

REFERENCE TITLE: **immigrant; alien; terminology.**

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2435

Introduced by
Representatives Sandoval: Aguilar, De Los Santos, Hernandez L, Ortiz, Sun,
Travers

AN ACT

AMENDING SECTIONS 4-202, 8-102, 9-500.25, 11-269.08, 11-1051, 12-512, 12-2702, 13-1509, 13-2317, 13-2319, 13-2928, 13-2929, 13-3101, 15-1803, 23-211, 23-212, 23-212.01, 23-361.01, 23-781, 23-901, 28-3511, 32-1822, 32-1829, 34-301, 36-889, 36-2903.03, 36-2931, 36-2932, 36-2983, 41-906, 41-1080, 41-1462 AND 43-210, ARIZONA REVISED STATUTES; RELATING TO IMMIGRANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-202, Arizona Revised Statutes, is amended to
3 read:

4 4-202. Qualifications of licensees; application; background
5 information; prior convictions

6 A. Every spirituous liquor licensee, other than a club licensee, a
7 corporation licensee, a limited liability company licensee or an
8 out-of-state licensee, shall be a citizen of the United States and a bona
9 fide resident of this state or a legal resident ~~alien~~ IMMIGRANT who is a
10 bona fide resident of this state. If a partnership, each partner shall be
11 a citizen of the United States and a bona fide resident of this state or a
12 legal resident ~~alien~~ IMMIGRANT who is a bona fide resident of this state,
13 except that for a limited partnership an individual general partner is
14 required to meet the qualifications of an individual licensee, a corporate
15 general partner is required to meet the qualifications of a corporate
16 licensee and a limited partner is not required to be a citizen of the
17 United States, a legal resident ~~alien~~ IMMIGRANT or a bona fide resident of
18 this state. If a corporation or limited liability company, it shall be a
19 domestic corporation or a foreign corporation or a limited liability
20 company that has qualified to do business in this state. A person shall
21 hold a club license, corporation license, limited liability company
22 license, partnership license or out-of-state license through an agent who
23 ~~shall be~~ IS a natural person and ~~meet~~ WHO MEETS the qualifications for
24 licensure, except that an agent for an out-of-state license as specified
25 in section 4-209, subsection B, paragraph 2 need not be a resident of this
26 state. Notice of change of agent shall be filed with the director within
27 thirty days after a change. For the purposes of this subsection, "agent"
28 means a person who is designated by an applicant or licensee to receive
29 communications from the department and to file documents and sign
30 documents for filing with the department on behalf of the applicant or
31 licensee.

32 B. A person shall file an application for a spirituous liquor
33 license on a form prescribed by the director. The director shall require
34 any applicant and may require any controlling person, other than a bank or
35 licensed lending institution, to furnish background information and to
36 submit a full set of fingerprints to the department. The department of
37 liquor licenses and control shall submit the fingerprints to the
38 department of public safety ~~for the purpose of obtaining~~ TO OBTAIN a state
39 and federal criminal records check pursuant to section 41-1750 and Public
40 Law 92-544. The department of public safety may exchange this fingerprint
41 data with the federal bureau of investigation. If a license is issued or
42 transferred when fees are waived pursuant to section 4-209, subsection I,
43 ~~no~~ AN additional background check is NOT required if the person has
44 already completed a background investigation in connection with the
45 continuing business.

1 C. Each applicant or licensee shall designate a person who ~~shall be~~
2 IS responsible for managing the premises. The designated person may be
3 the applicant or licensee. The manager shall be a natural person and
4 shall meet all the requirements for licensure. The same person may be
5 designated as the manager for more than one premises owned by the same
6 licensee. Notice of a change in the manager shall be filed with the
7 director within thirty days after a change.

8 D. ~~No~~ A license ~~shall~~ MAY NOT be issued to any person who, within
9 one year before application, has had a license revoked. The director
10 shall not issue an interim permit or restaurant license to any person who,
11 at the same location, has been required to surrender a restaurant license
12 pursuant to section 4-205.02, subsection D or section 4-213 until twelve
13 months after the date of the surrender. ~~No~~ A license ~~shall~~ MAY NOT be
14 issued to or renewed for any person who, within five years before
15 application, has been convicted of a felony, or convicted of an offense in
16 another state that would be a felony in this state. For a conviction of a
17 corporation to be a basis for a denial under this section, the limitations
18 that are provided in section 4-210, subsection A, paragraph 8 shall apply.
19 ~~No~~ A corporation ~~shall~~ MAY NOT have its annual license issued or renewed
20 unless it has on file with the department a list of its officers and
21 directors and any stockholders who own ten percent or more of the
22 corporation.

23 E. The department of liquor licenses and control shall receive
24 criminal history record information from the department of public safety
25 for applicants for employment with the department of liquor licenses and
26 control or for a license issued by the department of liquor licenses and
27 control.

28 F. The department shall not issue or renew a license for any person
29 who on the request of the director fails to provide the department with
30 complete financial disclosure statements indicating all financial holdings
31 of the person or any other person in or relating to the license applied
32 for, including all cosignatories on financial holdings, land, buildings,
33 leases or other forms of indebtedness that the applicant has incurred or
34 will incur.

35 Sec. 2. Section 8-102, Arizona Revised Statutes, is amended to
36 read:

37 8-102. Who may be adopted

38 A. Except as provided in title 14, chapter 8 and subsection B of
39 this section, only a child, or a foreign-born person who is twenty-one
40 years of age or less and who is not an ~~illegal alien~~ UNDOCUMENTED
41 IMMIGRANT, who is present within this state at the time the petition for
42 adoption is filed may be adopted.

43 B. A dependent child is not required to be present in this state at
44 the time the petition for adoption is filed if the criteria prescribed in
45 section 8-103, subsection B are met.

1 3. A valid tribal enrollment card or other form of tribal
2 identification.

3 4. If the entity requires proof of legal presence in the United
4 States before issuance, any valid United States federal, state or local
5 government issued identification.

6 C. If an ~~alien who is unlawfully present~~ UNDOCUMENTED IMMIGRANT in
7 the United States is convicted of a violation of state or local law, on
8 discharge from imprisonment or on the assessment of any IMPOSED monetary
9 obligation ~~that is imposed~~, the United States immigration and customs
10 enforcement or the United States customs and border protection shall be
11 immediately notified.

12 D. Notwithstanding any other law, a law enforcement agency may
13 securely transport ~~an alien who the agency has received verification is~~
14 ~~unlawfully present~~ A VERIFIED UNDOCUMENTED IMMIGRANT in the United States
15 and who is in the agency's custody to a federal facility in this state or
16 to any other point of transfer into federal custody that is outside the
17 jurisdiction of the law enforcement agency. A law enforcement agency
18 shall obtain judicial authorization before securely transporting an ~~alien~~
19 ~~who is unlawfully present~~ UNDOCUMENTED IMMIGRANT in the United States to a
20 point of transfer that is outside of this state.

21 E. In the implementation of this section, an ~~alien's~~ IMMIGRANT'S
22 immigration status may be determined by:

23 1. A law enforcement officer who is authorized by the federal
24 government to verify or ascertain an ~~alien's~~ IMMIGRANT'S immigration
25 status.

26 2. The United States immigration and customs enforcement or the
27 United States customs and border protection pursuant to 8 United States
28 Code section 1373(c).

29 F. Except as provided in federal law, officials or agencies of this
30 state and counties, cities, towns and other political subdivisions of this
31 state may not be prohibited or ~~in any way be~~ restricted from sending,
32 receiving or maintaining information relating to the immigration status,
33 lawful or unlawful, of any individual or exchanging that information with
34 any other federal, state or local governmental entity for the following
35 official purposes:

36 1. Determining eligibility for any public benefit, service or
37 license provided by any federal, state, local or other political
38 subdivision of this state.

39 2. Verifying any claim of residence or domicile if determination of
40 residence or domicile is required under the laws of this state or a
41 judicial order issued pursuant to a civil or criminal proceeding in this
42 state.

43 3. If the person is an ~~alien~~ IMMIGRANT, determining whether the
44 person ~~is in compliance~~ COMPLIES with the federal registration laws

1 prescribed by title II, chapter 7 of the federal immigration and
2 nationality act.

3 4. Pursuant to 8 United States Code section 1373 and 8 United
4 States Code section 1644.

5 G. This section does not implement, authorize or establish ~~and~~
6 ~~shall not be construed to implement, authorize or establish~~ the REAL ID
7 act of 2005 (P.L. 109-13, division B; 119 Stat. 302), including the use of
8 a radio frequency identification chip.

9 H. A person who is a legal resident of this state may bring an
10 action in superior court to challenge any official or agency of this state
11 or a county, city, town or other political subdivision of this state that
12 adopts or implements a policy that limits or restricts the enforcement of
13 federal immigration laws, including 8 United States Code sections 1373 and
14 1644, to less than the full extent ~~permitted~~ ALLOWED by federal law. If
15 there is a judicial finding that an entity has violated this section, the
16 court shall order that the entity pay a civil penalty of ~~not less than~~
17 ~~five hundred dollars~~ AT LEAST \$500 and not more than ~~five thousand dollars~~
18 \$5,000 for each day that the policy has remained in effect after the
19 filing of an action pursuant to this subsection.

20 I. A court shall collect the civil penalty prescribed in subsection
21 H of this section and remit the civil penalty to the state treasurer for
22 deposit in the gang and immigration intelligence team enforcement mission
23 fund established by section 41-1724.

24 J. The court may award court costs and reasonable attorney fees to
25 any person or any official or agency of this state or a county, city, town
26 or other political subdivision of this state that prevails by an
27 adjudication on the merits in a proceeding brought pursuant to this
28 section.

29 K. Except in relation to matters in which the officer is adjudged
30 to have acted in bad faith, a law enforcement officer is indemnified by
31 the law enforcement officer's agency against reasonable costs and
32 expenses, including attorney fees, incurred by the officer in connection
33 with any action, suit or proceeding brought pursuant to this section in
34 which the officer may be a defendant by reason of the officer being or
35 having been a member of the law enforcement agency.

36 L. This section shall be implemented in a manner consistent with
37 federal laws regulating immigration, protecting the civil rights of all
38 persons and respecting the privileges and immunities of United States
39 citizens.

40 Sec. 6. Section 12-512, Arizona Revised Statutes, is amended to
41 read:

42 12-512. Punitive damages awards; immigrants

43 A person who is present in this state in violation of federal
44 immigration law related to improper entry by an ~~alien~~ IMMIGRANT shall not
45 be awarded punitive damages in any action in any court in this state.

1 Sec. 7. Section 12-2702, Arizona Revised Statutes, is amended to
2 read:

3 12-2702. Representation; definition

4 A. A person desiring immigration and nationality services may be
5 represented by any of the following:

6 1. Attorneys in the United States.

7 2. A law student who is enrolled in an accredited law school or a
8 law school graduate who is not yet admitted to the bar, if both of the
9 following apply:

10 (a) The student or graduate is appearing on an individual case
11 basis at the request of the person entitled to representation.

12 (b) The student or graduate is ~~permitted~~ ALLOWED to appear by the
13 official before whom the student or graduate wishes to appear including an
14 immigration judge, an immigration district director, an immigration
15 officer-in-charge, a regional immigration commission, the ~~United States~~
16 ~~commissioner of immigration and naturalization~~ ASSISTANT SECRETARY OF THE
17 UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, THE DIRECTOR OF THE
18 UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES or the immigration
19 board. If in the official's opinion special circumstances warrant it, the
20 official may require that a law student be accompanied by a supervising
21 faculty member or attorney.

22 3. Any reputable person of good moral character, if all of the
23 following apply:

24 (a) The person is appearing on an individual case basis, at the
25 request of the person entitled to representation.

26 (b) The person is appearing without direct or indirect remuneration
27 and the person files a written declaration to that effect.

28 (c) The person has a preexisting relationship or connection with
29 the person entitled to representation including a relative, neighbor,
30 clergyman, business associate or personal friend, except that this
31 requirement may be waived, as a matter of administrative discretion, in
32 cases in which adequate representation would not otherwise be available.

33 (d) If the person is appearing on behalf of a client, the person's
34 appearance is ~~permitted~~ ALLOWED by the official before whom the person
35 wishes to appear including an immigration judge, an immigration district
36 director, an immigration officer-in-charge, a regional immigration
37 commissioner, the ~~United States commissioner of immigration and~~
38 ~~naturalization~~ ASSISTANT SECRETARY OF THE UNITED STATES IMMIGRATION AND
39 CUSTOMS ENFORCEMENT, THE DIRECTOR OF THE UNITED STATES CITIZENSHIP AND
40 IMMIGRATION SERVICES or the immigration board, except that this permission
41 shall not be granted with respect to any person who regularly engages in
42 immigration and nationality practice or preparation or holds ~~himself~~
43 ~~ONESELF~~ out to the public as qualified to do so.

1 2. The United States immigration and customs enforcement or the
2 United States customs and border protection pursuant to 8 United States
3 Code section 1373(c).

4 C. A law enforcement official or agency of this state or a county,
5 city, town or other political subdivision of this state may not consider
6 race, color or national origin in the enforcement of this section except
7 ~~to the extent permitted~~ AS ALLOWED by the United States or Arizona
8 Constitution.

9 D. A person who is sentenced pursuant to this section is not
10 eligible for suspension of sentence, probation, pardon, commutation of
11 sentence, or release from confinement on any basis except as authorized by
12 section 31-233, subsection A or B until the sentence imposed by the court
13 has been served or the person is eligible for release pursuant to section
14 41-1604.07.

15 E. In addition to any other penalty prescribed by law, the court
16 shall order the person to pay jail costs.

17 F. This section does not apply to a person who maintains
18 authorization from the federal government to remain in the United States.

19 G. Any record that relates to the immigration status of a person is
20 admissible in any court without further foundation or testimony from a
21 custodian of records if the record is certified as authentic by the
22 government agency that is responsible for maintaining the record.

23 H. A violation of this section is a class 1 misdemeanor, except
24 that the maximum fine is ~~one hundred dollars~~ \$100 and for a first
25 violation of this section the court shall not sentence the person to more
26 than twenty days in jail and for a second or subsequent violation the
27 court shall not sentence the person to more than thirty days in jail.

28 Sec. 9. Section 13-2317, Arizona Revised Statutes, is amended to
29 read:

30 13-2317. Money laundering; classification; definitions

31 A. A person is guilty of money laundering in the first degree if
32 the person does any of the following:

33 1. Knowingly initiates, organizes, plans, finances, directs,
34 manages, supervises or is in the business of money laundering in violation
35 of subsection B of this section.

36 2. Violates subsection B of this section in the course of or for
37 the purpose of facilitating terrorism or murder.

38 B. A person is guilty of money laundering in the second degree if
39 the person does any of the following:

40 1. Acquires or maintains an interest in, transacts, transfers,
41 transports, receives or conceals the existence or nature of racketeering
42 proceeds knowing or having reason to know that they are the proceeds of an
43 offense.

1 2. Makes property available to another by transaction,
2 transportation or otherwise knowing that it is intended to be used to
3 facilitate racketeering.

4 3. Conducts a transaction knowing or having reason to know that the
5 property involved is the proceeds of an offense and with the intent to
6 conceal or disguise the nature, location, source, ownership or control of
7 the property or the intent to facilitate racketeering.

8 4. Intentionally or knowingly makes a false statement,
9 misrepresentation or false certification or makes a false entry or omits a
10 material entry in any application, financial statement, account record,
11 customer receipt, report or other document that is filed or required to be
12 maintained or filed under title 6, chapter 12.

13 5. Intentionally or knowingly evades or attempts to evade any
14 reporting requirement under sections 6-1220 and 6-1242, whether by
15 structuring transactions as described in 31 Code of Federal Regulations
16 chapter X, by causing any financial institution, money transmitter, trade
17 or business to fail to file the report, by failing to file a required
18 report or record or by any other means.

19 6. Intentionally or knowingly provides any false information or
20 fails to disclose information that causes any licensee, authorized
21 delegate, money transmitter, trade or business to either:

22 (a) Fail to file any report or record that is required under
23 sections 6-1220 and 6-1242.

24 (b) File such a report or record that contains a material omission
25 or misstatement of fact.

26 7. Intentionally or knowingly falsifies, conceals, covers up or
27 misrepresents or attempts to falsify, conceal, cover up or misrepresent
28 the identity of any person in connection with any transaction with a
29 financial institution or money transmitter.

30 8. In connection with a transaction with a financial institution or
31 money transmitter, intentionally or knowingly makes, uses, offers or
32 presents or attempts to make, use, offer or present, whether accepted or
33 not, a forged instrument, a falsely altered or completed written
34 instrument or a written instrument that contains any materially false
35 personal identifying information.

36 9. If the person is a money transmitter, a person engaged in a
37 trade or business or any employee of a money transmitter or a person
38 engaged in a trade or business, intentionally or knowingly accepts false
39 personal identifying information from any person or otherwise knowingly
40 incorporates false personal identifying information into any report or
41 record that is required by sections 6-1220 and 6-1242.

42 10. Intentionally conducts, controls, manages, supervises, directs
43 or owns all or part of a money transmitting business for which a license
44 is required by title 6, chapter 12 unless the business is licensed
45 pursuant to title 6, chapter 12 and complies with the money transmitting

1 business registration requirements under 31 United States Code section
2 5330.

3 C. A person is guilty of money laundering in the third degree if
4 the person intentionally or knowingly does any of the following:

5 1. In the course of any transaction transmitting money, confers or
6 agrees to confer anything of value on a money transmitter or any employee
7 of a money transmitter that is intended to influence or reward any person
8 for failing to comply with any requirement under title 6, chapter 12.

9 2. Engages in the business of receiving money for transmission or
10 transmitting money, as an employee or otherwise, and receives anything of
11 value on an agreement or understanding that it is intended to influence or
12 benefit the person for failing to comply with any requirement under
13 title 6, chapter 12.

14 D. In addition to any other criminal or civil remedy, if a person
15 violates subsection A or B of this section as part of a pattern of
16 violations that involve a total of \$100,000 or more in any twelve-month
17 period, the person is subject to forfeiture of substitute assets in an
18 amount that is three times the amount that was involved in the pattern,
19 including conduct that occurred before and after the twelve-month period.

20 E. Money laundering in the third degree is a class 6 felony. Money
21 laundering in the second degree is a class 3 felony. Money laundering in
22 the first degree is a class 2 felony.

23 F. The exception that is established by 31 United States Code
24 section 5331(c)(1) does not apply to persons who are engaged in the money
25 accumulation business.

26 G. For the purposes of this section:

27 1. The following terms have the same meanings prescribed in section
28 6-1241:

- 29 (a) "Authorized delegate".
- 30 (b) "Licensee".
- 31 (c) "Money transmitter".
- 32 (d) "Trade or business".

33 2. The following terms have the same meanings prescribed in section
34 13-2001:

- 35 (a) "Falsely alters a written instrument".
- 36 (b) "Falsely completes a written instrument".
- 37 (c) "Falsely makes a written instrument".
- 38 (d) "Forged instrument".
- 39 (e) "Personal identifying information".
- 40 (f) "Written instrument".

41 3. The following terms have the same meanings prescribed in section
42 13-2301:

- 43 (a) "Financial institution".
- 44 (b) "Financial instrument".

1 (c) "Racketeering", except that for the purposes of civil remedies
2 sought by the attorney general, racketeering includes any act, regardless
3 of whether the act would be chargeable or indictable under the laws of
4 this state or whether the act is charged or indicted, that is committed
5 for financial gain, punishable by imprisonment for more than one year
6 under the laws of the United States and described in section
7 274(a)(1)(A)(i), (ii) or (iii) or (a)(2) of the immigration and
8 nationality act (8 United States Code section 1324(a)(1)(A)(i), (ii) or
9 (iii) or (a)(2)) if persons acting in concert in the conduct acquire a
10 total of more than \$5,000 through the conduct in a one-month period. For
11 the purpose of forfeiture of property other than real property, the
12 conduct must involve more than three ~~aliens~~ IMMIGRANTS in a one-month
13 period. For the purpose of forfeiture of real property, the conduct must
14 involve more than fifteen ~~aliens~~ IMMIGRANTS in a one-month period.

15 4. The following terms have the same meaning prescribed in section
16 13-2314:

17 (a) "Acquire".

18 (b) "Proceeds".

19 H. For the purposes of this section:

20 1. "Money accumulation business":

21 (a) Means obtaining money from a money transmitter as part of any
22 activity that is conducted for financial gain if the money that is
23 obtained by all persons acting in concert in the activity, in amounts of
24 \$1,000 or more, totals over \$50,000 in the preceding twelve-month period.

25 (b) Does not include a person who is subject to the reporting
26 requirements under 31 United States Code section 5313.

27 2. "Offense" has the same meaning prescribed in section 13-105 and
28 includes conduct for which a sentence to a term of incarceration is
29 provided by any law of the United States.

30 3. "Transaction" means a purchase, sale, trade, loan, pledge,
31 investment, gift, transfer, transmission, delivery, deposit, withdrawal,
32 payment, transfer between accounts, exchange of currency, extension of
33 credit, purchase or sale of any financial instrument or any other
34 acquisition or disposition of property by whatever means.

35 4. "Transmitting money" means the transmission of money by any
36 means, including transmissions within this country or to or from locations
37 abroad by payment instrument, wire, fax, internet or any other electronic
38 transfer, courier or otherwise.

39 Sec. 10. Section 13-2319, Arizona Revised Statutes, is amended to
40 read:

41 13-2319. Smuggling; classification; definitions

42 A. It is unlawful for a person to intentionally engage in the
43 smuggling of human beings for profit or commercial purpose.

44 B. A violation of this section is a class 4 felony.

1 C. Notwithstanding subsection B of this section, a violation of
2 this section:

3 1. Is a class 2 felony if the human being who is smuggled is under
4 eighteen years of age and is not accompanied by a family member over
5 eighteen years of age or the offense involved the use of a deadly weapon
6 or dangerous instrument.

7 2. Is a class 3 felony if the offense involves the use or
8 threatened use of deadly physical force and the person is not eligible for
9 suspension of sentence, probation, pardon or release from confinement on
10 any other basis except pursuant to section 31-233, subsection A or B until
11 the sentence imposed by the court is served, the person is eligible for
12 release pursuant to section 41-1604.07 or the sentence is commuted.

13 D. Chapter 10 of this title does not apply to a violation of
14 subsection C, paragraph 1 of this section.

15 E. Notwithstanding any other law, in the enforcement of this
16 section a peace officer may lawfully stop any person who is operating a
17 motor vehicle if the officer has reasonable suspicion to believe the
18 person is in violation of any civil traffic law.

19 F. For the purposes of this section:

20 1. "Family member" means the person's parent, grandparent, sibling
21 or any other person who is related to the person by consanguinity or
22 affinity to the second degree.

23 2. "Procurement of transportation" means any participation in or
24 facilitation of transportation and includes:

25 (a) Providing services that facilitate transportation including
26 travel arrangement services or money transmission services.

27 (b) Providing property that facilitates transportation, including a
28 weapon, a vehicle or other means of transportation or false
29 identification, or selling, leasing, renting or otherwise making available
30 a drop house as defined in section 13-2322.

31 3. "Smuggling of human beings" means the transportation,
32 procurement of transportation or use of property or real property by a
33 person or an entity that knows or has reason to know that the person or
34 persons transported or to be transported are not United States citizens,
35 permanent resident ~~aliens~~ IMMIGRANTS or persons otherwise lawfully in this
36 state or have attempted to enter, entered or remained in the United States
37 in violation of law.

38 Sec. 11. Section 13-2928, Arizona Revised Statutes, is amended to
39 read:

40 13-2928. Unlawful stopping to hire and pick up passengers for
41 work; unlawful application, solicitation or
42 employment; classification; definitions

43 A. It is unlawful for an occupant of a motor vehicle that is
44 stopped on a street, roadway or highway to attempt to hire or hire and

1 pick up passengers for work at a different location if the motor vehicle
2 blocks or impedes the normal movement of traffic.

3 B. It is unlawful for a person to enter a motor vehicle that is
4 stopped on a street, roadway or highway in order to be hired by an
5 occupant of the motor vehicle and to be transported to work at a different
6 location if the motor vehicle blocks or impedes the normal movement of
7 traffic.

8 C. It is unlawful for a person who is unlawfully present in the
9 United States and who is an unauthorized ~~alien~~ IMMIGRANT to knowingly
10 apply for work, solicit work in a public place or perform work as an
11 employee or independent contractor in this state.

12 D. A law enforcement official or agency of this state or a county,
13 city, town or other political subdivision of this state may not consider
14 race, color or national origin in the enforcement of this section except
15 ~~to the extent permitted~~ AS ALLOWED by the United States or Arizona
16 Constitution.

17 E. In the enforcement of this section, an ~~alien's~~ IMMIGRANT'S
18 immigration status may be determined by:

19 1. A law enforcement officer who is authorized by the federal
20 government to verify or ascertain an ~~alien's~~ IMMIGRANT'S immigration
21 status.

22 2. The United States immigration and customs enforcement or the
23 United States customs and border protection pursuant to 8 United States
24 Code section 1373(c).

25 F. A violation of this section is a class 1 misdemeanor.

26 G. For the purposes of this section:

27 1. "Solicit" means verbal or nonverbal communication by a gesture
28 or a nod that would indicate to a reasonable person that a person is
29 willing to be employed.

30 2. "Unauthorized ~~alien~~ IMMIGRANT" means an ~~alien~~ IMMIGRANT who does
31 not have the legal right or authorization under federal law to work in the
32 United States as described in 8 United States Code section 1324a(h)(3).

33 Sec. 12. Section 13-2929, Arizona Revised Statutes, is amended to
34 read:

35 13-2929. Unlawful transporting, moving, concealing, harboring
36 or shielding of unauthorized immigrants; vehicle
37 impoundment; exception; classification

38 A. It is unlawful for a person who is in violation of a criminal
39 offense to:

40 1. Transport or move or attempt to transport or move an ~~alien~~
41 IMMIGRANT in this state, in furtherance of the ~~illegal~~ UNAUTHORIZED
42 presence of the ~~alien~~ IMMIGRANT in the United States, in a means of
43 transportation if the person knows or recklessly disregards the fact that
44 the ~~alien~~ IMMIGRANT has come to, has entered or remains in the United
45 States in violation of law.

1 2. Conceal, harbor or shield or attempt to conceal, harbor or
2 shield an ~~alien~~ IMMIGRANT from detection in any place in this state,
3 including any building or any means of transportation, if the person knows
4 or recklessly disregards the fact that the ~~alien~~ IMMIGRANT has come to,
5 has entered or remains in the United States in violation of law.

6 3. Encourage or induce an ~~alien~~ IMMIGRANT to come to or reside in
7 this state if the person knows or recklessly disregards the fact that such
8 coming to, entering or residing in this state is or will be in violation
9 of law.

10 B. A means of transportation that is used in the commission of a
11 violation of this section is subject to mandatory vehicle immobilization
12 or impoundment pursuant to section 28-3511.

13 C. A law enforcement official or agency of this state or a county,
14 city, town or other political subdivision of this state may not consider
15 race, color or national origin in the enforcement of this section except
16 ~~to the extent permitted~~ AS ALLOWED by the United States CONSTITUTION or
17 Arizona Constitution.

18 D. In the enforcement of this section, an ~~alien's~~ IMMIGRANT'S
19 immigration status may be determined by:

20 1. A law enforcement officer who is authorized by the federal
21 government to verify or ascertain an ~~alien's~~ IMMIGRANT'S immigration
22 status.

23 2. The United States immigration and customs enforcement or the
24 United States customs and border protection pursuant to 8 United States
25 Code section 1373(c).

26 E. This section does not apply to a child safety worker acting in
27 the worker's official capacity or a person who is acting in the capacity
28 of a first responder, an ambulance attendant or an emergency medical
29 technician and who is transporting or moving an ~~alien~~ IMMIGRANT in this
30 state pursuant to title 36, chapter 21.1.

31 F. A person who violates this section is guilty of a class 1
32 misdemeanor and is subject to a fine of at least ~~one thousand dollars~~
33 \$1,000, except that a violation of this section that involves ten or more
34 ~~illegal aliens~~ UNDOCUMENTED IMMIGRANTS is a class 6 felony and the person
35 is subject to a fine of at least ~~one thousand dollars~~ \$1,000 for each
36 ~~alien~~ UNDOCUMENTED IMMIGRANT who is involved.

37 Sec. 13. Section 13-3101, Arizona Revised Statutes, is amended to
38 read:

39 13-3101. Definitions

40 A. In this chapter, unless the context otherwise requires:

41 1. "Deadly weapon" means anything that is designed for lethal use.
42 The term includes a firearm.

43 2. "Deface" means to remove, alter or destroy the manufacturer's
44 serial number.

1 3. "Explosive" means any dynamite, nitroglycerine, black powder, or
2 other similar explosive material, including plastic explosives. Explosive
3 does not include ammunition or ammunition components such as primers,
4 percussion caps, smokeless powder, black powder and black powder
5 substitutes used for hand loading purposes.

6 4. "Firearm" means any loaded or unloaded handgun, pistol,
7 revolver, rifle, shotgun or other weapon that will expel, is designed to
8 expel or may readily be converted to expel a projectile by the action of
9 an explosive. Firearm does not include a firearm in permanently
10 inoperable condition.

11 5. "Improvised explosive device" means a device that incorporates
12 explosives or destructive, lethal, noxious, pyrotechnic or incendiary
13 chemicals and that is designed to destroy, disfigure, terrify or harass.

14 6. "Occupied structure" means any building, object, vehicle,
15 watercraft, aircraft or place with sides and a floor that is separately
16 securable from any other structure attached to it, that is used for
17 lodging, business, transportation, recreation or storage and in which one
18 or more human beings either are or are likely to be present or so near as
19 to be in equivalent danger at the time the discharge of a firearm occurs.
20 Occupied structure includes any dwelling house, whether occupied,
21 unoccupied or vacant.

22 7. "Prohibited possessor" means any person:

23 (a) Who has been found to constitute a danger to self or to others
24 or to have a persistent or acute disability or grave disability pursuant
25 to court order pursuant to section 36-540, and whose right to possess a
26 firearm has not been restored pursuant to section 13-925.

27 (b) Who has been convicted within or without this state of a felony
28 or who has been adjudicated delinquent for a felony and whose civil right
29 to possess or carry a firearm has not been restored.

30 (c) Who is at the time of possession serving a term of imprisonment
31 in any correctional or detention facility.

32 (d) Who is at the time of possession serving a term of probation
33 pursuant to a conviction for a domestic violence offense as defined in
34 section 13-3601 or a felony offense, parole, community supervision, work
35 furlough, home arrest or release on any other basis or who is serving a
36 term of probation or parole pursuant to the interstate compact under title
37 31, chapter 3, article 4.1.

38 (e) Who is an undocumented ~~alien~~ IMMIGRANT or a nonimmigrant ~~alien~~
39 NONRESIDENT traveling with or without documentation in this state for
40 business or pleasure or who is studying in this state and who maintains a
41 foreign residence abroad. This subdivision does not apply to:

42 (i) Nonimmigrant ~~aliens~~ NONRESIDENTS who possess a valid hunting
43 license or permit that is lawfully issued by a state in the United States.

44 (ii) Nonimmigrant ~~aliens~~ NONRESIDENTS who enter the United States
45 to participate in a competitive target shooting event or to display

1 firearms at a ~~sports~~ SPORTING or hunting trade show that is sponsored by a
2 national, state or local firearms trade organization devoted to the
3 competitive use or other sporting use of firearms.

4 (iii) Certain diplomats.

5 (iv) Officials of foreign governments or distinguished foreign
6 visitors who are designated by the United States department of state.

7 (v) Persons who have received a waiver from the United States
8 attorney general.

9 (f) Who has been found incompetent pursuant to rule 11, Arizona
10 rules of criminal procedure, and who subsequently has not been found
11 competent.

12 (g) Who is found guilty except insane.

13 8. "Prohibited weapon":

14 (a) Includes the following:

15 (i) An item that is a bomb, grenade, rocket having a propellant
16 charge of more than four ounces or mine and that is explosive, incendiary
17 or poison gas.

18 (ii) A device that is designed, made or adapted to muffle the
19 report of a firearm.

20 (iii) A firearm that is capable of shooting more than one shot
21 automatically, without manual reloading, by a single function of the
22 trigger.

23 (iv) A rifle with a barrel length of less than sixteen inches, or
24 shotgun with a barrel length of less than eighteen inches, or any firearm
25 that is made from a rifle or shotgun and that, as modified, has an overall
26 length of less than twenty-six inches.

27 (v) A breakable container that contains a flammable liquid with a
28 flash point of one hundred fifty degrees Fahrenheit or less and that has a
29 wick or similar device capable of being ignited.

30 (vi) A chemical or combination of chemicals, compounds or
31 materials, including dry ice, that is possessed or manufactured for the
32 purpose of generating a gas to cause a mechanical failure, rupture or
33 bursting or an explosion or detonation of the chemical or combination of
34 chemicals, compounds or materials.

35 (vii) An improvised explosive device.

36 (viii) Any combination of parts or materials that is designed and
37 intended for use in making or converting a device into an item set forth
38 in item (i), (v) or (vii) of this subdivision.

39 (b) Does not include:

40 (i) Any fireworks that are imported, distributed or used in
41 compliance with state laws or local ordinances.

42 (ii) Any propellant, propellant actuated devices or propellant
43 actuated industrial tools that are manufactured, imported or distributed
44 for their intended purposes.

1 (iii) A device that is commercially manufactured primarily for the
2 purpose of illumination.

3 9. "Trafficking" means to sell, transfer, distribute, dispense or
4 otherwise dispose of a weapon or explosive to another person, or to buy,
5 receive, possess or obtain control of a weapon or explosive, with the
6 intent to sell, transfer, distribute, dispense or otherwise dispose of the
7 weapon or explosive to another person.

8 B. The items set forth in subsection A, paragraph 8, subdivision
9 (a), items (i), (ii), (iii) and (iv) of this section do not include any
10 firearms or devices that are possessed, manufactured or transferred in
11 compliance with federal law.

12 Sec. 14. Section 15-1803, Arizona Revised Statutes, is amended to
13 read:

14 15-1803. Immigrant in-state student status

15 A. An ~~alien~~ IMMIGRANT is entitled to classification as an in-state
16 refugee student if such person has been granted refugee status in
17 accordance with all applicable laws of the United States and has met all
18 other requirements for domicile.

19 B. In accordance with the illegal immigration reform and immigrant
20 responsibility act of 1996 (P.L. 104-208; 110 Stat. 3009), a person who
21 was not a citizen or legal resident of the United States or who is without
22 lawful immigration status is not entitled to classification as an in-state
23 student pursuant to section 15-1802 or entitled to classification as a
24 county resident pursuant to section 15-1802.01.

25 C. Each community college and university shall report on December
26 31 and June 30 of each year to the joint legislative budget committee the
27 total number of students who were entitled to classification as an
28 in-state student and the total number of students who were not entitled to
29 classification as an in-state student under this section because the
30 student was not a citizen or legal resident of the United States or is
31 without lawful immigration status.

32 Sec. 15. Heading change

33 The article heading of title 23, chapter 2, article 2, Arizona
34 Revised Statutes, is changed from "EMPLOYMENT OF UNAUTHORIZED ALIENS" to
35 "EMPLOYMENT OF UNAUTHORIZED IMMIGRANTS".

36 Sec. 16. Section 23-211, Arizona Revised Statutes, is amended to
37 read:

38 23-211. Definitions

39 In this article, unless the context otherwise requires:

40 1. "Agency" means any agency, department, board or commission of
41 this state or a county, city or town that issues a license for purposes of
42 operating a business in this state.

43 2. "Employ" means hiring an employee after December 31, 2007.

- 1 3. "Employee":
2 (a) Means any person who provides services or labor for an employer
3 in this state for wages or other remuneration.
4 (b) Does not include an independent contractor.
5 4. "Employer" means any individual or type of organization that
6 transacts business in this state, that has a license issued by an agency
7 in this state and that employs one or more employees in this state.
8 Employer includes this state, any political subdivision of this state and
9 self-employed persons. In the case of an independent contractor, employer
10 means the independent contractor and does not mean the person or
11 organization that uses the contract labor.
12 5. "E-verify program" means the employment verification program as
13 jointly administered by the United States department of homeland security
14 and the social security administration or any of its successor programs.
15 6. "Independent contractor" means any individual or entity that
16 carries on an independent business, that contracts to do a piece of work
17 according to the individual's or entity's own means and methods and that
18 is subject to control only as to results. Whether an individual or entity
19 is an independent contractor is determined on a case-by-case basis through
20 various factors, including whether the individual or entity:
21 (a) Supplies the tools or materials.
22 (b) Makes services available to the general public.
23 (c) Works or may work for a number of clients at the same time.
24 (d) Has an opportunity for profit or loss as a result of labor or
25 service provided.
26 (e) Invests in the facilities for work.
27 (f) Directs the order or sequence in which the work is completed.
28 (g) Determines the hours when the work is completed.
29 7. "Intentionally" has the same meaning prescribed in section
30 13-105.
31 8. "Knowingly employ an unauthorized ~~alien~~ IMMIGRANT" means the
32 actions described in 8 United States Code section 1324a. This term shall
33 be interpreted consistently with 8 United States Code section 1324a and
34 any applicable federal rules and regulations.
35 9. "License":
36 (a) Means any agency permit, certificate, approval, registration,
37 charter or similar form of authorization that is required by law and that
38 is issued by any agency ~~for the purposes of operating~~ TO OPERATE a
39 business in this state.
40 (b) Includes:
41 (i) Articles of incorporation under title 10.
42 (ii) A certificate of partnership, a partnership registration or
43 articles of organization under title 29.
44 (iii) A grant of authority issued under title 10, chapter 15.
45 (iv) Any transaction privilege tax license.

1 (c) Does not include:

2 (i) Any license issued pursuant to title 45 or 49 or rules adopted
3 pursuant to those titles.

4 (ii) Any professional license.

5 10. "Unauthorized ~~alien~~ IMMIGRANT" means an ~~alien~~ IMMIGRANT who
6 does not have the legal right or authorization under federal law to work
7 in the United States as described in 8 United States Code section
8 1324a(h)(3).

9 Sec. 17. Section 23-212, Arizona Revised Statutes, is amended to
10 read:

11 23-212. Knowingly employing unauthorized immigrants;
12 prohibition; false and frivolous complaints;
13 violation; classification; license suspension and
14 revocation; affirmative defense

15 A. An employer shall not knowingly employ an unauthorized ~~alien~~
16 IMMIGRANT. If, in the case when an employer uses a contract, subcontract
17 or other independent contractor agreement to obtain the labor of an ~~alien~~
18 IMMIGRANT in this state, the employer knowingly contracts with an
19 unauthorized ~~alien~~ IMMIGRANT or with a person who employs or contracts
20 with an unauthorized ~~alien~~ IMMIGRANT to perform the labor, the employer
21 violates this subsection.

22 B. The attorney general shall prescribe a complaint form for a
23 person to allege a violation of subsection A of this section. The
24 complainant shall not be required to list the complainant's social
25 security number on the complaint form or to have the complaint form
26 notarized. On receipt of a complaint on a prescribed complaint form that
27 an employer allegedly knowingly employs an unauthorized ~~alien~~ IMMIGRANT,
28 the attorney general or county attorney shall investigate whether the
29 employer has violated subsection A of this section. If a complaint is
30 received but is not submitted on a prescribed complaint form, the attorney
31 general or county attorney may investigate whether the employer has
32 violated subsection A of this section. This subsection ~~shall not be~~
33 ~~construed to~~ DOES NOT prohibit the filing of anonymous complaints that are
34 not submitted on a prescribed complaint form. The attorney general or
35 county attorney shall not investigate complaints that are based solely on
36 race, color or national origin. A complaint that is submitted to a county
37 attorney shall be submitted to the county attorney in the county in which
38 the alleged unauthorized ~~alien~~ IMMIGRANT is or was employed by the
39 employer. The county sheriff or any other local law enforcement agency
40 may assist in investigating a complaint. When investigating a complaint,
41 the attorney general or county attorney shall verify the work
42 authorization of the alleged unauthorized ~~alien~~ IMMIGRANT with the federal
43 government pursuant to 8 United States Code section 1373(c). A state,
44 county or local official shall not attempt to independently make a final
45 determination on whether an ~~alien~~ IMMIGRANT is authorized to work in the

1 United States. An ~~alien's~~ IMMIGRANT'S immigration status or work
2 authorization status shall be verified with the federal government
3 pursuant to 8 United States Code section 1373(c). A person who knowingly
4 files a false and frivolous complaint under this subsection is guilty of a
5 class 3 misdemeanor.

6 C. If, after an investigation, the attorney general or county
7 attorney determines that the complaint is not false and frivolous:

8 1. The attorney general or county attorney shall notify the United
9 States immigration and customs enforcement of the unauthorized ~~alien~~
10 IMMIGRANT.

11 2. The attorney general or county attorney shall notify the local
12 law enforcement agency of the unauthorized ~~alien~~ IMMIGRANT.

13 3. The attorney general shall notify the appropriate county
14 attorney to bring an action pursuant to subsection D of this section if
15 the complaint was originally filed with the attorney general.

16 D. An action for a violation of subsection A of this section shall
17 be brought against the employer by the county attorney in the county where
18 the unauthorized ~~alien~~ IMMIGRANT employee is or was employed by the
19 employer. The county attorney shall not bring an action against any
20 employer for any violation of subsection A of this section that occurs
21 before January 1, 2008. A second violation of this section shall be based
22 only on an unauthorized ~~alien~~ IMMIGRANT who is or was employed by the
23 employer after an action has been brought for a violation of subsection A
24 of this section or section 23-212.01, subsection A.

25 E. For any action in superior court under this section, the court
26 shall expedite the action, including assigning the hearing at the earliest
27 practicable date.

28 F. On a finding of a violation of subsection A of this section:

29 1. For a first violation, as described in paragraph 3 of this
30 subsection, the court:

31 (a) Shall order the employer to terminate the employment of all
32 unauthorized ~~aliens~~ IMMIGRANTS.

33 (b) Shall order the employer to be subject to a ~~three-year~~
34 THREE-YEAR probationary period for the business location where the
35 unauthorized ~~alien~~ IMMIGRANT performed work. During the probationary
36 period the employer shall file quarterly reports in the form provided in
37 section 23-722.01 with the county attorney of each new employee who is
38 hired by the employer at the business location where the unauthorized
39 ~~alien~~ IMMIGRANT performed work.

40 (c) Shall order the employer to file a signed sworn affidavit with
41 the county attorney within three business days after the order is issued.
42 The affidavit shall state that the employer has terminated the employment
43 of all unauthorized ~~aliens~~ IMMIGRANTS in this state and that the employer
44 will not intentionally or knowingly employ an unauthorized ~~alien~~ IMMIGRANT
45 in this state. The court shall order the appropriate agencies to suspend

1 all licenses subject to this subdivision that are held by the employer if
 2 the employer fails to file a signed sworn affidavit with the county
 3 attorney within three business days after the order is issued. All
 4 licenses that are suspended under this subdivision shall remain suspended
 5 until the employer files a signed sworn affidavit with the county
 6 attorney. Notwithstanding any other law, on filing of the affidavit the
 7 suspended licenses shall be reinstated immediately by the appropriate
 8 agencies. For the purposes of this subdivision, the licenses that are
 9 subject to suspension under this subdivision are all licenses that are
 10 held by the employer specific to the business location where the
 11 unauthorized ~~alien~~ IMMIGRANT performed work. If the employer does not
 12 hold a license specific to the business location where the unauthorized
 13 ~~alien~~ IMMIGRANT performed work, but a license is necessary to operate the
 14 employer's business in general, the licenses that are subject to
 15 suspension under this subdivision are all licenses that are held by the
 16 employer at the employer's primary place of business. On receipt of the
 17 court's order and notwithstanding any other law, the appropriate agencies
 18 shall suspend the licenses according to the court's order. The court
 19 shall send a copy of the court's order to the attorney general and the
 20 attorney general shall maintain the copy pursuant to subsection G of this
 21 section.

22 (d) May order the appropriate agencies to suspend all licenses
 23 described in subdivision (c) of this paragraph that are held by the
 24 employer for not to exceed ten business days. The court shall base its
 25 decision to suspend under this subdivision on any evidence or information
 26 submitted to it during the action for a violation of this subsection and
 27 shall consider the following factors, if relevant:

- 28 (i) The number of unauthorized ~~aliens~~ IMMIGRANTS employed by the
 29 employer.
- 30 (ii) Any prior misconduct by the employer.
- 31 (iii) The degree of harm resulting from the violation.
- 32 (iv) Whether the employer made good faith efforts to comply with
 33 any applicable requirements.
- 34 (v) The duration of the violation.
- 35 (vi) The role of the directors, officers or principals of the
 36 employer in the violation.
- 37 (vii) Any other factors the court deems appropriate.

38 2. For a second violation, as described in paragraph 3 of this
 39 subsection, the court shall order the appropriate agencies to permanently
 40 revoke all licenses that are held by the employer specific to the business
 41 location where the unauthorized ~~alien~~ IMMIGRANT performed work. If the
 42 employer does not hold a license specific to the business location where
 43 the unauthorized ~~alien~~ IMMIGRANT performed work, but a license is
 44 necessary to operate the employer's business in general, the court shall
 45 order the appropriate agencies to permanently revoke all licenses that are

1 held by the employer at the employer's primary place of business. On
2 receipt of the order and notwithstanding any other law, the appropriate
3 agencies shall immediately revoke the licenses.

4 3. The violation ~~shall be~~ IS considered:

5 (a) A first violation by an employer at a business location if the
6 violation did not occur during a probationary period ordered by the court
7 under this subsection or section 23-212.01, subsection F for that
8 employer's business location.

9 (b) A second violation by an employer at a business location if the
10 violation occurred during a probationary period ordered by the court under
11 this subsection or section 23-212.01, subsection F for that employer's
12 business location.

13 G. The attorney general shall maintain copies of court orders that
14 are received pursuant to subsection F of this section and shall maintain a
15 database of the employers and business locations that have a first
16 violation of subsection A of this section and make the court orders
17 available on the attorney general's website.

18 H. On determining whether an employee is an unauthorized ~~alien~~
19 IMMIGRANT, the court shall consider only the federal government's
20 determination pursuant to 8 United States Code section 1373(c). The
21 federal government's determination creates a rebuttable presumption of the
22 employee's lawful status. The court may take judicial notice of the
23 federal government's determination and may request the federal government
24 to provide automated or testimonial verification pursuant to 8 United
25 States Code section 1373(c).

26 I. For the purposes of this section, proof of verifying the
27 employment authorization of an employee through the e-verify program
28 creates a rebuttable presumption that an employer did not knowingly employ
29 an unauthorized ~~alien~~ IMMIGRANT.

30 J. For the purposes of this section, an employer that establishes
31 that it has complied in good faith with the requirements of 8 United
32 States Code section 1324a(b) establishes an affirmative defense that the
33 employer did not knowingly employ an unauthorized ~~alien~~ IMMIGRANT. An
34 employer is considered to have complied with the requirements of 8 United
35 States Code section 1324a(b), notwithstanding an isolated, sporadic or
36 accidental technical or procedural failure to meet the requirements, if
37 there is a good faith attempt to comply with the requirements.

38 K. It is an affirmative defense to a violation of subsection A of
39 this section that the employer was entrapped. To claim entrapment, the
40 employer must admit by the employer's testimony or other evidence the
41 substantial elements of the violation. An employer who asserts an
42 entrapment defense has the burden of proving the following by a
43 preponderance of the evidence:

44 1. The idea of committing the violation started with law
45 enforcement officers or their agents rather than with the employer.

1 2. The law enforcement officers or their agents urged and induced
2 the employer to commit the violation.

3 3. The employer was not predisposed to commit the violation before
4 the law enforcement officers or their agents urged and induced the
5 employer to commit the violation.

6 L. An employer does not establish entrapment if the employer was
7 predisposed to violate subsection A of this section and the law
8 enforcement officers or their agents merely provided the employer with an
9 opportunity to commit the violation. It is not entrapment for law
10 enforcement officers or their agents merely to use a ruse or to conceal
11 their identity. The conduct of law enforcement officers and their agents
12 may be considered in determining if an employer has proven entrapment.

13 Sec. 18. Section 23-212.01, Arizona Revised Statutes, is amended to
14 read:

15 23-212.01. Intentionally employing unauthorized immigrants;
16 prohibition; false and frivolous complaints;
17 violation; classification; license suspension
18 and revocation; affirmative defense

19 A. An employer shall not intentionally employ an unauthorized ~~alien~~
20 IMMIGRANT. If, in the case when an employer uses a contract, subcontract
21 or other independent contractor agreement to obtain the labor of an ~~alien~~
22 IMMIGRANT in this state, the employer intentionally contracts with an
23 unauthorized ~~alien~~ IMMIGRANT or with a person who employs or contracts
24 with an unauthorized ~~alien~~ IMMIGRANT to perform the labor, the employer
25 violates this subsection.

26 B. The attorney general shall prescribe a complaint form for a
27 person to allege a violation of subsection A of this section. The
28 complainant shall not be required to list the complainant's social
29 security number on the complaint form or to have the complaint form
30 notarized. On receipt of a complaint on a prescribed complaint form that
31 an employer allegedly intentionally employs an unauthorized ~~alien~~
32 IMMIGRANT, the attorney general or county attorney shall investigate
33 whether the employer has violated subsection A of this section. If a
34 complaint is received but is not submitted on a prescribed complaint form,
35 the attorney general or county attorney may investigate whether the
36 employer has violated subsection A of this section. This subsection ~~shall~~
37 DOES not ~~be construed to~~ prohibit the filing of anonymous complaints that
38 are not submitted on a prescribed complaint form. The attorney general or
39 county attorney shall not investigate complaints that are based solely on
40 race, color or national origin. A complaint that is submitted to a county
41 attorney shall be submitted to the county attorney in the county in which
42 the alleged unauthorized ~~alien~~ IMMIGRANT is or was employed by the
43 employer. The county sheriff or any other local law enforcement agency
44 may assist in investigating a complaint. When investigating a complaint,
45 the attorney general or county attorney shall verify the work

1 authorization of the alleged unauthorized ~~alien~~ IMMIGRANT with the federal
2 government pursuant to 8 United States Code section 1373(c). A state,
3 county or local official shall not attempt to independently make a final
4 determination on whether an ~~alien~~ IMMIGRANT is authorized to work in the
5 United States. An ~~alien's~~ IMMIGRANT'S immigration status or work
6 authorization status shall be verified with the federal government
7 pursuant to 8 United States Code section 1373(c). A person who knowingly
8 files a false and frivolous complaint under this subsection is guilty of a
9 class 3 misdemeanor.

10 C. If, after an investigation, the attorney general or county
11 attorney determines that the complaint is not false and frivolous:

12 1. The attorney general or county attorney shall notify the United
13 States immigration and customs enforcement of the unauthorized ~~alien~~
14 IMMIGRANT.

15 2. The attorney general or county attorney shall notify the local
16 law enforcement agency of the unauthorized ~~alien~~ IMMIGRANT.

17 3. The attorney general shall notify the appropriate county
18 attorney to bring an action pursuant to subsection D of this section if
19 the complaint was originally filed with the attorney general.

20 D. An action for a violation of subsection A of this section shall
21 be brought against the employer by the county attorney in the county where
22 the unauthorized ~~alien~~ IMMIGRANT employee is or was employed by the
23 employer. The county attorney shall not bring an action against any
24 employer for any violation of subsection A of this section that occurs
25 before January 1, 2008. A second violation of this section shall be based
26 only on an unauthorized ~~alien~~ IMMIGRANT who is or was employed by the
27 employer after an action has been brought for a violation of subsection A
28 of this section or section 23-212, subsection A.

29 E. For any action in superior court under this section, the court
30 shall expedite the action, including assigning the hearing at the earliest
31 practicable date.

32 F. On a finding of a violation of subsection A of this section:

33 1. For a first violation, as described in paragraph 3 of this
34 subsection, the court shall:

35 (a) Order the employer to terminate the employment of all
36 unauthorized aliens.

37 (b) Order the employer to be subject to a ~~five-year~~ FIVE-YEAR
38 probationary period for the business location where the unauthorized ~~alien~~
39 IMMIGRANT performed work. During the probationary period the employer
40 shall file quarterly reports in the form provided in section 23-722.01
41 with the county attorney of each new employee who is hired by the employer
42 at the business location where the unauthorized ~~alien~~ IMMIGRANT performed
43 work.

44 (c) Order the appropriate agencies to suspend all licenses
45 described in subdivision (d) of this paragraph that are held by the

1 employer for a minimum of ten days. The court shall base its decision on
2 the length of the suspension under this subdivision on any evidence or
3 information submitted to it during the action for a violation of this
4 subsection and shall consider the following factors, if relevant:

5 (i) The number of unauthorized ~~aliens~~ IMMIGRANTS employed by the
6 employer.

7 (ii) Any prior misconduct by the employer.

8 (iii) The degree of harm resulting from the violation.

9 (iv) Whether the employer made good faith efforts to comply with
10 any applicable requirements.

11 (v) The duration of the violation.

12 (vi) The role of the directors, officers or principals of the
13 employer in the violation.

14 (vii) Any other factors the court deems appropriate.

15 (d) Order the employer to file a signed sworn affidavit with the
16 county attorney. The affidavit shall state that the employer has
17 terminated the employment of all unauthorized ~~aliens~~ IMMIGRANTS in this
18 state and that the employer will not intentionally or knowingly employ an
19 unauthorized ~~alien~~ IMMIGRANT in this state. The court shall order the
20 appropriate agencies to suspend all licenses subject to this subdivision
21 that are held by the employer if the employer fails to file a signed sworn
22 affidavit with the county attorney within three business days after the
23 order is issued. All licenses that are suspended under this subdivision
24 for failing to file a signed sworn affidavit shall remain suspended until
25 the employer files a signed sworn affidavit with the county attorney. For
26 the purposes of this subdivision, the licenses that are subject to
27 suspension under this subdivision are all licenses that are held by the
28 employer specific to the business location where the unauthorized ~~alien~~
29 IMMIGRANT performed work. If the employer does not hold a license
30 specific to the business location where the unauthorized ~~alien~~ IMMIGRANT
31 performed work, but a license is necessary to operate the employer's
32 business in general, the licenses that are subject to suspension under
33 this subdivision are all licenses that are held by the employer at the
34 employer's primary place of business. On receipt of the court's order and
35 notwithstanding any other law, the appropriate agencies shall suspend the
36 licenses according to the court's order. The court shall send a copy of
37 the court's order to the attorney general and the attorney general shall
38 maintain the copy pursuant to subsection G of this section.

39 2. For a second violation, as described in paragraph 3 of this
40 subsection, the court shall order the appropriate agencies to permanently
41 revoke all licenses that are held by the employer specific to the business
42 location where the unauthorized ~~alien~~ IMMIGRANT performed work. If the
43 employer does not hold a license specific to the business location where
44 the unauthorized ~~alien~~ IMMIGRANT performed work, but a license is
45 necessary to operate the employer's business in general, the court shall

1 order the appropriate agencies to permanently revoke all licenses that are
2 held by the employer at the employer's primary place of business. On
3 receipt of the order and notwithstanding any other law, the appropriate
4 agencies shall immediately revoke the licenses.

5 3. The violation ~~shall be~~ IS considered:

6 (a) A first violation by an employer at a business location if the
7 violation did not occur during a probationary period ordered by the court
8 under this subsection or section 23-212, subsection F for that employer's
9 business location.

10 (b) A second violation by an employer at a business location if the
11 violation occurred during a probationary period ordered by the court under
12 this subsection or section 23-212, subsection F for that employer's
13 business location.

14 G. The attorney general shall maintain copies of court orders that
15 are received pursuant to subsection F of this section and shall maintain a
16 database of the employers and business locations that have a first
17 violation of subsection A of this section and make the court orders
18 available on the attorney general's website.

19 H. On determining whether an employee is an unauthorized ~~alien~~
20 IMMIGRANT, the court shall consider only the federal government's
21 determination pursuant to 8 United States Code section 1373(c). The
22 federal government's determination creates a rebuttable presumption of the
23 employee's lawful status. The court may take judicial notice of the
24 federal government's determination and may request the federal government
25 to provide automated or testimonial verification pursuant to 8 United
26 States Code section 1373(c).

27 I. For the purposes of this section, proof of verifying the
28 employment authorization of an employee through the e-verify program
29 creates a rebuttable presumption that an employer did not intentionally
30 employ an unauthorized ~~alien~~ IMMIGRANT.

31 J. For the purposes of this section, an employer that establishes
32 that it has complied in good faith with the requirements of 8 United
33 States Code section 1324a(b) establishes an affirmative defense that the
34 employer did not intentionally employ an unauthorized ~~alien~~ IMMIGRANT. An
35 employer is considered to have complied with the requirements of 8 United
36 States Code section 1324a(b), notwithstanding an isolated, sporadic or
37 accidental technical or procedural failure to meet the requirements, if
38 there is a good faith attempt to comply with the requirements.

39 K. It is an affirmative defense to a violation of subsection A of
40 this section that the employer was entrapped. To claim entrapment, the
41 employer must admit by the employer's testimony or other evidence the
42 substantial elements of the violation. An employer who asserts an
43 entrapment defense has the burden of proving the following by a
44 preponderance of the evidence:

1 Sec. 20. Section 23-781, Arizona Revised Statutes, is amended to
2 read:

3 23-781. Denial of benefits to certain athletes and immigrants

4 A. Benefits based on services, substantially all of which consist
5 of participating in sports or athletic events or training or preparing to
6 ~~so~~ participate, shall not be paid to an individual for any week of
7 unemployment ~~which~~ THAT begins during the period between two successive
8 sport seasons, or similar periods, if the individual performed such
9 services in the first of such seasons or similar periods and there is a
10 reasonable assurance that such individual will perform such services in
11 the later of such seasons or similar periods.

12 B. ~~Benefits shall not be payable for weeks of unemployment~~
13 Beginning on and after January 1, 1978, ~~on the basis of~~ BENEFITS SHALL NOT
14 BE PAID FOR WEEKS OF UNEMPLOYMENT FOR THE services performed by an ~~alien~~
15 IMMIGRANT unless ~~such alien is an individual who~~ THE IMMIGRANT was
16 lawfully admitted for permanent residence ~~at the time such~~ WHEN THE
17 services were performed, was lawfully present ~~for purposes of performing~~
18 ~~such~~ TO PERFORM THE services, or was permanently residing in the United
19 States under color of law ~~at the time such~~ WHEN THE services were
20 performed, ~~(including an alien IMMIGRANT who was lawfully present in the~~
21 United States ~~as a result of the application of~~ UNDER the provisions of
22 section 203(a)(7) or section 212(d)(5) of the immigration and nationality
23 act). Any data or information required ~~of~~ FROM individuals applying for
24 benefits to determine whether benefits are not payable to them because of
25 their ~~alien~~ IMMIGRANT status shall be uniformly required from all
26 applicants for benefits. ~~In the case of an individual whose~~ IF AN
27 INDIVIDUAL'S application for benefits would otherwise be approved, ~~no~~ A
28 determination that benefits to such individual are not payable because of
29 ~~his alien~~ THE INDIVIDUAL'S IMMIGRANT status shall NOT be made except ~~upon~~
30 ON a preponderance of the evidence.

31 Sec. 21. Section 23-901, Arizona Revised Statutes, is amended to
32 read:

33 23-901. Definitions

34 In this chapter, unless the context otherwise requires:

35 1. "Award" means the finding or decision of an administrative law
36 judge or the commission as to the amount of compensation or benefit due an
37 injured employee or the dependents of a deceased employee.

38 2. "Client" means an individual, association, company, firm,
39 partnership, corporation or any other legally recognized entity that is
40 subject to this chapter and that enters into a professional employer
41 agreement with a professional employer organization.

42 3. "Co-employee" means every person employed by an injured
43 employee's employer.

44 4. "Commission" means the industrial commission of Arizona.

1 5. "Compensation" means the compensation and benefits provided by
2 this chapter.

3 6. "Employee", "workman", "worker" and "operative" means:

4 (a) Every person in the service of this state or a county, city,
5 town, municipal corporation or school district, including regular members
6 of lawfully constituted police and fire departments of cities and towns,
7 whether by election, appointment or contract of hire.

8 (b) Every person in the service of any employer subject to this
9 chapter, including ~~aliens~~ IMMIGRANTS and minors legally or illegally
10 allowed to work for hire, but not including a person whose employment is
11 both:

12 (i) Casual.

13 (ii) Not in the usual course of the trade, business or occupation
14 of the employer.

15 (c) Lessees of mining property and the lessees' employees and
16 contractors engaged in the performance of work that is a part of the
17 business conducted by the lessor and over which the lessor retains
18 supervision or control are within the meaning of this paragraph employees
19 of the lessor, and are deemed to be drawing wages as are usually paid
20 employees for similar work. The lessor may deduct from the proceeds of
21 ores mined by the lessees the premium required by this chapter to be paid
22 for such employees.

23 (d) Regular members of volunteer fire departments organized
24 pursuant to title 48, chapter 5, article 1, regular firefighters of any
25 volunteer fire department, including private fire protection service
26 organizations, organized pursuant to title 10, chapters 24 through 40,
27 volunteer firefighters serving as members of a fire department of any
28 incorporated city or town or an unincorporated area without pay or without
29 full pay and on a part-time basis, and voluntary policemen and volunteer
30 firefighters serving in any incorporated city, town or unincorporated area
31 without pay or without full pay and on a part-time basis, are deemed to be
32 employees, but for the purposes of this chapter, the basis for computing
33 wages for premium payments and compensation benefits for regular members
34 of volunteer fire departments organized pursuant to title 48, chapter 5,
35 article 1, or organized pursuant to title 10, chapters 24 through 40,
36 regular members of any private fire protection service organization,
37 volunteer firefighters and volunteer policemen of these departments or
38 organizations shall be the salary equal to the beginning salary of the
39 same rank or grade in the full-time service with the city, town, volunteer
40 fire department or private fire protection service organization, provided
41 if there is no full-time equivalent then the salary equivalent shall be as
42 determined by resolution of the governing body of the city, town or
43 volunteer fire department or corporation.

44 (e) Members of the department of public safety reserve, organized
45 pursuant to section 41-1715, are deemed to be employees. For the purposes

1 of this chapter, the basis for computing wages for premium payments and
2 compensation benefits for a member of the department of public safety
3 reserve who is a peace officer shall be the salary received by officers of
4 the department of public safety for the officers' first month of regular
5 duty as an officer. For members of the department of public safety
6 reserve who are not peace officers, the basis for computing premiums and
7 compensation benefits is \$400 a month.

8 (f) Any person placed in on-the-job evaluation or in on-the-job
9 training under the department of economic security's temporary assistance
10 for needy families program or vocational rehabilitation program shall be
11 deemed to be an employee of the department for the purpose of coverage
12 under the state workers' compensation laws only. The basis for computing
13 premium payments and compensation benefits shall be \$200 per month. Any
14 person receiving vocational rehabilitation services under the department
15 of economic security's vocational rehabilitation program whose major
16 evaluation or training activity is academic, whether as an enrolled
17 attending student or by correspondence, or who is confined to a hospital
18 or penal institution, shall not be deemed to be an employee of the
19 department for any purpose.

20 (g) Regular members of a volunteer sheriff's reserve, which may be
21 established by resolution of the county board of supervisors, to assist
22 the sheriff in the performance of the sheriff's official duties. A roster
23 of the current members shall monthly be certified to the clerk of the
24 board of supervisors by the sheriff and shall not exceed the maximum
25 number authorized by the board of supervisors. Certified members of an
26 authorized volunteer sheriff's reserve shall be deemed to be employees of
27 the county for the purpose of coverage under the Arizona workers'
28 compensation laws and occupational disease disability laws and shall be
29 entitled to receive the benefits of these laws for any compensable
30 injuries or disabling conditions that arise out of and occur in the course
31 of the performance of duties authorized and directed by the sheriff.
32 Compensation benefits and premium payments shall be based on the salary
33 received by a regular full-time deputy sheriff of the county involved for
34 the first month of regular patrol duty as an officer for each certified
35 member of a volunteer sheriff's reserve. This subdivision does not
36 provide compensation coverage for any member of a sheriff's posse who is
37 not a certified member of an authorized volunteer sheriff's reserve except
38 as a participant in a search and rescue mission or a search and rescue
39 training mission.

40 (h) A working member of a partnership may be deemed to be an
41 employee entitled to the benefits provided by this chapter on written
42 acceptance, by endorsement, at the discretion of the insurance carrier for
43 the partnership of an application for coverage by the working partner.
44 The basis for computing premium payments and compensation benefits for the
45 working partner shall be an assumed average monthly wage of not less than

1 \$600 or more than the maximum wage provided in section 23-1041 and is
 2 subject to the discretionary approval of the insurance carrier. Any
 3 compensation for permanent partial or permanent total disability payable
 4 to the partner is computed on the lesser of the assumed monthly wage
 5 agreed to by the insurance carrier on the acceptance of the application
 6 for coverage or the actual average monthly wage received by the partner at
 7 the time of injury.

8 (i) The sole proprietor of a business subject to this chapter may
 9 be deemed to be an employee entitled to the benefits provided by this
 10 chapter on written acceptance, by endorsement, at the discretion of the
 11 insurance carrier of an application for coverage by the sole proprietor.
 12 The basis for computing premium payments and compensation benefits for the
 13 sole proprietor is an assumed average monthly wage of not less than \$600
 14 or more than the maximum wage provided by section 23-1041 and is subject
 15 to the discretionary approval of the insurance carrier. Any compensation
 16 for permanent partial or permanent total disability payable to the sole
 17 proprietor shall be computed on the lesser of the assumed monthly wage
 18 agreed to by the insurance carrier on the acceptance of the application
 19 for coverage or the actual average monthly wage received by the sole
 20 proprietor at the time of injury.

21 (j) A member of the Arizona national guard, Arizona state guard or
 22 unorganized militia shall be deemed a state employee and entitled to
 23 coverage under the Arizona workers' compensation law at all times while
 24 the member is receiving the payment of the member's military salary from
 25 this state under competent military orders or on order of the governor.
 26 Compensation benefits shall be based on the monthly military pay rate to
 27 which the member is entitled at the time of injury, but not less than a
 28 salary of \$400 per month or more than the maximum provided by the workers'
 29 compensation law. Arizona compensation benefits shall not inure to a
 30 member compensable under federal law.

31 (k) Certified ambulance drivers and attendants who serve without
 32 pay or without full pay on a part-time basis are deemed to be employees
 33 and entitled to the benefits provided by this chapter and the basis for
 34 computing wages for premium payments and compensation benefits for
 35 certified ambulance personnel shall be \$400 per month.

36 (l) Volunteer workers of a licensed health care institution may be
 37 deemed to be employees and entitled to the benefits provided by this
 38 chapter on written acceptance by the insurance carrier of an application
 39 by the health care institution for coverage of such volunteers. The basis
 40 for computing wages for premium payments and compensation benefits for
 41 volunteers shall be \$400 per month.

42 (m) Personnel who participate in a search or rescue operation or a
 43 search or rescue training operation that carries a mission identifier
 44 assigned by the division of emergency management as provided in section
 45 35-192.01 and who serve without compensation as volunteer state employees.

1 The basis for computation of wages for premium purposes and compensation
 2 benefits is the total volunteer man-hours recorded by the division of
 3 emergency management in a given quarter multiplied by the amount
 4 determined by the appropriate risk management formula.

5 (n) Personnel who participate in emergency management training,
 6 exercises or drills that are duly enrolled or registered with the division
 7 of emergency management or any political subdivision as provided in
 8 section 26-314, subsection C and who serve without compensation as
 9 volunteer state employees. The basis for computation of wages for premium
 10 purposes and compensation benefits is the total volunteer man-hours
 11 recorded by the division of emergency management or political subdivision
 12 during a given training session, exercise or drill multiplied by the
 13 amount determined by the appropriate risk management formula.

14 (o) Regular members of the Arizona game and fish department
 15 reserve, organized pursuant to section 17-214. The basis for computing
 16 wages for premium payments and compensation benefits for a member of the
 17 reserve is the salary received by game rangers and wildlife managers of
 18 the Arizona game and fish department for the game rangers' and wildlife
 19 managers' first month of regular duty.

20 (p) Every person employed pursuant to a professional employer
 21 agreement.

22 (q) A working member of a limited liability company who owns less
 23 than fifty percent of the membership interest in the limited liability
 24 company.

25 (r) A working member of a limited liability company who owns fifty
 26 percent or more of the membership interest in the limited liability
 27 company may be deemed to be an employee entitled to the benefits provided
 28 by this chapter on the written acceptance, by endorsement, of an
 29 application for coverage by the working member at the discretion of the
 30 insurance carrier for the limited liability company. The basis for
 31 computing wages for premium payments and compensation benefits for the
 32 working member is an assumed average monthly wage of \$600 or more but not
 33 more than the maximum wage provided in section 23-1041 and is subject to
 34 the discretionary approval of the insurance carrier. Any compensation for
 35 permanent partial or permanent total disability payable to the working
 36 member is computed on the lesser of the assumed monthly wage agreed to by
 37 the insurance carrier on the acceptance of the application for coverage or
 38 the actual average monthly wage received by the working member at the time
 39 of injury.

40 (s) A working shareholder of a corporation who owns less than fifty
 41 percent of the beneficial interest in the corporation.

42 (t) A working shareholder of a corporation who owns fifty percent
 43 or more of the beneficial interest in the corporation may be deemed to be
 44 an employee entitled to the benefits provided by this chapter on the
 45 written acceptance, by endorsement, of an application for coverage by the

1 working shareholder at the discretion of the insurance carrier for the
2 corporation. The basis for computing wages for premium payments and
3 compensation benefits for the working shareholder is an assumed average
4 monthly wage of \$600 or more but not more than the maximum wage provided
5 in section 23-1041 and is subject to the discretionary approval of the
6 insurance carrier. Any compensation for permanent partial or permanent
7 total disability payable to the working shareholder is computed on the
8 lesser of the assumed monthly wage agreed to by the insurance carrier on
9 the acceptance of the application for coverage or the actual average
10 monthly wage received by the working shareholder at the time of injury.

11 7. "General order" means an order applied generally throughout this
12 state to all persons under jurisdiction of the commission.

13 8. "Heart-related or perivascular injury, illness or death" means
14 myocardial infarction, coronary thrombosis or any other similar sudden,
15 violent or acute process involving the heart or perivascular system, or
16 any death resulting therefrom, and any weakness, disease or other
17 condition of the heart or perivascular system, or any death resulting
18 therefrom.

19 9. "Insurance carrier" means every insurance carrier duly
20 authorized by the director of the department of insurance and financial
21 institutions to write workers' compensation or occupational disease
22 compensation insurance in this state.

23 10. "Interested party" means the employer, the employee, or if the
24 employee is deceased, the employee's estate, the surviving spouse or
25 dependents, the commission, the insurance carrier or their representative.

26 11. "Mental injury, illness or condition" means any mental,
27 emotional, psychotic or neurotic injury, illness or condition.

28 12. "Order" means and includes any rule, direction, requirement,
29 standard, determination or decision other than an award or a directive by
30 the commission or an administrative law judge relative to any entitlement
31 to compensation benefits, or to the amount of compensation benefits, and
32 any procedural ruling relative to the processing or adjudicating of a
33 compensation matter.

34 13. "Personal injury by accident arising out of and in the course
35 of employment" means any of the following:

36 (a) Personal injury by accident arising out of and in the course of
37 employment.

38 (b) An injury caused by the wilful act of a third person directed
39 against an employee because of the employee's employment, but does not
40 include a disease unless resulting from the injury.

41 (c) An occupational disease that is due to causes and conditions
42 characteristic of and peculiar to a particular trade, occupation, process
43 or employment, and not the ordinary diseases to which the general public
44 is exposed, and subject to section 23-901.01 or 23-901.09 or, for
45 heart-related, perivascular or pulmonary cases, section 23-1105.

1 14. "Professional employer agreement" means a written contract
2 between a client and a professional employer organization:

3 (a) In which the professional employer organization expressly
4 agrees to co-employ all or a majority of the employees providing services
5 for the client. In determining whether the professional employer
6 organization employs all or a majority of the employees of a client, any
7 person employed pursuant to the terms of the professional employer
8 agreement after the initial placement of client employees on the payroll
9 of the professional employer organization shall be included.

10 (b) That is intended to be ongoing rather than temporary in nature.

11 (c) In which employer responsibilities for worksite employees,
12 including hiring, firing and disciplining, are expressly allocated between
13 the professional employer organization and the client in the agreement.

14 15. "Professional employer organization" means any person engaged
15 in the business of providing professional employer services. Professional
16 employer organization does not include a temporary help firm or an
17 employment agency.

18 16. "Professional employer services" means the service of entering
19 into co-employment relationships under this chapter to which all or a
20 majority of the employees providing services to a client or to a division
21 or work unit of a client are covered employees.

22 17. "Serve" or "service" means either:

23 (a) Mailing to the last known address of the receiving party.

24 (b) Transmitting by other means, including electronic transmission,
25 with the written consent of the receiving party.

26 18. "Special order" means an order other than a general order.

27 19. "Weakness, disease or other condition of the heart or
28 perivascular system" means arteriosclerotic heart disease, cerebral
29 vascular disease, peripheral vascular disease, cardiovascular disease,
30 angina pectoris, congestive heart trouble, coronary insufficiency,
31 ischemia and all other similar weaknesses, diseases and conditions, and
32 also previous episodes or instances of myocardial infarction, coronary
33 thrombosis or any similar sudden, violent or acute process involving the
34 heart or perivascular system.

35 20. "Workers' compensation" means workmen's compensation as used in
36 article XVIII, section 8, Constitution of Arizona.

37 Sec. 22. Section 28-3511, Arizona Revised Statutes, is amended to
38 read:

39 28-3511. Removal and immobilization or impoundment of
40 vehicle; Arizona crime information center database

41 A. A peace officer shall cause the removal and either
42 immobilization or impoundment of a vehicle if the peace officer determines
43 that:

44 1. A person is driving the vehicle while any of the following
45 applies:

1 (a) Except as otherwise provided in this subdivision, the person's
2 driving privilege is revoked for any reason. A peace officer shall not
3 cause the removal and either immobilization or impoundment of a vehicle
4 pursuant to this subdivision if the person's privilege to drive is valid
5 in this state.

6 (b) The person has ~~not ever~~ NEVER been issued a valid driver
7 license or permit by this state and the person does not produce evidence
8 of ever having a valid driver license or permit issued by another
9 jurisdiction. This subdivision does not apply to the operation of an
10 implement of husbandry.

11 (c) The person is subject to an ignition interlock device
12 requirement pursuant to chapter 4 of this title and the person is
13 operating a vehicle without a functioning certified ignition interlock
14 device. This subdivision does not apply to the operation of a vehicle due
15 to a substantial emergency as defined in section 28-1464.

16 (d) In furtherance of the ~~illegal~~ presence of an ~~alien~~ UNDOCUMENTED
17 IMMIGRANT in the United States and in violation of a criminal offense, the
18 person is transporting or moving or attempting to transport or move an
19 ~~alien~~ IMMIGRANT in this state in a vehicle if the person knows or
20 recklessly disregards the fact that the ~~alien~~ IMMIGRANT has come to, has
21 entered or remains in the United States in violation of law.

22 (e) The person is concealing, harboring or shielding or attempting
23 to conceal, harbor or shield from detection an ~~alien~~ IMMIGRANT in this
24 state in a vehicle if the person knows or recklessly disregards the fact
25 that the ~~alien~~ IMMIGRANT has come to, entered or remains in the United
26 States in violation of law.

27 2. A person is driving ~~a~~ THE vehicle in violation of section
28 28-693 and the peace officer reasonably believes that allowing the person
29 to continue driving the vehicle would expose other persons to the risk of
30 serious bodily injury or death.

31 3. A person is driving ~~a~~ THE vehicle in violation of section
32 28-708 and the peace officer reasonably believes that allowing the person
33 to continue driving the vehicle would expose other persons to the risk of
34 serious bodily injury or death.

35 4. A person is obstructing a highway or other public thoroughfare
36 in violation of section 13-2906 and the peace officer reasonably believes
37 that allowing the person to continue driving the vehicle would expose
38 other persons to the risk of serious bodily injury or death.

39 5. The vehicle is displayed for sale or for transfer of ownership
40 with a vehicle identification number that has been destroyed, removed,
41 covered, altered or defaced.

42 B. A peace officer shall cause the removal and impoundment of a
43 vehicle if the peace officer determines that a person is driving the
44 vehicle and if all of the following apply:

1 1. The person's driving privilege is canceled or revoked for any
2 reason or the person has ~~not ever~~ NEVER been issued a driver license or
3 permit by this state and the person does not produce evidence of ever
4 having a driver license or permit issued by another jurisdiction.

5 2. The person is not in compliance with the financial
6 responsibility requirements of chapter 9, article 4 of this title.

7 3. The person is driving a vehicle that is involved in an accident
8 that results in either property damage or injury to or death of another
9 person.

10 C. Except as provided in subsection D of this section, while a
11 peace officer has control of the vehicle the peace officer shall cause the
12 removal and either immobilization or impoundment of the vehicle if the
13 peace officer has probable cause to arrest the driver of the vehicle for a
14 violation of section 4-244, paragraph 34 or section 28-1382 or 28-1383.

15 D. A peace officer shall not cause the removal and either the
16 immobilization or impoundment of a vehicle pursuant to subsection C of
17 this section if all of the following apply:

18 1. The peace officer determines that the vehicle is currently
19 registered and that the driver or the vehicle is in compliance with the
20 financial responsibility requirements of chapter 9, article 4 of this
21 title.

22 2. Another person is with the driver at the time of the arrest.

23 3. The peace officer has reasonable grounds to believe that the
24 other person who is with the driver at the time of the arrest meets all of
25 the following:

26 (a) Has a valid driver license.

27 (b) Is not impaired by intoxicating liquor, any drug, a vapor
28 releasing substance containing a toxic substance or any combination of
29 liquor, drugs or vapor releasing substances.

30 (c) Does not have any spirituous liquor in the person's body if the
31 person is under twenty-one years of age.

32 4. The other person who is with the driver at the time of the
33 arrest notifies the peace officer that the person will drive the vehicle
34 from the place of arrest to the driver's home or other place of safety.

35 5. The other person drives the vehicle as prescribed by paragraph 4
36 of this subsection.

37 E. Except as provided in subsection H of this section and as
38 otherwise provided in this article, a vehicle that is removed and either
39 immobilized or impounded pursuant to subsection A, B or C of this section
40 shall be immobilized or impounded for twenty days. An insurance company
41 does not have a duty to pay any benefits for charges or fees for
42 immobilization or impoundment.

43 F. The owner of a vehicle that is removed and either immobilized or
44 impounded pursuant to subsection A, B or C of this section, the spouse of
45 the owner and each person who has provided the department with indicia of

1 ownership as prescribed in section 28-3514 or other interest in the
2 vehicle that exists immediately before the immobilization or impoundment
3 shall be provided with an opportunity for an immobilization or poststorage
4 hearing pursuant to section 28-3514.

5 G. A law enforcement agency that employs the peace officer who
6 removes and either immobilizes or impounds a vehicle pursuant to this
7 section shall enter information about the removal and either
8 immobilization or impoundment of the vehicle in the Arizona crime
9 information center database within three business days after the removal
10 and either immobilization or impoundment.

11 H. A vehicle that is removed and either immobilized or impounded
12 pursuant to subsection A, paragraph 4 of this section shall be immobilized
13 or impounded for seven days.

14 Sec. 23. Section 32-1822, Arizona Revised Statutes, is amended to
15 read:

16 32-1822. Qualifications of applicant; application;
17 fingerprinting; fees

18 A. On a form and in a manner prescribed by the board, an applicant
19 for licensure shall submit proof that the applicant:

20 1. Is the person named on the application and on all supporting
21 documents submitted.

22 2. Is a citizen of the United States or a resident ~~alien~~ IMMIGRANT.

23 3. Is a graduate of a school of osteopathic medicine approved by
24 the American osteopathic association.

25 4. Has successfully completed an approved internship, the first
26 year of an approved multiple-year residency or a board-approved
27 equivalency.

28 5. Has passed the approved examinations for licensure within seven
29 years of application or has the board-approved equivalency of practice
30 experience.

31 6. Has not engaged in any conduct that, if it occurred in this
32 state, would be considered unprofessional conduct or, if the applicant has
33 engaged in unprofessional conduct, is rehabilitated from the underlying
34 conduct.

35 7. Is physically, mentally and emotionally able to practice
36 medicine, or, if limited, restricted or impaired in the ability to
37 practice medicine, consents to contingent licensure pursuant to subsection
38 E of this section or to entry into a program prescribed in section
39 32-1861.

40 8. Has submitted a full set of fingerprints to the board ~~for the~~
41 ~~purpose of obtaining~~ TO OBTAIN a state and federal criminal records check
42 pursuant to section 41-1750 and Public Law 92-544. The department of
43 public safety may exchange this fingerprint data with the federal bureau
44 of investigation.

1 B. An applicant must submit with the application the nonrefundable
2 application fee prescribed in section 32-1826 and pay the prescribed
3 license issuance fee to the board at the time the license is issued.

4 C. The board or the executive director may require an applicant to
5 submit to a personal interview, a physical examination or a mental
6 evaluation or any combination of these, at the applicant's expense, at a
7 reasonable time and place as prescribed by the board if the board
8 determines that this is necessary to provide the board adequate
9 information regarding the applicant's ability to meet the licensure
10 requirements of this chapter. An interview may include medical knowledge
11 questions and other matters that are relevant to licensure.

12 D. The board may deny a license for any unprofessional conduct that
13 would constitute grounds for disciplinary action pursuant to this chapter
14 or as determined by a competent domestic or foreign jurisdiction.

15 E. The board may issue a license that is contingent on the
16 applicant entering into a stipulated order that may include a period of
17 probation or a restriction on the licensee's practice.

18 F. The executive director may issue licenses to applicants who meet
19 the requirements of this section.

20 G. A person whose license has been revoked, denied or surrendered
21 in this or any other state may apply for licensure not sooner than five
22 years after the revocation, denial or surrender.

23 H. A license issued pursuant to this section is valid for the
24 remainder of the calendar year in which it was issued, at which time it is
25 eligible for renewal.

26 Sec. 24. Section 32-1829, Arizona Revised Statutes, is amended to
27 read:

28 32-1829. Training permits; issuance of permits

29 A. The board may grant a one-year renewable training permit to a
30 person who is participating in a teaching hospital's accredited
31 internship, residency or clinical fellowship training program to allow
32 that person to practice medicine only in the supervised setting of that
33 program. Before the board issues the permit, the person shall:

34 1. Submit an application on a form and in a manner prescribed by
35 the board and proof that the applicant:

36 (a) Is the person named on the application and on all supporting
37 documentation.

38 (b) Is a citizen of the United States or a resident ~~alien~~
39 IMMIGRANT.

40 (c) Is a graduate of a school approved by the American osteopathic
41 association.

42 (d) Participated in postgraduate training, if any.

43 (e) Has passed approved examinations appropriate to the applicant's
44 level of education and training.

1 (f) Has not engaged in any conduct that, if it occurred in this
2 state, would be considered unprofessional conduct or, if the applicant has
3 engaged in unprofessional conduct, is rehabilitated from the underlying
4 conduct.

5 (g) Is physically, mentally and emotionally able to practice
6 medicine, or, if limited, restricted or impaired in the ability to
7 practice medicine, consents to a contingent permit or to entry into a
8 program described in section 32-1861.

9 2. Pay the nonrefundable application fee prescribed by the board.

10 B. If a permittee who is participating in a teaching hospital's
11 accredited internship, residency or clinical fellowship training program
12 must repeat or make up time in the program due to resident progression or
13 for other reasons, the board may grant that person an extension of the
14 training permit if requested to do so by the program's director of medical
15 education or a person who holds an equivalent position. The extended
16 permit limits the permittee to practicing only in the supervised setting
17 of that program for a period of time sufficient to repeat or make up the
18 training.

19 C. The board may grant a training permit to a person who is not
20 licensed in this state and who is participating in a short-term training
21 program of four months or less for continuing medical education conducted
22 in an approved school of osteopathic medicine or a hospital that has an
23 accredited hospital internship, residency or clinical fellowship training
24 program in this state. Before the board issues the permit, the person
25 shall:

26 1. Submit an application on a form and in a manner prescribed by
27 the board and proof that the applicant meets the requirements prescribed
28 in subsection A, paragraph 1 of this section.

29 2. Pay the nonrefundable application fee prescribed by the board.

30 D. A permittee is subject to the disciplinary provisions of this
31 chapter.

32 E. The executive director may issue a permit to an applicant who
33 meets the requirements of this chapter.

34 F. If a permit is not issued pursuant to subsection E of this
35 section, the board may issue a permit or may:

36 1. Issue a permit that is contingent on the applicant entering into
37 a stipulated agreement that may include a period of probation or a
38 restriction on the permittee's practice.

39 2. Deny a permit to an applicant who does not meet the requirements
40 of this chapter.

1 Sec. 25. Section 34-301, Arizona Revised Statutes, is amended to
2 read:

3 34-301. Employment of immigrants on public works prohibited

4 A. A person WHO IS not a citizen or ward of the United States shall
5 not be employed ~~upon~~ ON or in connection with any state, county or
6 municipal works or employment.

7 B. This section ~~shall~~ DOES not ~~be construed to~~ prevent the working
8 of prisoners by ~~the~~ THIS state or a county or municipality ~~thereof~~ OF THIS
9 STATE on street, road, or other public work, nor ~~shall the provisions of~~
10 DOES this section apply to the employment of any teacher, instructor or
11 professor authorized to teach in the United States under the teacher
12 exchange program as provided by federal statutes or the employment of
13 university or college faculty members.

14 Sec. 26. Section 36-889, Arizona Revised Statutes, is amended to
15 read:

16 36-889. Licensees; applicants; residency; controlling
17 persons; requirements

18 A. Each licensee, other than a corporation, a limited liability
19 company, an association or a partnership, shall be a citizen of the United
20 States who is a resident of this state, or a legal resident ~~alien~~
21 IMMIGRANT who is a resident of this state. A corporation, association or
22 limited liability company ~~shall be~~ IS a domestic entity or a foreign
23 entity that is qualified to do business in this state. A partnership
24 shall have at least one partner who is a citizen of the United States and
25 who is a resident of this state, or who is a legal resident ~~alien~~
26 IMMIGRANT and who is a resident of this state.

27 B. The department shall not issue or renew a license unless a list
28 of each of the applicant's or licensee's controlling persons is on file
29 with the department and ~~no~~ A controlling person has NOT been denied a
30 certificate to operate a child care group home or a license to operate a
31 child care facility for the care of children in this state or ~~other~~
32 ANOTHER state or has had a license to operate a child care facility or a
33 certificate to operate a child care group home revoked for reasons that
34 relate to the endangerment of the health and safety of children.

35 C. The applicant or licensee shall notify the department within
36 thirty days after the election of any new officer or director or of any
37 change in the controlling persons and shall provide the department the
38 name and business or residential address of each controlling person and an
39 affirmation by the applicant that no controlling person has been denied a
40 certificate to operate a child care group home or a license to operate a
41 child care facility for the care of children in this state or another
42 state or has had a license to operate a child care facility or a
43 certificate to operate a child care group home revoked for reasons that
44 relate to the endangerment of the health and safety of children.

1 D. Each applicant or licensee shall designate an agent who is
2 authorized to receive communications from the department, including legal
3 service of process, and to file and sign documents for the applicant or
4 licensee. The designated agent shall be all of the following:

5 1. A controlling person.

6 2. A citizen of the United States or a legal resident ~~alien~~
7 IMMIGRANT.

8 3. A resident of this state.

9 Sec. 27. Section 36-2903.03, Arizona Revised Statutes, is amended
10 to read:

11 36-2903.03. United States citizenship and qualified immigrant
12 requirements for eligibility; report;
13 definition

14 A. A person who is applying for eligibility under this chapter
15 shall provide verification of United States citizenship or documented
16 verification of qualified ~~alien~~ IMMIGRANT status. Beginning July 1, 2006,
17 an applicant who is applying for services pursuant to this chapter shall
18 provide satisfactory documentary evidence of citizenship or qualified
19 ~~alien~~ IMMIGRANT status as required by the federal deficit reduction act of
20 2005 (P.L. 109-171; 120 Stat. 4; 42 United States Code section 1396b) or
21 any other applicable federal law or regulation.

22 B. A qualified ~~alien~~ IMMIGRANT may apply for eligibility pursuant
23 to section 36-2901, paragraph 6, subdivision (a) and, if otherwise
24 eligible for title XIX, may receive all services pursuant to section
25 36-2907 if the qualified ~~alien~~ IMMIGRANT meets at least one of the
26 following requirements:

27 1. Is designated as one of the exception groups under 8 United
28 States Code section 1613(b).

29 2. Has been a qualified ~~alien~~ IMMIGRANT for at least five years.

30 3. Has been continuously present in the United States since August
31 21, 1996.

32 C. Notwithstanding any other law, persons who were residing in the
33 United States under color of law on or before August 21, 1996, and who
34 were receiving services under this article based on eligibility criteria
35 established under the supplemental security income program, may apply for
36 state funded services and, if otherwise eligible for supplemental security
37 income-medical assistance only coverage except for United States
38 citizenship or qualified ~~alien~~ IMMIGRANT requirements, may be enrolled
39 with the system and receive all services pursuant to section 36-2907.

40 D. A person who is a qualified ~~alien~~ IMMIGRANT who does not meet
41 the requirements of subsection B of this section or who is a noncitizen
42 who does not claim and provide verification of qualified ~~alien~~ IMMIGRANT
43 status may apply for title XIX eligibility under section 36-2901,
44 paragraph 6, subdivision (a) and, if otherwise eligible for title XIX, may

1 receive only emergency services pursuant to section 1903(v) of the social
2 security act.

3 E. In determining the eligibility for all qualified ~~aliens~~
4 IMMIGRANTS pursuant to this chapter, the income and resources of any
5 person who executed an affidavit of support pursuant to section 213A of
6 the immigration and nationality act on behalf of the qualified ~~alien~~
7 IMMIGRANT and the income and resources of the spouse, if any, of the
8 sponsoring individual shall be counted at the time of application and for
9 the redetermination of eligibility for the duration of the attribution
10 period as specified in federal law.

11 F. A person who is a qualified ~~alien~~ IMMIGRANT or a noncitizen and
12 who is not eligible for title XIX may receive only emergency services.

13 G. On or before September 30 of each year, the administration shall
14 submit a report to the governor, the president of the senate, the speaker
15 of the house of representatives and the staff director of the joint
16 legislative budget committee that includes the following information:

17 1. The number of individuals for whom the administration verified
18 immigration status using the systematic alien verification for
19 entitlements program administered by the United States citizenship and
20 immigration services.

21 2. The number of documents that were discovered to be fraudulent by
22 using the systematic alien verification for entitlements program.

23 3. A list of the types of fraudulent documents discovered.

24 4. The number of citizens of the United States who were referred by
25 the administration for prosecution pursuant to violations of state or
26 federal law and the number of individuals referred by the administration
27 for prosecution who were not citizens.

28 H. The administration shall provide copies of the report to the
29 secretary of state and the director of the Arizona state library, archives
30 and public records.

31 I. For purposes of this section, "qualified ~~alien~~ IMMIGRANT" means
32 an individual who is one of the following:

33 1. Defined as a qualified alien under 8 United States Code section
34 1641.

35 2. Defined as a qualified alien by the attorney general of the
36 United States under the authority of Public Law 104-208, section 501.

37 3. An Indian described in 8 United States Code section
38 1612(b)(2)(E).

39 Sec. 28. Section 36-2931, Arizona Revised Statutes, is amended to
40 read:

41 36-2931. Definitions

42 In this article, unless the context otherwise requires:

43 1. "Administration" means the Arizona health care cost containment
44 system administration.

- 1 2. "Capitation rate" means a mode of payment ~~which~~ THAT the program
2 contractor receives for the delivery of services to members pursuant to
3 this article and ~~which~~ THAT is based on a fixed rate per person
4 notwithstanding the amount of services provided to a member.
- 5 3. "Department" means the department of economic security.
- 6 4. "Director" means the director of the Arizona health care cost
7 containment system administration.
- 8 5. "Eligible person" means a person who:
9 (a) Is a resident of this state and a United States citizen or a
10 person who meets the requirements for qualified ~~alien~~ IMMIGRANT status as
11 determined pursuant to section 36-2903.03, who entered the United States
12 on or before August 21, 1996 or who entered the United States on or after
13 August 22, 1996 and who is a member of an exception group under Public Law
14 104-193, section 412.
- 15 (b) Meets the eligibility criteria pursuant to section 36-2934.
- 16 (c) Needs institutional services as determined pursuant to section
17 36-2936.
- 18 (d) Is defined as eligible pursuant to section
19 1902(a)(10)(A)(ii)(XV) and (XVI) of title XIX of the social security act
20 and who meets the income requirements of section 36-2950.
- 21 6. "Home and community based services" means services described in
22 section 36-2939, subsection B, paragraph 2 and subsection C.
- 23 7. "Institutional services" means services described in section
24 36-2939, subsection A, paragraph 1 and subsection B, paragraph 1.
- 25 8. "Member" means an eligible person who is enrolled in the system.
- 26 9. "Noncontracting provider" means a person who provides services
27 as prescribed by section 36-2939 and who does not have a subcontract with
28 a program contractor.
- 29 10. "Program contractor" means the department or any other entity
30 that contracts with the administration pursuant to section 36-2940 or
31 36-2944 to provide services to members pursuant to this article.
- 32 11. "Provider" means a person who subcontracts with a program
33 contractor for the delivery of services to members pursuant to this
34 article.
- 35 12. "Special health care district" means a special health care
36 district organized pursuant to title 48, chapter 31.
- 37 13. "State plan" means a written agreement between the centers for
38 medicare and medicaid services and the Arizona health care cost
39 containment system administration that describes eligibility, covered
40 services and the requirements for participation in the medicaid program
41 except those requirements that are waived pursuant to the research and
42 demonstration waiver pursuant to section 1115 of the social security act.
- 43 14. "System" means the Arizona long-term care system.
- 44 15. "Uniform accounting system" means a standard method of
45 collecting, recording and safeguarding Arizona long-term care system data.

1 Sec. 29. Section 36-2932, Arizona Revised Statutes, is amended to
2 read:

3 36-2932. Arizona long-term care system; powers and duties of
4 the director; expenditure limitation

5 A. The Arizona long-term care system is established. The system
6 includes the management and delivery of hospitalization, medical care,
7 institutional services and home and community based services to members
8 through the administration, the program contractors and providers pursuant
9 to this article together with federal participation under title XIX of the
10 social security act. The director in the performance of all duties shall
11 consider the use of existing programs, rules and procedures in the
12 counties and department where appropriate in meeting federal requirements.

13 B. The administration has full operational responsibility for the
14 system, which shall include the following:

15 1. Contracting with and certification of program contractors in
16 compliance with all applicable federal laws.

17 2. Approving the program contractors' comprehensive service
18 delivery plans pursuant to section 36-2940.

19 3. Providing by rule for the ability of the director to review and
20 approve or disapprove program contractors' requests for proposals for
21 providers and provider subcontracts.

22 4. Providing technical assistance to the program contractors.

23 5. Developing a uniform accounting system to be implemented by
24 program contractors and providers of institutional services and home and
25 community based services.

26 6. Conducting quality control on eligibility determinations and
27 preadmission screenings.

28 7. Establishing and managing a comprehensive system for assuring
29 the quality of care delivered by the system as required by federal law.

30 8. Establishing an enrollment system.

31 9. Establishing a member case management tracking system.

32 10. Establishing and managing a method to prevent fraud by
33 applicants, members, eligible persons, program contractors, providers and
34 noncontracting providers as required by federal law.

35 11. Coordinating benefits as provided in section 36-2946.

36 12. Establishing standards for the coordination of services.

37 13. Establishing financial and performance audit requirements for
38 program contractors, providers and noncontracting providers.

39 14. Prescribing remedies as required pursuant to 42 United States
40 Code section 1396r. These remedies may include the appointment of
41 temporary management by the director, acting in collaboration with the
42 director of the department of health services, ~~in order~~ to continue
43 operation of a nursing care institution providing services pursuant to
44 this article.

1 15. Establishing a system to implement medical child support
2 requirements, as required by federal law. The administration may enter
3 into an intergovernmental agreement with the department of economic
4 security to implement this paragraph.

5 16. Establishing requirements and guidelines for the review of
6 trusts ~~for the purposes of establishing~~ TO ESTABLISH eligibility for the
7 system pursuant to section 36-2934.01 and posteligibility treatment of
8 income pursuant to subsection L of this section.

9 17. Accepting the delegation of authority from the department of
10 health services to enforce rules that prescribe minimum certification
11 standards for adult foster care providers pursuant to section 36-410,
12 subsection B. The administration may contract with another entity to
13 perform the certification functions.

14 18. Assessing civil penalties for improper billing as prescribed in
15 section 36-2903.01, subsection K.

16 C. For nursing care institutions and hospices that provide services
17 pursuant to this article, the director shall contract periodically as
18 deemed necessary and as required by federal law for a financial audit of
19 the institutions and hospices that is certified by a certified public
20 accountant in accordance with generally accepted auditing standards or
21 conduct or contract for a financial audit or review of the institutions
22 and hospices. The director shall notify the nursing care institution and
23 hospice at least sixty days before beginning a periodic audit. The
24 administration shall reimburse a nursing care institution or hospice for
25 any additional expenses incurred for professional accounting services
26 obtained in response to a specific request by the administration. On
27 request, the director of the administration shall provide a copy of an
28 audit performed pursuant to this subsection to the director of the
29 department of health services or that person's designee.

30 D. Notwithstanding any other provision of this article, the
31 administration may contract by an intergovernmental agreement with an
32 Indian tribe, a tribal council or a tribal organization for the provision
33 of long-term care services pursuant to section 36-2939, subsection A,
34 paragraphs 1, 2, 3 and 4 and the home and community based services
35 pursuant to section 36-2939, subsection B, paragraph 2 and subsection C,
36 subject to the restrictions in section 36-2939, subsections D and E for
37 eligible members.

38 E. The director shall require as a condition of a contract that all
39 records relating to contract compliance are available for inspection by
40 the administration subject to subsection F of this section and that these
41 records are maintained for five years. The director shall also require
42 that these records are available on request of the secretary of the United
43 States department of health and human services or its successor agency.

44 F. Subject to applicable law relating to privilege and protection,
45 the director shall adopt rules prescribing the types of information that

1 are confidential and circumstances under which that information may be
2 used or released, including requirements for physician-patient
3 confidentiality. Notwithstanding any other law, these rules shall provide
4 for the exchange of necessary information among the program contractors,
5 the administration and the department ~~for the purposes of~~ TO DETERMINE
6 eligibility ~~determination~~ under this article.

7 G. The director shall adopt rules to specify methods for the
8 transition of members into, within and out of the system. The rules shall
9 include provisions for the transfer of members, the transfer of medical
10 records and the initiation and termination of services.

11 H. The director shall adopt rules that provide for withholding or
12 forfeiting payments made to a program contractor if it fails to comply
13 with a provision of its contract or with the director's rules.

14 I. The director shall:

15 1. Establish by rule the time frames and procedures for all
16 grievances and requests for hearings consistent with section 36-2903.01,
17 subsection B, paragraph 4.

18 2. Apply for and accept federal monies available under title XIX of
19 the social security act in support of the system. In addition, the
20 director may apply for and accept grants, contracts and private donations
21 in support of the system.

22 3. Not less than thirty days before the administration implements a
23 policy or a change to an existing policy relating to reimbursement,
24 provide notice to interested parties. Parties interested in receiving
25 notification of policy changes shall submit a written request for
26 notification to the administration.

27 J. The director may apply for federal monies available for the
28 support of programs to investigate and prosecute violations arising from
29 the administration and operation of the system. Available state monies
30 appropriated for the administration of the system may be used as matching
31 monies to secure federal monies pursuant to this subsection.

32 K. The director shall adopt rules that establish requirements of
33 state residency and qualified ~~alien~~ IMMIGRANT status as prescribed in
34 section 36-2903.03. The administration shall enforce these requirements
35 as part of the eligibility determination process. The rules shall also
36 provide for the determination of the applicant's county of residence for
37 the purpose of assignment of the appropriate program contractor.

38 L. The director shall adopt rules in accordance with the state plan
39 regarding posteligibility treatment of income and resources that determine
40 the portion of a member's income that ~~shall be~~ IS available for payment
41 for services under this article. The rules shall provide that a portion
42 of income may be retained for:

43 1. A personal needs allowance for members receiving institutional
44 services of at least fifteen ~~per cent~~ PERCENT of the maximum monthly
45 supplemental security income payment for an individual or a personal needs

1 allowance for members receiving home and community based services based on
2 a reasonable assessment of need.

3 2. The maintenance needs of a spouse or family at home in
4 accordance with federal law. The minimum resource allowance for the
5 spouse or family at home is ~~twelve thousand dollars~~ \$12,000 adjusted
6 annually by the same percentage as the percentage change in the consumer
7 price index for all urban consumers (all items; United States city
8 average) between September 1988 and the September before the calendar year
9 involved.

10 3. Expenses incurred for noncovered medical or remedial care that
11 are not subject to payment by a ~~third party~~ THIRD-PARTY payor.

12 M. In addition to the rules otherwise specified in this article,
13 the director may adopt necessary rules pursuant to title 41, chapter 6 to
14 carry out this article. Rules adopted by the director pursuant to this
15 subsection may consider the differences between rural and urban conditions
16 on the delivery of services.

17 N. The director shall not adopt any rule or enter into or approve
18 any contract or subcontract that does not conform to federal requirements
19 or that may cause the system to lose any federal monies to which it is
20 otherwise entitled.

21 O. The administration, program contractors and providers may
22 establish and maintain review committees dealing with the delivery of
23 care. Review committees and their staff are subject to the same
24 requirements, protections, privileges and immunities prescribed pursuant
25 to section 36-2917.

26 P. If the director determines that the financial viability of a
27 nursing care institution or hospice is in question, the director may
28 require a nursing care institution and a hospice providing services
29 pursuant to this article to submit quarterly financial statements within
30 thirty days after the end of its financial quarter unless the director
31 grants an extension in writing before that date. Quarterly financial
32 statements submitted to the department shall include the following:

33 1. A balance sheet detailing the institution's assets, liabilities
34 and net worth.

35 2. A statement of income and expenses, including current personnel
36 costs and full-time equivalent statistics.

37 Q. The director may require monthly financial statements if the
38 director determines that the financial viability of a nursing care
39 institution or hospice is in question. The director shall prescribe the
40 requirements of these statements.

41 R. The total amount of state monies that may be spent in any fiscal
42 year by the administration for long-term care shall not exceed the amount
43 appropriated or authorized by section 35-173 for that purpose. This
44 article ~~shall~~ DOES not ~~be construed to~~ impose a duty on an officer, agent
45 or employee of this state to discharge a responsibility or to create any

1 right in a person or group if the discharge or right would require an
2 expenditure of state monies in excess of the expenditure authorized by
3 legislative appropriation for that specific purpose.

4 Sec. 30. Section 36-2983, Arizona Revised Statutes, is amended to
5 read:

6 36-2983. Eligibility for the program

7 A. The administration shall establish a streamlined eligibility
8 process for applicants to the program and shall issue a certificate of
9 eligibility at the time eligibility for the program is determined.
10 Eligibility ~~shall be~~ IS based on gross household income for a member as
11 defined in section 36-2981. The administration shall not apply a resource
12 test in the eligibility determination or redetermination process.

13 B. The administration shall use a simplified eligibility form that
14 may be mailed to the administration. Once a completed application is
15 received, including adequate verification of income, the administration
16 shall expedite the eligibility determination and enrollment on a
17 prospective basis.

18 C. The date of eligibility is the first day of the month following
19 a determination of eligibility if the decision is made by the twenty-fifth
20 day of the month. A person who is determined eligible for the program
21 after the twenty-fifth day of the month is eligible for the program the
22 first day of the second month following the determination of eligibility.

23 D. An applicant for the program who appears to be eligible pursuant
24 to section 36-2901, paragraph 6, subdivision (a) shall have a social
25 security number or shall apply for a social security number within thirty
26 days after the applicant ~~submits an application~~ APPLIES for the program.

27 E. ~~In order~~ To be eligible for the program, a person shall be a
28 resident of this state and shall meet title XIX requirements for United
29 States citizenship or qualified ~~alien~~ IMMIGRANT status in the manner
30 prescribed in section 36-2903.03.

31 F. In determining the eligibility for all qualified ~~aliens~~
32 IMMIGRANTS pursuant to this article, the income and resources of a person
33 who executed an affidavit of support pursuant to section 213A of the
34 immigration and nationality act on behalf of the qualified ~~alien~~ IMMIGRANT
35 and the income and resources of the spouse, if any, of the sponsoring
36 individual shall be counted at the time of application and for the
37 redetermination of eligibility for the duration of the attribution period
38 as specified in federal law.

39 G. Pursuant to federal law, a person is not eligible for the
40 program if that person is:

41 1. Eligible for title XIX or other federally operated or financed
42 health care insurance programs, except the Indian health service.

43 2. Covered by any group health plan or other health insurance
44 coverage as defined in section 2791 of the public health service act.

45 ~~Group health plan or other health insurance coverage does not include~~

1 ~~coverage to persons who are defined as eligible pursuant to the premium~~
2 ~~sharing program.~~

3 3. A member of a family that is eligible for health benefits
4 coverage under a state health benefit plan based on a family member's
5 employment with a public agency in this state.

6 4. An inmate of a public institution or a patient in an institution
7 for mental diseases. This paragraph does not apply to services furnished
8 in a state operated mental hospital or to residential or other twenty-four
9 hour therapeutically planned structured services.

10 H. A child who is covered under an employer's group health
11 insurance plan or through family or individual health care coverage shall
12 not be enrolled in the program. If the health insurance coverage is
13 voluntarily discontinued for any reason, except for the loss of health
14 insurance due to loss of employment or other involuntary reason, the child
15 is not eligible for the program for a period of three months ~~from~~ AFTER
16 the date that the health care coverage was discontinued. The
17 administration may waive the ~~three-month~~ THREE-MONTH period for any child
18 who is seriously or chronically ill. For the purposes of the waiver,
19 "chronically ill" means a medical condition that requires frequent and
20 ongoing treatment and that if not properly treated will seriously affect
21 the child's overall health. The administration shall establish rules to
22 further define conditions that constitute a serious or chronic illness.

23 I. Pursuant to federal law, a private insurer, as defined by the
24 secretary of the United States department of health and human services,
25 shall not limit enrollment by contract or any other means based on the
26 presumption that a child may be eligible for the program.

27 Sec. 31. Section 41-906, Arizona Revised Statutes, is amended to
28 read:

29 41-906. Return of immigrant and nonresident public charges

30 A. The governor shall cooperate with the ~~United States commissioner~~
31 ~~general of immigration~~ ASSISTANT SECRETARY OF THE UNITED STATES
32 IMMIGRATION AND CUSTOMS ENFORCEMENT AND THE DIRECTOR OF THE UNITED STATES
33 CITIZENSHIP AND IMMIGRATION SERVICES and with boards or officials of
34 foreign countries for ~~the purpose of~~ arranging and providing for the
35 return to the foreign countries of ~~alien~~ IMMIGRANT public charges confined
36 in the state hospital or in the industrial school, and of ~~aliens~~
37 IMMIGRANTS discharged from the state prison.

38 B. To facilitate the return of nonresident public charges confined
39 in the state hospital, or in the state industrial school, the governor may
40 enter into reciprocal agreements or arrangements with officers of other
41 states for the mutual exchange of such public charges, and in pursuance
42 thereof the governor may give written consent and approval of the return
43 to the state of any resident of this state confined in a public
44 institution of another state, corresponding to hospitals or asylums for

1 the insane, or of a state institution for the reformation of delinquent
2 minors.

3 C. A person ~~shall not be~~ IS NOT deemed a resident of this state for
4 the purposes of this section unless ~~he~~ THE PERSON has resided continuously
5 in ~~the~~ THIS state for one year next preceding commitment to any of the
6 institutions named in this section.

7 D. The expenses incurred in returning ~~aliens~~ IMMIGRANTS and
8 nonresident public charges shall be paid by the state, but the expense of
9 returning residents of this state to this state shall not be paid by this
10 state.

11 Sec. 32. Section 41-1080, Arizona Revised Statutes, is amended to
12 read:

13 41-1080. Licensing eligibility; authorized presence;
14 documentation; applicability; definitions

15 A. Subject to subsections C and D of this section, an agency or
16 political subdivision of this state shall not issue a license to an
17 individual if the individual does not provide documentation of citizenship
18 or ~~alien~~ IMMIGRANT status by presenting any of the following documents to
19 the agency or political subdivision indicating that the individual's
20 presence in the United States is authorized under federal law:

21 1. An Arizona driver license issued after 1996 or an Arizona
22 nonoperating identification license.

23 2. A driver license issued by a state that verifies lawful presence
24 in the United States.

25 3. A birth certificate or delayed birth certificate issued in any
26 state, territory or possession of the United States.

27 4. A United States certificate of birth abroad.

28 5. A United States passport.

29 6. A foreign passport with a United States visa.

30 7. An I-94 form with a photograph.

31 8. A United States citizenship and immigration services employment
32 authorization document or refugee travel document.

33 9. A United States certificate of naturalization.

34 10. A United States certificate of citizenship.

35 11. A tribal certificate of Indian blood.

36 12. A tribal or bureau of Indian affairs affidavit of birth.

37 13. Any other license that is issued by the federal government, any
38 other state government, an agency of this state or a political subdivision
39 of this state AND that requires proof of citizenship or lawful ~~alien~~
40 IMMIGRANT status before issuing the license.

41 B. This section does not apply to an individual if either:

42 1. Both of the following apply:

43 (a) The individual is a citizen of a foreign country or, if at the
44 time of application, the individual resides in a foreign country.

1 (b) The benefits that are related to the license do not require the
2 individual to be present in the United States ~~in order~~ to receive those
3 benefits.

4 2. All of the following apply:

5 (a) The individual is a resident of another state.

6 (b) The individual holds an equivalent license in that other state
7 and the equivalent license is of the same type being sought in this state.

8 (c) The individual seeks the Arizona license to comply with this
9 state's licensing laws and not to establish residency in this state.

10 C. If, pursuant to subsection A of this section, an individual has
11 affirmatively established citizenship of the United States or a form of
12 nonexpiring work authorization issued by the federal government, the
13 individual, on renewal or reinstatement of a license, is not required to
14 provide subsequent documentation of that status.

15 D. If, on renewal or reinstatement of a license, an individual
16 holds a limited form of work authorization issued by the federal
17 government that has expired, the individual shall provide documentation of
18 that status.

19 E. If a document listed in subsection A, paragraphs 1 through 12 of
20 this section does not contain a photograph of the individual, the
21 individual shall also present a government issued document that contains a
22 photograph of the individual.

23 F. For the purposes of this section:

24 1. "Agency" means any agency, department, board or commission of
25 this state or any political subdivision of this state that issues a
26 license ~~for the purposes of operating~~ TO OPERATE a business in this state
27 or to an individual who provides a service to any person.

28 2. "License" means any agency permit, certificate, approval,
29 registration, charter or similar form of authorization that is required by
30 law and that is issued by any agency ~~for the purposes of operating~~ TO
31 OPERATE a business in this state or to an individual who provides a
32 service to any person where the license is necessary in performing that
33 service.

34 Sec. 33. Section 41-1462, Arizona Revised Statutes, is amended to
35 read:

36 41-1462. Exemption: nonresident immigrants, religious
37 institutions

38 This article does not apply to an employer with respect to the
39 employment of ~~aliens~~ IMMIGRANTS outside any state or to a religious
40 corporation, association, educational institution or society with respect
41 to the employment of individuals of a particular religion to perform work
42 connected with the ~~carrying on by such~~ CONTINUATION OF THE corporation,
43 association, educational institution or society of its activities.

1 Sec. 34. Section 43-210, Arizona Revised Statutes, is amended to
2 read:

3 43-210. Premium tax credit; health insurance; certification
4 of qualified persons; violation; classification;
5 definitions

6 A. The department shall issue a certificate of eligibility to a
7 person who files an application with the department in the form and manner
8 prescribed by the department on a ~~first come, first served~~ FIRST-COME,
9 FIRST-SERVED basis, subject to subsection E OF THIS SECTION. An
10 application submitted to the department under this section shall contain
11 or be verified by a written declaration that it is made under penalty of
12 perjury. A person is entitled to receive a certificate if the department
13 determines monies are available for this program pursuant to subsection E
14 OF THIS SECTION, the person has never ~~before~~ received a certificate and
15 the person is either:

16 1. A small business.

17 2. An individual who satisfies all of the following:

18 (a) Earns less than two hundred fifty ~~per cent~~ PERCENT of the
19 federal poverty level.

20 (b) Is a legal resident of this state and a citizen of the United
21 States or a legal resident ~~alien~~ IMMIGRANT.

22 (c) Has not been covered under a health insurance policy for at
23 least six consecutive months before the application.

24 (d) Is not enrolled in the Arizona health care cost containment
25 system, medicare or any other state or federal government health insurance
26 program.

27 B. A health care insurer that enrolls an individual or small
28 business certified pursuant to this section shall deduct the amount of the
29 certificate from the premium.

30 C. For an individual, the amount of the certificate is the lesser
31 of:

32 1. ~~One thousand dollars~~ \$1,000 for coverage on a single person,
33 ~~five hundred dollars~~ \$500 for coverage on a child or ~~three thousand~~
34 ~~dollars~~ \$3,000 for family coverage.

35 2. Fifty ~~per cent~~ PERCENT of the health insurance premium.

36 D. For a small business, the amount of the certificate is the
37 lesser of:

38 1. ~~One thousand dollars~~ \$1,000 for coverage on each single employee
39 or ~~three thousand dollars~~ \$3,000 for each employee who elects family
40 coverage.

41 2. Fifty ~~per cent~~ PERCENT of the health insurance premium.

42 E. A health care insurer that enrolls an individual or small
43 business certified pursuant to this section shall notify the department of
44 the enrollment and the amount of premium tax credit it intends to claim
45 for the current calendar year no later than the fifteenth day of the month

1 following commencement of coverage. The department shall not issue any
2 certificates under this section that exceed in the aggregate a combined
3 total of ~~five million dollars~~ \$5,000,000 in any calendar year.

4 F. The initial certificate is valid for a period of ninety days
5 after the date the department issues the certificate. If the individual
6 or small business obtains health care insurance within this ~~period of~~ time
7 PERIOD, the certificate is valid for one year ~~from~~ AFTER commencement of
8 coverage.

9 G. Sixty days before the expiration of the certificate the
10 department shall review the status of the individual or small business.
11 If the individual or small business continues to meet the qualifications
12 pursuant to subsection A, paragraph 1 or paragraph 2, subdivisions (a),
13 (b) and (d) OF THIS SECTION, the department shall reissue the certificate
14 of eligibility.

15 H. Individuals and small businesses are eligible for a maximum of
16 two reissued certificates of eligibility.

17 I. This section does not guarantee health insurance coverage to an
18 individual or small business pursuant to this section.

19 J. The department shall issue the certificate of eligibility in the
20 name of a specific individual and the certificate is nontransferable. A
21 person who sells, conveys, transfers or assigns the certificate to another
22 person or attempts to sell, convey, transfer or assign the certificate to
23 another person is guilty of a class 2 misdemeanor.

24 K. For the purposes of this section:

25 1. "Family" means any of the following:

26 (a) An adult and the adult's spouse.

27 (b) An adult, the adult's spouse and all unmarried dependent
28 children under nineteen years of age or under twenty-five years of age if
29 a full-time student.

30 (c) An adult and the adult's unmarried dependent children under
31 nineteen years of age or under twenty-five years of age if a full-time
32 student.

33 2. "Federal poverty level" means the federal poverty level
34 guidelines published annually by the United States department of health
35 and human services.

36 3. "Health care insurer" means a disability insurer, group
37 disability insurer, blanket disability insurer, health care services
38 organization, hospital service corporation, medical service corporation or
39 hospital and medical service corporation that provides health insurance in
40 this state.

1 4. "Health insurance" means a licensed health care plan or
2 arrangement that pays for or furnishes medical or health care services and
3 that is issued by a health care insurer.

4 5. "Small business" means a business that has been in existence for
5 at least one calendar year in this state, that had not provided health
6 insurance to its employees for at least six consecutive months before the
7 application and that had at least two and ~~two~~ NOT more than twenty-five
8 employees during the most recent calendar year.