's license or an Alabama
17 nondriver identification card;

18 b. A United States military card or a military
19 dependent's identification card;

20 c. A United States Coast Guard Merchant Mariner
21 card;

22 d. A Native American tribal document; or

23 (2) Execute an affidavit stating that he or she is
24 either of the following:

25 a. A United States citizen or legal permanent
26 resident.

1 b. Otherwise lawfully present in the United States
2 pursuant to federal law.

3 Section 5. Any person who knowingly makes a false,
4 fictitious, or fraudulent statement or representation in an
5 affidavit executed pursuant to Section 4 shall be guilty of
6 perjury in the second degree pursuant to Section 13A-10-102,
7 Code of Alabama 1975. Each time that a person receives a
8 public benefit based upon such a statement or representation
9 shall constitute a separate violation of Section 13A-10-102,
10 Code of Alabama 1975.

11 Section 6. For an applicant who has executed an
12 affidavit stating that he or she is an alien lawfully present
13 in the United States, verification of lawful presence for
14 federal public benefits or state or local public benefits
15 shall be made through the federal Systematic Alien
16 Verification of Entitlement (SAVE) program, operated by the
17 United States Department of Homeland Security, or a successor
18 program designated by the United States Department of Homeland
19 Security. Until verification of lawful presence is made, the
20 affidavit may be presumed to be proof of lawful presence for
21 purposes of this act.

22 Section 7. Agencies or political subdivisions of
23 this state may adopt variations of the requirements of
24 subdivision (2) of Section 4 to improve efficiency or reduce
25 delay in the verification process or to provide for
26 adjudication of unique individual circumstances, including,
27 but not limited to, homeless state citizens, lawfully present

1 in the United States, who receive authorized benefits in which
2 the verification procedures in this act would impose unusual
3 hardship on a legal resident of the state. Variations shall be
4 no less stringent than the requirements of this act.

5 Section 8. It shall be unlawful for an agency or a
6 political subdivision of this state to knowingly provide a
7 federal public benefit or a state or local public benefit in
8 violation of this act. Each state agency or department that
9 administers a program that provides state or local public
10 benefits shall provide an annual report with respect to its
11 compliance with this act to the Government Affairs Committee
12 of the Senate and the Government Operations Committee of the
13 House of Representatives, or any successor committees.

14 Section 9. Errors and significant delays by the SAVE
15 program shall be reported to the United States Department of
16 Homeland Security and to the Secretary of State, both of which
17 monitor the SAVE program and its verification application
18 errors and significant delays and report yearly on such errors
19 and delays, to ensure that the application of the SAVE program
20 is not wrongfully denying benefits to legal residents of the
21 state.

22 Section 10. (a) When a person charged with a felony
23 or driving under the influence of alcoholic beverages or other
24 controlled substances pursuant to Section 32-5A-191, Code of
25 Alabama 1975, is confined for any period in a county or
26 municipal jail, a reasonable effort shall be made to determine
27 the citizenship status of the person.

1 (b) If verification of lawful status cannot be made
2 from documents in the possession of the person, verification
3 shall be made within 48 hours through a query to the Law
4 Enforcement Support Center of the United States Department of
5 Homeland Security or other office or agency designated for
6 that purpose by the United States Department of Homeland
7 Security. If the lawful immigration status of the person
8 cannot be verified, the jailor or other officer having custody
9 of the person shall notify the United States Department of
10 Homeland Security.

11 Section 11. Although this bill would have as its
12 purpose or effect the requirement of a new or increased
13 expenditure of local funds, the bill is excluded from further
14 requirements and application under Amendment 621, now
15 appearing as Section 111.05 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended, because the
17 bill prescribes the minimum compensation for public officials.

18 Section 12. This act shall become effective October
19 1, 2010, following its passage and approval by the governor,
20 or its otherwise becoming law.