

FIRST REGULAR SESSION

SENATE BILL NO. 203

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAPPELLE-NADAL.

Read 1st time January 23, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0866S.011

AN ACT

To repeal sections 43.032, 67.307, 208.009, 285.309, 285.500, 285.503, 285.506, 285.512, 285.515, 285.525, 285.530, 285.535, 285.540, 285.543, 285.550, 285.555, 302.063, 302.720, 544.470, 577.675, 577.680, 578.570, and 650.475, RSMo, and to enact in lieu thereof two new sections relating to unauthorized and unlawfully present aliens.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 43.032, 67.307, 208.009, 285.309, 285.500, 285.503, 285.506, 285.512, 285.515, 285.525, 285.530, 285.535, 285.540, 285.543, 285.550, 285.555, 302.063, 302.720, 544.470, 577.675, 577.680, 578.570, and 650.475, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 302.720 and 544.470, to read as follows:

302.720. 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 disqualified, may be granted one six-month renewal within a one-year
15 period. The fee for such permit or renewal shall be five dollars. In the
16 alternative, a commercial driver's instruction permit shall be issued for a
17 thirty-day period to allow the holder of a valid driver's license to operate a
18 commercial motor vehicle if the applicant has completed all other requirements
19 except the driving test. The permit may be renewed for one additional thirty-day
20 period and the fee for the permit and for renewal shall be five dollars.

21 2. No person may be issued a commercial driver's license until he has
22 passed written and driving tests for the operation of a commercial motor vehicle
23 which complies with the minimum federal standards established by the Secretary
24 and has satisfied all other requirements of the Commercial Motor Vehicle Safety
25 Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements
26 imposed by state law. Applicants for a hazardous materials endorsement must
27 also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law
28 107-56) as specified and required by regulations promulgated by the
29 Secretary. Nothing contained in this subsection shall be construed as prohibiting
30 the director from establishing alternate testing formats for those who are
31 functionally illiterate; provided, however, that any such alternate test must
32 comply with the minimum requirements of the Commercial Motor Vehicle Safety
33 Act of 1986 (Title XII of Pub. Law 99-570) as established by the Secretary.

34 (1) The written and driving tests shall be held at such times and in such
35 places as the superintendent may designate. A twenty-five dollar examination
36 fee shall be paid by the applicant upon completion of any written or driving test,
37 except the examination fee shall be waived for applicants seventy years of age or
38 older renewing a license with a school bus endorsement. The director shall
39 delegate the power to conduct the examinations required under sections 302.700
40 to 302.780 to any member of the highway patrol or any person employed by the
41 highway patrol qualified to give driving examinations. [The written test shall
42 only be administered in the English language. No translators shall be allowed
43 for applicants taking the test.]

44 (2) The director shall adopt and promulgate rules and regulations
45 governing the certification of third-party testers by the department of
46 revenue. Such rules and regulations shall substantially comply with the
47 requirements of 49 CFR Part 383, Section 383.75. A certification to conduct
48 third-party testing shall be valid for one year, and the department shall charge
49 a fee of one hundred dollars to issue or renew the certification of any third-party

50 tester.

51 (3) Beginning August 28, 2006, the director shall only issue or renew
52 third-party tester certification to community colleges established under chapter
53 178 or to private companies who own, lease, or maintain their own fleet and
54 administer in-house testing to their employees, or to school districts and their
55 agents that administer in-house testing to the school district's or agent's
56 employees. Any third-party tester who violates any of the rules and regulations
57 adopted and promulgated pursuant to this section shall be subject to having his
58 certification revoked by the department. The department shall provide written
59 notice and an opportunity for the third-party tester to be heard in substantially
60 the same manner as provided in chapter 536. If any applicant submits evidence
61 that he has successfully completed a test administered by a third-party tester, the
62 actual driving test for a commercial driver's license may then be waived.

63 (4) Every applicant for renewal of a commercial driver's license shall
64 provide such certifications and information as required by the secretary and if
65 such person transports a hazardous material must also meet the requirements of
66 the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and
67 required by regulations promulgated by the Secretary. Such person shall be
68 required to take the written test for such endorsement. A twenty-five dollar
69 examination fee shall be paid upon completion of such tests.

70 (5) The director shall have the authority to waive the driving skills test
71 for any qualified military applicant for a commercial driver's license who is
72 currently licensed at the time of application for a commercial driver's
73 license. The director shall impose conditions and limitations to restrict the
74 applicants from whom the department may accept alternative requirements for
75 the skills test described in federal regulation 49 C.F.R. 383.77. An applicant
76 must certify that, during the two-year period immediately preceding application
77 for a commercial driver's license, all of the following apply:

78 (a) The applicant has not had more than one license;

79 (b) The applicant has not had any license suspended, revoked, or
80 cancelled;

81 (c) The applicant has not had any convictions for any type of motor vehicle
82 for the disqualifying offenses contained in this chapter or federal rule 49 C.F.R.
83 383.51(b);

84 (d) The applicant has not had more than one conviction for any type of
85 motor vehicle for serious traffic violations;

86 (e) The applicant has not had any conviction for a violation of state or
87 local law relating to motor vehicle traffic control, but not including any parking
88 violation, arising in connection with any traffic accident, and has no record of an
89 accident in which he or she was at fault;

90 (f) The applicant is regularly employed in a job requiring operation of a
91 commercial motor vehicle and has operated the vehicle for at least sixty days
92 during the two years immediately preceding application for a commercial driver's
93 license. The vehicle must be representative of the commercial motor vehicle the
94 driver applicant operates or expects to operate;

95 (g) The applicant, if on active duty, must provide a notarized affidavit
96 signed by a commanding officer as proof of driving experience as indicated in
97 paragraph (f) of this subdivision;

98 (h) The applicant, if honorably discharged from military service, must
99 provide a form-DD214 or other proof of military occupational specialty;

100 (i) The applicant must meet all federal and state qualifications to operate
101 a commercial vehicle; and

102 (j) The applicant will be required to complete all applicable knowledge
103 tests.

104 3. A commercial driver's license may not be issued to a person while the
105 person is disqualified from driving a commercial motor vehicle, when a
106 disqualification is pending in any state or while the person's driver's license is
107 suspended, revoked, or cancelled in any state; nor may a commercial driver's
108 license be issued unless the person first surrenders in a manner prescribed by the
109 director any commercial driver's license issued by another state, which license
110 shall be returned to the issuing state for cancellation.

111 4. Beginning July 1, 2005, the director shall not issue an instruction
112 permit under this section unless the director verifies that the applicant is
113 lawfully present in the United States before accepting the application. The
114 director may, by rule or regulation, establish procedures to verify the lawful
115 presence of the applicant under this section. No rule or portion of a rule
116 promulgated pursuant to the authority of this section shall become effective
117 unless it has been promulgated pursuant to chapter 536.

118 5. Notwithstanding the provisions of this section or any other law to the
119 contrary, beginning August 28, 2008, the director of the department of revenue
120 shall certify as a third-party tester any municipality that owns, leases, or
121 maintains its own fleet that requires certain employees as a condition of

122 employment to hold a valid commercial driver's license; and that administered
123 in-house testing to such employees prior to August 28, 2006.

544.470. [1.] If the offense is not bailable, if the individual is not granted
2 electronic monitoring, or if the individual does not meet the conditions for release,
3 as provided in section 544.455, the individual shall be committed to the jail of the
4 county in which the same is to be tried, there to remain until such individual be
5 discharged by due course of law.

6 [2. There shall be a presumption that releasing the person under any
7 conditions as provided by section 544.455 shall not reasonably assure the
8 appearance of the person as required if the circuit judge or associate circuit judge
9 reasonably believes that the person is an alien unlawfully present in the United
10 States. If such presumption exists, the person shall be committed to the jail, as
11 provided in subsection 1 of this section, until such person provides verification of
12 his or her lawful presence in the United States to rebut such presumption. If the
13 person adequately proves his or her lawful presence, the circuit judge or associate
14 circuit judge shall review the issue of release, as provided under section 544.455,
15 without regard to previous issues concerning whether the person is lawfully
16 present in the United States. If the person cannot prove his or her lawful
17 presence, the person shall continue to be committed to the jail and remain until
18 discharged by due course of law.]

[43.032. Subject to appropriation, the superintendent of the
2 Missouri state highway patrol shall designate that some or all
3 members of the highway patrol be trained in accordance with a
4 memorandum of understanding between the state of Missouri and
5 the United States Department of Homeland Security concerning the
6 enforcement of federal immigration laws during the course of their
7 normal duties in the state of Missouri, in accordance with 8 U.S.C.
8 Section 1357(g). The superintendent shall have the authority to
9 negotiate the terms of such memorandum. The memorandum shall
10 be signed by the superintendent of the highway patrol, the
11 governor, and the director of the department of public safety.]

[67.307. 1. As used in this section, the following terms
2 mean:

3 (1) "Law enforcement officer", a sheriff or peace officer of a
4 municipality with the duty and power of arrest for violation of the
5 general criminal laws of the state or for violation of ordinances of

6 municipalities;

7 (2) "Municipality", any county, city, town, or village;

8 (3) "Municipality official", any elected or appointed official
9 or any law enforcement officer serving the municipality;

10 (4) "Sanctuary policy", any municipality's order or
11 ordinance, enacted or followed that:

12 (a) Limits or prohibits any municipality official or person
13 employed by the municipality from communicating or cooperating
14 with federal agencies or officials to verify or report the immigration
15 status of any alien within such municipality; or

16 (b) Grants to illegal aliens the right to lawful presence or
17 status within the municipality in violation of federal law.

18 2. No municipality shall enact or adopt any sanctuary
19 policy. Any municipality that enacts or adopts a sanctuary policy
20 shall be ineligible for any moneys provided through grants
21 administered by any state agency or department until the
22 sanctuary policy is repealed or is no longer in effect. Upon the
23 complaint of any state resident regarding a specific government
24 entity, agency, or political subdivision of this state or prior to the
25 provision of funds or awarding of any grants to a government
26 entity, agency, or political subdivision of this state, any member of
27 the general assembly may request that the attorney general of the
28 state of Missouri issue an opinion stating whether the government
29 entity, agency, or political subdivision has current policies in
30 contravention of this section.

31 3. The governing body, sheriff, or chief of police of each
32 municipality shall provide each law enforcement officer with
33 written notice of their duty to cooperate with state and federal
34 agencies and officials on matters pertaining to enforcement of state
35 and federal laws governing immigration.

36 4. This section shall become effective on January 1, 2009.]

2 [208.009. 1. No alien unlawfully present in the United
3 States shall receive any state or local public benefit, except for
4 state or local public benefits that may be offered under 8 U.S.C.
5 1621(b). Nothing in this section shall be construed to prohibit the
rendering of emergency medical care, prenatal care, services

6 offering alternatives to abortion, emergency assistance, or legal
7 assistance to any person.

8 2. As used in this section, "public benefit" means any grant,
9 contract, or loan provided by an agency of state or local
10 government; or any retirement, welfare, health, disability, housing,
11 or food assistance benefit under which payments, assistance,
12 credits, or reduced rates or fees are provided. The term "public
13 benefit" shall not include postsecondary education public benefits
14 as defined in section 173.1110, any municipal permit, or contracts
15 or agreements between public utility providers and their customers
16 or unemployment benefits payable under chapter 288. The
17 unemployment compensation program shall verify the lawful
18 presence of an alien for the purpose of determining eligibility for
19 benefits in accordance with its own procedures.

20 3. In addition to providing proof of other eligibility
21 requirements, at the time of application for any state or local
22 public benefit, an applicant who is eighteen years of age or older
23 shall provide affirmative proof that the applicant is a citizen or a
24 permanent resident of the United States or is lawfully present in
25 the United States. Such affirmative proof shall include
26 documentary evidence recognized by the department of revenue
27 when processing an application for a driver's license, a Missouri
28 driver's license, as well as any document issued by the federal
29 government that confirms an alien's lawful presence in the United
30 States. In processing applications for public benefits, an employee
31 of an agency of state or local government shall not inquire about
32 the legal status of a custodial parent or guardian applying for a
33 public benefit on behalf of his or her dependent child who is a
34 citizen or permanent resident of the United States.

35 4. An applicant who cannot provide the proof required
36 under this section at the time of application may alternatively sign
37 an affidavit under oath, attesting to either United States
38 citizenship or classification by the United States as an alien
39 lawfully admitted for permanent residence, in order to receive
40 temporary benefits or a temporary identification document as
41 provided in this section. The affidavit shall be on or consistent

42 with forms prepared by the state or local government agency
43 administering the state or local public benefits and shall include
44 the applicant's Social Security number or any applicable federal
45 identification number and an explanation of the penalties under
46 state law for obtaining public assistance benefits fraudulently.

47 5. An applicant who has provided the sworn affidavit
48 required under subsection 4 of this section is eligible to receive
49 temporary public benefits as follows:

50 (1) For ninety days or until such time that it is determined
51 that the applicant is not lawfully present in the United States,
52 whichever is earlier; or

53 (2) Indefinitely if the applicant provides a copy of a
54 completed application for a birth certificate that is pending in
55 Missouri or some other state. An extension granted under this
56 subsection shall terminate upon the applicant's receipt of a birth
57 certificate or a determination that a birth certificate does not exist
58 because the applicant is not a United States citizen.

59 6. An applicant who is an alien shall not receive any state
60 or local public benefit unless the alien's lawful presence in the
61 United States is first verified by the federal government. State and
62 local agencies administering public benefits in this state shall
63 cooperate with the United States Department of Homeland Security
64 in achieving verification of an alien's lawful presence in the United
65 States in furtherance of this section. The system utilized may
66 include the Systematic Alien Verification for Entitlements Program
67 operated by the United States Department of Homeland
68 Security. After an applicant's lawful presence in the United States
69 has been verified through the Systematic Alien Verification for
70 Entitlements Program, no additional verification is required within
71 the same agency of the state or local government.

72 7. The provisions of this section shall not be construed to
73 require any nonprofit organization duly registered with the
74 Internal Revenue Service to enforce the provisions of this section,
75 nor does it prohibit such an organization from providing aid.

76 8. Any agency that administers public benefits shall provide
77 assistance in obtaining appropriate documentation to persons

78 applying for public benefits who sign the affidavit required by
79 subsection 4 of this section stating they are eligible for such
80 benefits but lack the documents required under subsection 3 of this
81 section.]

[285.309. 1. Every employer doing business in this state
2 who employs five or more employees shall, if applicable, submit
3 federal 1099 miscellaneous forms to the department of
4 revenue. Such forms shall be submitted to the department of
5 revenue within the time lines established for the filing of Missouri
6 form 99 forms.

7 2. Any employer who intentionally, on five or more
8 occasions, fails to submit information required under subsection 1
9 of this section shall be fined not more than two hundred dollars for
10 each time the employer fails to submit the information on or after
11 the fifth occurrence.]

[285.500. For the purposes of sections 285.500 to 285.515
2 the following terms mean:

3 (1) "Employee", any individual who performs services for an
4 employer that would indicate an employer-employee relationship
5 in satisfaction of the factors in IRS Rev. Rule 87-41, 1987-1
6 C.B.296.;

7 (2) "Employer", any individual, organization, partnership,
8 political subdivision, corporation, or other legal entity which has or
9 had in the entity's employ five or more individuals performing
10 public works as defined in section 290.210;

11 (3) "Knowingly", a person acts knowingly or with
12 knowledge:

13 (a) With respect to the person's conduct or to attendant
14 circumstances when the person is aware of the nature of the
15 person's conduct or that those circumstances exist; or

16 (b) With respect to a result of the person's conduct when
17 the person is aware that the person's conduct is practically certain
18 to cause that result.]

[285.503. 1. An employer knowingly misclassifies a worker
2 if that employer fails to claim the worker as an employee but
3 knows that the worker is an employee.

4 2. The attorney general may investigate alleged or
5 suspected violations of sections 285.500 to 285.515 and shall have
6 all powers provided by sections 407.040 to 407.090 in connection
7 with any investigation of an alleged or suspected violation of
8 sections 285.500 to 285.515 as if the acts enumerated in sections
9 285.500 to 285.515 are unlawful acts proscribed by chapter
10 407. The attorney general may serve and enforce subpoenas
11 related to the enforcement of sections 285.500 to 285.515.]

 [285.506. In any action brought under sections 285.500 to
2 285.515, the state shall have the burden of proving that the
3 employer misclassified the worker.]

 [285.512. Whenever the attorney general has reason to
2 believe that an employer is engaging in any conduct that would be
3 a violation of sections 285.500 to 285.515, the attorney general may
4 seek an injunction prohibiting the employer from engaging in such
5 conduct. The attorney general may bring an action for injunctive
6 relief in the circuit court of any county where the alleged violation
7 is occurring or about to occur.]

 [285.515. If a court determines that an employer has
2 knowingly misclassified a worker, the court shall enter a judgment
3 in favor of the state and award penalties in the amount of fifty
4 dollars per day per misclassified worker up to a maximum of fifty
5 thousand dollars. The attorney general may enter into a consent
6 judgment with any person alleged to have violated sections 285.500
7 to 285.515.]

 [285.525. As used in sections 285.525 to 285.550, the
2 following terms shall have the following meanings:

3 (1) "Business entity", any person or group of persons
4 performing or engaging in any activity, enterprise, profession, or
5 occupation for gain, benefit, advantage, or livelihood. The term
6 "business entity" shall include but not be limited to self-employed
7 individuals, partnerships, corporations, contractors, and
8 subcontractors. The term "business entity" shall include any
9 business entity that possesses a business permit, license, or tax
10 certificate issued by the state, any business entity that is exempt
11 by law from obtaining such a business permit, and any business

12 entity that is operating unlawfully without such a business
13 permit. The term "business entity" shall not include a
14 self-employed individual with no employees or entities utilizing the
15 services of direct sellers as defined in subdivision (17) of subsection
16 12 of section 288.034;

17 (2) "Contractor", a person, employer, or business entity that
18 enters into an agreement to perform any service or work or to
19 provide a certain product in exchange for valuable
20 consideration. This definition shall include but not be limited to
21 a general contractor, subcontractor, independent contractor,
22 contract employee, project manager, or a recruiting or staffing
23 entity;

24 (3) "Employee", any person performing work or service of
25 any kind or character for hire within the state of Missouri;

26 (4) "Employer", any person or entity employing any person
27 for hire within the state of Missouri, including a public
28 employer. Where there are two or more putative employers, any
29 person or entity taking a business tax deduction for the employee
30 in question shall be considered an employer of that person for
31 purposes of sections 285.525 to 285.550;

32 (5) "Employment", the act of employing or state of being
33 employed, engaged, or hired to perform work or service of any kind
34 or character within the state of Missouri;

35 (6) "Federal work authorization program", any of the
36 electronic verification of work authorization programs operated by
37 the United States Department of Homeland Security or an
38 equivalent federal work authorization program operated by the
39 United States Department of Homeland Security to verify
40 information of newly hired employees, under the Immigration
41 Reform and Control Act of 1986 (IRCA), P.L.99-603;

42 (7) "Knowingly", a person acts knowingly or with
43 knowledge:

44 (a) With respect to the person's conduct or to attendant
45 circumstances when the person is aware of the nature of the
46 person's conduct or that those circumstances exist; or

47 (b) With respect to a result of the person's conduct when

48 the person is aware that the person's conduct is practically certain
49 to cause that result;

50 (8) "Political subdivision", any agency or unit of this state
51 which now is, or hereafter shall be, authorized to levy taxes or
52 empowered to cause taxes to be levied;

53 (9) "Public employer", every department, agency, or
54 instrumentality of the state or political subdivision of the state;

55 (10) "Unauthorized alien", an alien who does not have the
56 legal right or authorization under federal law to work in the United
57 States, as defined in 8 U.S.C. 1324a(h)(3);

58 (11) "Work", any job, task, employment, labor, personal
59 services, or any other activity for which compensation is provided,
60 expected, or due, including but not limited to all activities
61 conducted by business entities.]

[285.530. 1. No business entity or employer shall
2 knowingly employ, hire for employment, or continue to employ an
3 unauthorized alien to perform work within the state of Missouri.

4 2. As a condition for the award of any contract or grant in
5 excess of five thousand dollars by the state or by any political
6 subdivision of the state to a business entity, or for any business
7 entity receiving a state-administered or subsidized tax credit, tax
8 abatement, or loan from the state, the business entity shall, by
9 sworn affidavit and provision of documentation, affirm its
10 enrollment and participation in a federal work authorization
11 program with respect to the employees working in connection with
12 the contracted services. Every such business entity shall also sign
13 an affidavit affirming that it does not knowingly employ any person
14 who is an unauthorized alien in connection with the contracted
15 services. Any entity contracting with the state or any political
16 subdivision of the state shall only be required to provide the
17 affidavits required in this subsection to the state and any political
18 subdivision of the state with which it contracts, on an annual
19 basis. During or immediately after an emergency, the
20 requirements of this subsection that a business entity enroll and
21 participate in a federal work authorization program shall be
22 suspended for fifteen working days. As used in this subsection,

23 "emergency" includes the following natural and manmade disasters:
24 major snow and ice storms, floods, tornadoes, severe weather,
25 earthquakes, hazardous material incidents, nuclear power plant
26 accidents, other radiological hazards, and major mechanical
27 failures of a public utility facility.

28 3. All public employers shall enroll and actively participate
29 in a federal work authorization program.

30 4. An employer may enroll and participate in a federal work
31 authorization program and shall verify the employment eligibility
32 of every employee in the employer's hire whose employment
33 commences after the employer enrolls in a federal work
34 authorization program. The employer shall retain a copy of the
35 dated verification report received from the federal
36 government. Any business entity that participates in such program
37 shall have an affirmative defense that such business entity has not
38 violated subsection 1 of this section.

39 5. A general contractor or subcontractor of any tier shall
40 not be liable under sections 285.525 to 285.550 when such general
41 contractor or subcontractor contracts with its direct subcontractor
42 who violates subsection 1 of this section, if the contract binding the
43 contractor and subcontractor affirmatively states that the direct
44 subcontractor is not knowingly in violation of subsection 1 of this
45 section and shall not henceforth be in such violation and the
46 contractor or subcontractor receives a sworn affidavit under the
47 penalty of perjury attesting to the fact that the direct
48 subcontractor's employees are lawfully present in the United
49 States.]

2 [285.535. 1. The attorney general shall enforce the
requirements of sections 285.525 to 285.550.

3 2. An enforcement action shall be initiated by means of a
4 written, signed complaint under penalty of perjury as defined in
5 section 575.040 to the attorney general submitted by any state
6 official, business entity, or state resident. A valid complaint shall
7 include an allegation which describes the alleged violator as well
8 as the actions constituting the violation, and the date and location
9 where such actions occurred. A complaint which alleges a violation

10 solely or primarily on the basis of national origin, ethnicity, or race
11 shall be deemed invalid and shall not be enforced.

12 3. Upon receipt of a valid complaint, the attorney general
13 shall, within fifteen business days, request identity information
14 from the business entity regarding any persons alleged to be
15 unauthorized aliens. Such request shall be made by certified
16 mail. The attorney general shall direct the applicable municipal or
17 county governing body to suspend any applicable license, permit,
18 or exemptions of any business entity which fails, within fifteen
19 business days after receipt of the request, to provide such
20 information.

21 4. The attorney general, after receiving the requested
22 identity information from the business entity, shall submit identity
23 data required by the federal government to verify, under 8 U.S.C.
24 1373, the immigration status of such persons, and shall provide the
25 business entity with written notice of the results of the verification
26 request:

27 (1) If the federal government notifies the attorney general
28 that an employee is authorized to work in the United States, the
29 attorney general shall take no further action on the complaint;

30 (2) If the federal government notifies the attorney general
31 that an employee is not authorized to work in the United States,
32 the attorney general shall proceed on the complaint as provided in
33 subsection 5 of this section;

34 (3) If the federal government notifies the attorney general
35 that it is unable to verify whether an employee is authorized to
36 work in the United States, the attorney general shall take no
37 further action on the complaint until a verification from the federal
38 government concerning the status of the individual is received. At
39 no point shall any state official attempt to make an independent
40 determination of any alien's legal status without verification from
41 the federal government.

42 5. (1) If the federal government notifies the attorney
43 general that an employee is not authorized to work in the United
44 States, and the employer of the unauthorized alien participates in
45 a federal work authorization program, there shall be a rebuttable

46 presumption that the employer has met the requirements for an
47 affirmative defense under subsection 4 of section 285.530, and the
48 employer shall comply with subsection 6 of this section.

49 (2) If the federal government notifies the attorney general
50 that an employee is not authorized to work in the United States,
51 the attorney general shall bring a civil action in Cole County if the
52 attorney general reasonably believes the business entity knowingly
53 violated subsection 1 of section 285.530:

54 (a) If the court finds that a business entity did not
55 knowingly violate subsection 1 of section 285.530, the employer
56 shall have fifteen business days to comply with subdivision (1) and
57 paragraph (a) of subdivision (2) of subsection 6 of this section. If
58 the entity fails to do so, the court shall direct the applicable
59 municipal or county governing body to suspend the business
60 permit, if such exists, and any applicable licenses or exemptions of
61 the entity until the entity complies with subsection 6 of this
62 section;

63 (b) If the court finds that a business entity knowingly
64 violated subsection 1 of section 285.530, the court shall direct the
65 applicable municipal or county governing body to suspend the
66 business permit, if such exists, and any applicable licenses or
67 exemptions of such business entity for fourteen days. Permits,
68 licenses, and exemptions shall be reinstated for entities who
69 comply with subsection 6 of this section at the end of the
70 fourteen-day period.

71 6. The correction of a violation with respect to the
72 employment of an unauthorized alien shall include the following
73 actions:

74 (1) (a) The business entity terminates the unauthorized
75 alien's employment. If the business entity attempts to terminate
76 the unauthorized alien's employment and such termination is
77 challenged in a court of the state of Missouri, the
78 fifteen-business-day period for providing information to the
79 attorney general referenced in subsection 3 of this section shall be
80 tolled while the business entity pursues the termination of the
81 unauthorized alien's employment in such forum; or

82 (b) The business entity, after acquiring additional
83 information from the employee, requests a secondary or additional
84 verification by the federal government of the employee's
85 authorization, under the procedures of a federal work authorization
86 program. While this verification is pending, the
87 fifteen-business-day period for providing information to the
88 attorney general referenced in subsection 3 of this section shall be
89 tolled; and

90 (2) A legal representative of the business entity submits, at
91 an office designated by the attorney general, the following:

92 (a) A sworn affidavit stating that the violation has ended
93 that shall include a description of the specific measures and actions
94 taken by the business entity to end the violation, and the name,
95 address, and other adequate identifying information for any
96 unauthorized aliens related to the complaint; and

97 (b) Documentation acceptable to the attorney general which
98 confirms that the business entity has enrolled in and is
99 participating in a federal work authorization program.

100 7. The suspension of a business license or licenses under
101 subsection 5 of this section shall terminate one business day after
102 a legal representative of the business entity submits the affidavit
103 and other documentation required under subsection 6 of this
104 section following any period of restriction required under
105 subsection 5 of this section.

106 8. For an entity that violates subsection 1 of section
107 285.530 for a second time, the court shall direct the applicable
108 municipal or county governing body to suspend, for one year, the
109 business permit, if such exists, and any applicable license or
110 exemptions of the business entity. For a subsequent violation, the
111 court shall direct the applicable municipal or county governing
112 body to forever suspend the business permit, if such exists, and any
113 applicable license or exemptions of the business entity.

114 9. In addition to the penalties in subsections 5 and 8 of this
115 section:

116 (1) Upon the first violation of subsection 1 of section
117 285.530 by any business entity awarded a state contract or grant

118 or receiving a state-administered tax credit, tax abatement, or loan
119 from the state, the business entity shall be deemed in breach of
120 contract and the state may terminate the contract and suspend or
121 debar the business entity from doing business with the state for a
122 period of three years. Upon such termination, the state may
123 withhold up to twenty-five percent of the total amount due to the
124 business entity;

125 (2) Upon a second or subsequent violation of subsection 1
126 of section 285.530 by any business entity awarded a state contract
127 or grant or receiving a state-administered tax credit, tax
128 abatement, or loan from the state, the business entity shall be
129 deemed in breach of contract and the state may terminate the
130 contract and permanently suspend or debar the business entity
131 from doing business with the state. Upon such termination, the
132 state may withhold up to twenty-five percent of the total amount
133 due to the business entity.

134 10. Sections 285.525 to 285.550 shall not be construed to
135 deny any procedural mechanisms or legal defenses included in a
136 federal work authorization program.

137 11. Any business entity subject to a complaint and
138 subsequent enforcement under sections 285.525 to 285.540, or any
139 employee of such a business entity, may challenge the enforcement
140 of this section with respect to such entity or employee in the courts
141 of the state of Missouri.

142 12. If the court finds that any complaint is frivolous in
143 nature or finds no probable cause to believe that there has been a
144 violation, the court shall dismiss the case. For purposes of this
145 subsection, "frivolous" shall mean a complaint not shown by clear
146 and convincing evidence to be valid. Any person who submits a
147 frivolous complaint shall be liable for actual, compensatory, and
148 punitive damages to the alleged violator for holding the alleged
149 violator before the public in a false light. If the court finds that a
150 complaint is frivolous or that there is not probable cause to believe
151 there has been a violation, the attorney general shall issue a public
152 report to the complainant and the alleged violator stating with
153 particularity its reasons for dismissal of the complaint. Upon such

154 issuance, the complaint and all materials relating to the complaint
155 shall be a public record as defined in chapter 610.

156 13. The determination of whether a worker is an
157 unauthorized alien shall be made by the federal government. A
158 determination of such status of an individual by the federal
159 government shall create a rebuttable presumption as to that
160 individual's status in any judicial proceedings brought under this
161 section or section 285.530. The court may take judicial notice of
162 any verification of an individual's status previously provided by the
163 federal government and may request the federal government to
164 provide automated or testimonial verification.

165 14. Compensation, whether in money or in kind or in
166 services, knowingly provided to any unauthorized alien shall not be
167 allowed as a business expense deduction from any income or
168 business taxes of this state.

169 15. Any business entity which terminates an employee in
170 accordance with this section shall not be liable for any claims made
171 against the business entity under chapter 213 for the termination.]

2 [285.540. The attorney general shall promulgate rules to
3 implement the provisions of sections 285.525 to 285.550. Any rule
4 or portion of a rule, as that term is defined in section 536.010, that
5 is created under the authority delegated in this section shall
6 become effective only if it complies with and is subject to all of the
7 provisions of chapter 536 and, if applicable, section 536.028. This
8 section and chapter 536 are nonseverable and if any of the powers
9 vested with the general assembly under chapter 536 to review, to
10 delay the effective date, or to disapprove and annul a rule are
11 subsequently held unconstitutional, then the grant of rulemaking
12 authority and any rule proposed or adopted after August 28, 2008,
shall be invalid and void.]

2 [285.543. The attorney general shall maintain a database
3 that documents any business entity whose permit, license, or
4 exemption has been suspended or state contract has been
terminated.]

2 [285.550. If any municipal or county governing body fails
to suspend the business permit, if such exists, and applicable

3 licenses or exemptions as directed by the attorney general as a
4 result of a violation of section 285.530 or 285.535 within fifteen
5 days after notification by the attorney general, the municipality
6 shall be deemed to have adopted a sanctuary policy as defined in
7 section 67.307 and shall be subject to the penalties thereunder.]

2 [285.555. Should the federal government discontinue or fail
3 to authorize or implement any federal work authorization program,
4 then subsections 2 and 3 of section 285.530 and paragraph (b) of
5 subdivision (1) of subsection 6 of section 285.535 and paragraph (b)
6 of subdivision (2) of subsection 6 of section 285.535 shall not apply
7 after the date of discontinuance or failure to authorize or
8 implement, and the general assembly shall review sections 285.525
9 to 285.555 for the purpose of determining whether the sections are
no longer applicable and should be repealed.]

2 [302.063. The department of revenue shall not issue any
3 driver's license to an illegal alien nor to any person who cannot
4 prove his or her lawful presence pursuant to the provisions of this
5 chapter and the regulations promulgated thereunder. A driver's
6 license issued to an illegal alien in another state shall not be
7 honored by the state of Missouri and the department of revenue for
8 any purpose. The state of Missouri hereby declares that granting
9 driver's licenses to illegal aliens is repugnant to the public policy
10 of Missouri and therefore Missouri shall not extend full faith and
11 credit to out-of-state driver's licenses issued to illegal aliens. As
12 used in this section, the term "illegal alien" shall mean an alien
13 who is not lawfully present in the United States, according to the
terms of 8 U.S.C. Section 1101, et seq.]

2 [577.675. 1. It shall be unlawful for any person to
3 knowingly transport, move, or attempt to transport in the state of
4 Missouri any illegal alien who is not lawfully present in the United
5 States, according to the terms of 8 U.S.C. Section 1101, et seq., for
6 the purposes of trafficking in violation of sections 566.200 to
7 566.215, drug trafficking in violation of sections 195.222 and
8 195.223, prostitution in violation of chapter 567, or employment.

9 2. Any person violating the provisions of subsection 1 of
this section shall be guilty of a felony for which the authorized

10 term of imprisonment is a term of years not less than one year, or
11 by a fine in an amount not less than one thousand dollars, or by
12 both such fine and imprisonment.

13 3. Nothing in this section shall be construed to deny any
14 victim of an offense under sections 566.200 to 566.215 of rights
15 afforded by the federal Trafficking Victims Protection Act of 2000,
16 Public Law 106-386, as amended.]

[577.680. 1. If verification of the nationality or lawful
2 immigration status of any person who is charged and confined to
3 jail for any period of time cannot be made from documents in the
4 possession of the prisoner or after a reasonable effort on the part
5 of the arresting agency to determine the nationality or immigration
6 status of the person so confined, verification shall be made by the
7 arresting agency within forty-eight hours through a query to the
8 Law Enforcement Support Center (LESC) of the United States
9 Department of Homeland Security or other office or agency
10 designated for that purpose by the United States Department of
11 Homeland Security. If it is determined that the prisoner is in the
12 United States unlawfully, the arresting agency shall notify the
13 United States Department of Homeland Security. Until August 28,
14 2009, this section shall only apply to officers employed by the
15 department of public safety to include: the highway patrol, water
16 patrol, capitol police, fire marshal's office, and division of alcohol
17 and tobacco control.

18 2. Nothing in this section shall be construed to deny any
19 person bond or prevent a person from being released from
20 confinement if such person is otherwise eligible for release.]

[578.570. Any person who:

2 (1) Knowing or in reckless disregard of the truth, assists
3 any person in committing fraud or deception during the
4 examination process for an instruction permit, driver's license, or
5 nondriver's license;

6 (2) Knowing or in reckless disregard of the truth, assists
7 any person in making application for an instruction permit, driver's
8 license, or nondriver's license that contains or is substantiated with
9 false or fraudulent information or documentation;

10 (3) Knowing or in reckless disregard of the truth, assists
11 any person in concealing a material fact or otherwise committing
12 a fraud in an application for an instruction permit, driver's license,
13 or nondriver's license; or

14 (4) Engages in any conspiracy to commit any of the
15 preceding acts or aids or abets the commission of any of the
16 preceding acts; is guilty of a class A misdemeanor.]

 [650.475. 1. Notwithstanding any other provision of law,
2 no government entity, political subdivision, or government official
3 within the state of Missouri shall prohibit, or in any way restrict,
4 any government entity or official from communicating or
5 cooperating with the United States Bureau of Immigration and
6 Customs Enforcement regarding the citizenship or immigration
7 status, lawful or unlawful, of any individual.

8 2. Municipalities and political subdivisions may collect and
9 share the identity of persons by the same means the Federal
10 Bureau of Investigation or its successor agency uses in its
11 Integrated Automated Fingerprint Identification System or its
12 successor program.

13 3. Notwithstanding any other provision of law, no person or
14 agency within the state of Missouri shall prohibit, or in any way
15 restrict, a public employee from doing any of the following with
16 respect to information regarding the immigration status, lawful or
17 unlawful, of any individual:

18 (1) Sending such information to, or requesting or receiving
19 such information from, the United States Bureau of Immigration
20 and Customs Enforcement;

21 (2) Maintaining such information; or

22 (3) Exchanging such information with any other federal,
23 state, or local government entity.

24 4. Upon the complaint of any state resident regarding a
25 specific government entity, agency, or political subdivision of this
26 state or prior to the provision of funds or awarding of any grants
27 to a government entity, agency, or political subdivision of this
28 state, any member of the general assembly may request that the
29 attorney general of the state of Missouri issue an opinion stating

30 whether the government entity, agency, or political subdivision has
31 current policies in contravention of subsections 1 and 3 of this
32 section.

33 5. No state agency or department shall provide any funding
34 or award any monetary grants to any government entity, agency,
35 or political subdivision determined under subsection 4 of this
36 section to have a policy in contravention of subsections 1 and 3 of
37 this section until the policy is repealed or no longer in effect.

38 6. The provisions of subsections 1 and 3 of this section shall
39 not apply to any state or local agency administering one or more
40 federal public benefit programs as such term is defined in 8 U.S.C.
41 Section 1612.]

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Bill

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