

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

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1365

Introduced by
Senators Mendez: Gabaldón, Hernandez, Terán; Representative Salman

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

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

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

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

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

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

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

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

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

41 3. If the person is an ~~alien~~ IMMIGRANT, determining whether the
42 person ~~is in compliance~~ COMPLIES with the federal registration laws
43 prescribed by title II, chapter 7 of the federal immigration and
44 nationality act.

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

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

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

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

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

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

32 L. This section shall be implemented in a manner consistent with
33 federal laws regulating immigration, protecting the civil rights of all
34 persons and respecting the privileges and immunities of United States
35 citizens.

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

38 12-512. Punitive damages awards; immigrants

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

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

44 12-2702. Representation; definition

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

1 1. Attorneys in the United States.

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

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

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

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

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

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

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

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

39 4. A person who is representing an organization accredited by the
40 board of immigration appeals and who has been accredited by the
41 immigration board.

42 5. An accredited official in the United States of the government to
43 which an ~~alien~~ IMMIGRANT owes allegiance, if the official appears solely
44 in an official capacity and with the ~~alien's~~ IMMIGRANT'S consent.

45 B. Except as otherwise provided in this section, no other person or
46 persons may represent others in any case, prepare applications or forms or

1 give any legal advice relating to any immigration or naturalization
2 matter.

3 C. Any person who misrepresents the services the person may provide
4 in immigration or nationality matters is in violation of this chapter.

5 D. A person or organization may not retain an original document
6 belonging to a client unless authorized by the client.

7 E. An attorney who practices immigration and nationality law in
8 this state and who is not a member of the state bar of Arizona shall not
9 provide advice on issues of this state's law. An attorney who practices
10 immigration and nationality law in this state and who is not licensed by
11 the state bar of Arizona shall disclose to all persons to whom service is
12 provided that the attorney is not licensed by the state bar of Arizona and
13 shall disclose the state in which the attorney is licensed to practice
14 law. This disclosure must be done in writing at the time the attorney's
15 services are retained.

16 F. For the purposes of this section, "attorney" means any person
17 who is a member in good standing of the bar of the highest court of any
18 state, possession, territory, commonwealth or district of the United
19 States and who is not under any order of any court suspending, enjoining,
20 restraining, disbaring or otherwise restricting the person in the
21 practice of law.

22 Sec. 8. Section 13-1509, Arizona Revised Statutes, is amended to
23 read:

24 13-1509. Wilful failure to complete or carry an alien
25 registration document; exception; authenticated
26 records; classification

27 A. In addition to any violation of federal law, a person is guilty
28 of ~~willful~~ WILFUL failure to complete or carry an alien registration
29 document if the person is in violation of 8 United States Code section
30 1304(e) or 1306(a).

31 B. In the enforcement of this section, an ~~alien's~~ IMMIGRANT'S
32 immigration status may be determined by:

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

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

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

44 D. A person who is sentenced pursuant to this section is not
45 eligible for suspension of sentence, probation, pardon, commutation of
46 sentence, or release from confinement on any basis except as authorized by

1 section 31-233, subsection A or B until the sentence imposed by the court
2 has been served or the person is eligible for release pursuant to section
3 41-1604.07.

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

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

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

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

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

19 13-2317. Money laundering; classification; definitions

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

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

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

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

29 1. Acquires or maintains an interest in, transacts, transfers,
30 transports, receives or conceals the existence or nature of racketeering
31 proceeds knowing or having reason to know that they are the proceeds of an
32 offense.

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

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

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

45 5. Intentionally or knowingly evades or attempts to evade any
46 reporting requirement under sections 6-1220 and 6-1242, whether by

1 structuring transactions as described in 31 Code of Federal Regulations
2 chapter X, by causing any financial institution, money transmitter, trade
3 or business to fail to file the report, by failing to file a required
4 report or record or by any other means.

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

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

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

12 7. Intentionally or knowingly falsifies, conceals, covers up or
13 misrepresents or attempts to falsify, conceal, cover up or misrepresent
14 the identity of any person in connection with any transaction with a
15 financial institution or money transmitter.

16 8. In connection with a transaction with a financial institution or
17 money transmitter, intentionally or knowingly makes, uses, offers or
18 presents or attempts to make, use, offer or present, whether accepted or
19 not, a forged instrument, a falsely altered or completed written
20 instrument or a written instrument that contains any materially false
21 personal identifying information.

22 9. If the person is a money transmitter, a person engaged in a
23 trade or business or any employee of a money transmitter or a person
24 engaged in a trade or business, intentionally or knowingly accepts false
25 personal identifying information from any person or otherwise knowingly
26 incorporates false personal identifying information into any report or
27 record that is required by sections 6-1220 and 6-1242.

28 10. Intentionally conducts, controls, manages, supervises, directs
29 or owns all or part of a money transmitting business for which a license
30 is required by title 6, chapter 12 unless the business is licensed
31 pursuant to title 6, chapter 12 and complies with the money transmitting
32 business registration requirements under 31 United States Code section
33 5330.

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

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

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

45 D. In addition to any other criminal or civil remedy, if a person
46 violates subsection A or B of this section as part of a pattern of

1 violations that involve a total of \$100,000 or more in any twelve-month
2 period, the person is subject to forfeiture of substitute assets in an
3 amount that is three times the amount that was involved in the pattern,
4 including conduct that occurred before and after the twelve-month period.

5 E. Money laundering in the third degree is a class 6 felony. Money
6 laundering in the second degree is a class 3 felony. Money laundering in
7 the first degree is a class 2 felony.

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

11 G. For the purposes of this section:

12 1. The following terms have the same meanings prescribed in section
13 6-1241:

14 (a) "Authorized delegate".

15 (b) "Licensee".

16 (c) "Money transmitter".

17 (d) "Trade or business".

18 2. The following terms have the same meanings prescribed in section
19 13-2001:

20 (a) "Falsely alters a written instrument".

21 (b) "Falsely completes a written instrument".

22 (c) "Falsely makes a written instrument".

23 (d) "Forged instrument".

24 (e) "Personal identifying information".

25 (f) "Written instrument".

26 3. The following terms have the same meanings prescribed in section
27 13-2301:

28 (a) "Financial institution".

29 (b) "Financial instrument".

30 (c) "Racketeering", except that for the purposes of civil remedies
31 sought by the attorney general, racketeering includes any act, regardless
32 of whether the act would be chargeable or indictable under the laws of
33 this state or whether the act is charged or indicted, that is committed
34 for financial gain, punishable by imprisonment for more than one year
35 under the laws of the United States and described in section
36 274(a)(1)(A)(i), (ii) or (iii) or (a)(2) of the immigration and
37 nationality act (8 United States Code section 1324(a)(1)(A)(i), (ii) or
38 (iii) or (a)(2)) if persons acting in concert in the conduct acquire a
39 total of more than \$5,000 through the conduct in a one-month period. For
40 the purpose of forfeiture of property other than real property, the
41 conduct must involve more than three ~~aliens~~ IMMIGRANTS in a one-month
42 period. For the purpose of forfeiture of real property, the conduct must
43 involve more than fifteen ~~aliens~~ IMMIGRANTS in a one-month period.

44 4. The following terms have the same meaning prescribed in section
45 13-2314:

46 (a) "Acquire".

1 (b) "Proceeds".

2 H. For the purposes of this section:

3 1. "Money accumulation business":

4 (a) Means obtaining money from a money transmitter as part of any
5 activity that is conducted for financial gain if the money that is
6 obtained by all persons acting in concert in the activity, in amounts of
7 \$1,000 or more, totals over \$50,000 in the preceding twelve-month period.

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

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

13 3. "Transaction" means a purchase, sale, trade, loan, pledge,
14 investment, gift, transfer, transmission, delivery, deposit, withdrawal,
15 payment, transfer between accounts, exchange of currency, extension of
16 credit, purchase or sale of any financial instrument or any other
17 acquisition or disposition of property by whatever means.

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

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

24 13-2319. Smuggling; classification; definitions

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

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

28 C. Notwithstanding subsection B of this section, a violation of
29 this section:

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

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

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

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

1 F. For the purposes of this section:

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

5 2. "Procurement of transportation" means any participation in or
6 facilitation of transportation and includes:

7 (a) Providing services that facilitate transportation including
8 travel arrangement services or money transmission services.

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

13 3. "Smuggling of human beings" means the transportation,
14 procurement of transportation or use of property or real property by a
15 person or an entity that knows or has reason to know that the person or
16 persons transported or to be transported are not United States citizens,
17 permanent resident ~~aliens~~ IMMIGRANTS or persons otherwise lawfully in this
18 state or have attempted to enter, entered or remained in the United States
19 in violation of law.

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

22 13-2928. Unlawful stopping to hire and pick up passengers for
23 work; unlawful application, solicitation or
24 employment; classification; definitions

25 A. It is unlawful for an occupant of a motor vehicle that is
26 stopped on a street, roadway or highway to attempt to hire or hire and
27 pick up passengers for work at a different location if the motor vehicle
28 blocks or impedes the normal movement of traffic.

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

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

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

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

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

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

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

8 G. For the purposes of this section:

9 1. "Solicit" means verbal or nonverbal communication by a gesture
10 or a nod that would indicate to a reasonable person that a person is
11 willing to be employed.

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

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

17 13-2929. Unlawful transporting, moving, concealing, harboring
18 or shielding of unauthorized immigrants; vehicle
19 impoundment; exception; classification

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

22 1. Transport or move or attempt to transport or move an ~~alien~~
23 IMMIGRANT in this state, in furtherance of the ~~illegal~~ UNAUTHORIZED
24 presence of the ~~alien~~ IMMIGRANT in the United States, in a means of
25 transportation if the person knows or recklessly disregards the fact that
26 the ~~alien~~ IMMIGRANT has come to, has entered or remains in the United
27 States in violation of law.

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

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

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

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

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

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

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

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

12 F. A person who violates this section is guilty of a class 1
13 misdemeanor and is subject to a fine of at least ~~one thousand dollars~~
14 \$1,000, except that a violation of this section that involves ten or more
15 ~~illegal aliens~~ UNDOCUMENTED IMMIGRANTS is a class 6 felony and the person
16 is subject to a fine of at least ~~one thousand dollars~~ \$1,000 for each
17 ~~alien~~ UNDOCUMENTED IMMIGRANT who is involved.

18 Sec. 13. Section 13-3101, Arizona Revised Statutes, is amended to
19 read:

20 13-3101. Definitions

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

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

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

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

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

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

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

1 7. "Prohibited possessor" means any person:

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

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

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

11 (d) Who is at the time of possession serving a term of probation
12 pursuant to a conviction for a domestic violence offense as defined in
13 section 13-3601 or a felony offense, parole, community supervision, work
14 furlough, home arrest or release on any other basis or who is serving a
15 term of probation or parole pursuant to the interstate compact under title
16 31, chapter 3, article 4.1.

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

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

23 (ii) Nonimmigrant ~~aliens~~ NONRESIDENTS who enter the United States
24 to participate in a competitive target shooting event or to display
25 firearms at a ~~sports~~ SPORTING or hunting trade show that is sponsored by a
26 national, state or local firearms trade organization devoted to the
27 competitive use or other sporting use of firearms.

28 (iii) Certain diplomats.

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

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

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

36 (g) Who is found guilty except insane.

37 8. "Prohibited weapon":

38 (a) Includes the following:

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

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

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

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

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

8 (vi) A chemical or combination of chemicals, compounds or
9 materials, including dry ice, that is possessed or manufactured for the
10 purpose of generating a gas to cause a mechanical failure, rupture or
11 bursting or an explosion or detonation of the chemical or combination of
12 chemicals, compounds or materials.

13 (vii) An improvised explosive device.

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

17 (b) Does not include:

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

20 (ii) Any propellant, propellant actuated devices or propellant
21 actuated industrial tools that are manufactured, imported or distributed
22 for their intended purposes.

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

25 9. "Trafficking" means to sell, transfer, distribute, dispense or
26 otherwise dispose of a weapon or explosive to another person, or to buy,
27 receive, possess or obtain control of a weapon or explosive, with the
28 intent to sell, transfer, distribute, dispense or otherwise dispose of the
29 weapon or explosive to another person.

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

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

36 15-1803. Immigrant in-state student status

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

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

1 C. Each community college and university shall report on December
2 31 and June 30 of each year to the joint legislative budget committee the
3 total number of students who were entitled to classification as an
4 in-state student and the total number of students who were not entitled to
5 classification as an in-state student under this section because the
6 student was not a citizen or legal resident of the United States or is
7 without lawful immigration status.

8 Sec. 15. Heading change

9 The article heading of title 23, chapter 2, article 2, Arizona
10 Revised Statutes, is changed from "EMPLOYMENT OF UNAUTHORIZED ALIENS" to
11 "EMPLOYMENT OF UNAUTHORIZED IMMIGRANTS".

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

14 23-211. Definitions

15 In this article, unless the context otherwise requires:

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

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

20 3. "Employee":

21 (a) Means any person who provides services or labor for an employer
22 in this state for wages or other remuneration.

23 (b) Does not include an independent contractor.

24 4. "Employer" means any individual or type of organization that
25 transacts business in this state, that has a license issued by an agency
26 in this state and that employs one or more employees in this
27 state. Employer includes this state, any political subdivision of this
28 state and self-employed persons. In the case of an independent
29 contractor, employer means the independent contractor and does not mean
30 the person or organization that uses the contract labor.

31 5. "E-verify program" means the employment verification program as
32 jointly administered by the United States department of homeland security
33 and the social security administration or any of its successor programs.

34 6. "Independent contractor" means any individual or entity that
35 carries on an independent business, that contracts to do a piece of work
36 according to the individual's or entity's own means and methods and that
37 is subject to control only as to results. Whether an individual or entity
38 is an independent contractor is determined on a case-by-case basis through
39 various factors, including whether the individual or entity:

40 (a) Supplies the tools or materials.

41 (b) Makes services available to the general public.

42 (c) Works or may work for a number of clients at the same time.

43 (d) Has an opportunity for profit or loss as a result of labor or
44 service provided.

45 (e) Invests in the facilities for work.

46 (f) Directs the order or sequence in which the work is completed.

1 (g) Determines the hours when the work is completed.
2 7. "Intentionally" has the same meaning prescribed in section
3 13-105.

4 8. "Knowingly employ an unauthorized ~~alien~~ IMMIGRANT" means the
5 actions described in 8 United States Code section 1324a. This term shall
6 be interpreted consistently with 8 United States Code section 1324a and
7 any applicable federal rules and regulations.

8 9. "License":

9 (a) Means any agency permit, certificate, approval, registration,
10 charter or similar form of authorization that is required by law and that
11 is issued by any agency ~~for the purposes of operating~~ TO OPERATE a
12 business in this state.

13 (b) Includes:

14 (i) Articles of incorporation under title 10.

15 (ii) A certificate of partnership, a partnership registration or
16 articles of organization under title 29.

17 (iii) A grant of authority issued under title 10, chapter 15.

18 (iv) Any transaction privilege tax license.

19 (c) Does not include:

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

22 (ii) Any professional license.

23 10. "Unauthorized ~~alien~~ IMMIGRANT" means an ~~alien~~ IMMIGRANT who
24 does not have the legal right or authorization under federal law to work
25 in the United States as described in 8 United States Code section
26 1324a(h)(3).

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

29 23-212. Knowingly employing unauthorized immigrants;
30 prohibition; false and frivolous complaints;
31 violation; classification; license suspension and
32 revocation; affirmative defense

33 A. An employer shall not knowingly employ an unauthorized ~~alien~~
34 IMMIGRANT. If, in the case when an employer uses a contract, subcontract
35 or other independent contractor agreement to obtain the labor of an ~~alien~~
36 IMMIGRANT in this state, the employer knowingly contracts with an
37 unauthorized ~~alien~~ IMMIGRANT or with a person who employs or contracts
38 with an unauthorized ~~alien~~ IMMIGRANT to perform the labor, the employer
39 violates this subsection.

40 B. The attorney general shall prescribe a complaint form for a
41 person to allege a violation of subsection A of this section. The
42 complainant shall not be required to list the complainant's social
43 security number on the complaint form or to have the complaint form
44 notarized. On receipt of a complaint on a prescribed complaint form that
45 an employer allegedly knowingly employs an unauthorized ~~alien~~ IMMIGRANT,
46 the attorney general or county attorney shall investigate whether the

1 employer has violated subsection A of this section. If a complaint is
2 received but is not submitted on a prescribed complaint form, the attorney
3 general or county attorney may investigate whether the employer has
4 violated subsection A of this section. This subsection ~~shall not be~~
5 ~~construed to~~ DOES NOT prohibit the filing of anonymous complaints that are
6 not submitted on a prescribed complaint form. The attorney general or
7 county attorney shall not investigate complaints that are based solely on
8 race, color or national origin. A complaint that is submitted to a county
9 attorney shall be submitted to the county attorney in the county in which
10 the alleged unauthorized ~~alien~~ IMMIGRANT is or was employed by the
11 employer. The county sheriff or any other local law enforcement agency
12 may assist in investigating a complaint. When investigating a complaint,
13 the attorney general or county attorney shall verify the work
14 authorization of the alleged unauthorized ~~alien~~ IMMIGRANT with the federal
15 government pursuant to 8 United States Code section 1373(c). A state,
16 county or local official shall not attempt to independently make a final
17 determination on whether an ~~alien~~ IMMIGRANT is authorized to work in the
18 United States. An ~~alien's~~ IMMIGRANT'S immigration status or work
19 authorization status shall be verified with the federal government
20 pursuant to 8 United States Code section 1373(c). A person who knowingly
21 files a false and frivolous complaint under this subsection is guilty of a
22 class 3 misdemeanor.

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

25 1. The attorney general or county attorney shall notify the United
26 States immigration and customs enforcement of the unauthorized ~~alien~~
27 IMMIGRANT.

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

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

33 D. An action for a violation of subsection A of this section shall
34 be brought against the employer by the county attorney in the county where
35 the unauthorized ~~alien~~ IMMIGRANT employee is or was employed by the
36 employer. The county attorney shall not bring an action against any
37 employer for any violation of subsection A of this section that occurs
38 before January 1, 2008. A second violation of this section shall be based
39 only on an unauthorized ~~alien~~ IMMIGRANT who is or was employed by the
40 employer after an action has been brought for a violation of subsection A
41 of this section or section 23-212.01, subsection A.

42 E. For any action in superior court under this section, the court
43 shall expedite the action, including assigning the hearing at the earliest
44 practicable date.

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

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

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

6 (b) Shall order the employer to be subject to a ~~three-year~~
7 THREE-YEAR probationary period for the business location where the
8 unauthorized ~~alien~~ IMMIGRANT performed work. During the probationary
9 period the employer shall file quarterly reports in the form provided in
10 section 23-722.01 with the county attorney of each new employee who is
11 hired by the employer at the business location where the unauthorized
12 ~~alien~~ IMMIGRANT performed work.

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

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

- 1 (i) The number of unauthorized ~~aliens~~ IMMIGRANTS employed by the
2 employer.
- 3 (ii) Any prior misconduct by the employer.
- 4 (iii) The degree of harm resulting from the violation.
- 5 (iv) Whether the employer made good faith efforts to comply with
6 any applicable requirements.
- 7 (v) The duration of the violation.
- 8 (vi) The role of the directors, officers or principals of the
9 employer in the violation.
- 10 (vii) Any other factors the court deems appropriate.
- 11 2. For a second violation, as described in paragraph 3 of this
12 subsection, the court shall order the appropriate agencies to permanently
13 revoke all licenses that are held by the employer specific to the business
14 location where the unauthorized ~~alien~~ IMMIGRANT performed work. If the
15 employer does not hold a license specific to the business location where
16 the unauthorized ~~alien~~ IMMIGRANT performed work, but a license is
17 necessary to operate the employer's business in general, the court shall
18 order the appropriate agencies to permanently revoke all licenses that are
19 held by the employer at the employer's primary place of business. On
20 receipt of the order and notwithstanding any other law, the appropriate
21 agencies shall immediately revoke the licenses.
- 22 3. The violation ~~shall be~~ IS considered:
- 23 (a) A first violation by an employer at a business location if the
24 violation did not occur during a probationary period ordered by the court
25 under this subsection or section 23-212.01, subsection F for that
26 employer's business location.
- 27 (b) A second violation by an employer at a business location if the
28 violation occurred during a probationary period ordered by the court under
29 this subsection or section 23-212.01, subsection F for that employer's
30 business location.
- 31 G. The attorney general shall maintain copies of court orders that
32 are received pursuant to subsection F of this section and shall maintain a
33 database of the employers and business locations that have a first
34 violation of subsection A of this section and make the court orders
35 available on the attorney general's website.
- 36 H. On determining whether an employee is an unauthorized ~~alien~~
37 IMMIGRANT, the court shall consider only the federal government's
38 determination pursuant to 8 United States Code section 1373(c). The
39 federal government's determination creates a rebuttable presumption of the
40 employee's lawful status. The court may take judicial notice of the
41 federal government's determination and may request the federal government
42 to provide automated or testimonial verification pursuant to 8 United
43 States Code section 1373(c).
- 44 I. For the purposes of this section, proof of verifying the
45 employment authorization of an employee through the e-verify program

1 creates a rebuttable presumption that an employer did not knowingly employ
2 an unauthorized ~~alien~~ IMMIGRANT.

3 J. For the purposes of this section, an employer that establishes
4 that it has complied in good faith with the requirements of 8 United
5 States Code section 1324a(b) establishes an affirmative defense that the
6 employer did not knowingly employ an unauthorized ~~alien~~ IMMIGRANT. An
7 employer is considered to have complied with the requirements of 8 United
8 States Code section 1324a(b), notwithstanding an isolated, sporadic or
9 accidental technical or procedural failure to meet the requirements, if
10 there is a good faith attempt to comply with the requirements.

11 K. It is an affirmative defense to a violation of subsection A of
12 this section that the employer was entrapped. To claim entrapment, the
13 employer must admit by the employer's testimony or other evidence the
14 substantial elements of the violation. An employer who asserts an
15 entrapment defense has the burden of proving the following by a
16 preponderance of the evidence:

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

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

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

24 L. An employer does not establish entrapment if the employer was
25 predisposed to violate subsection A of this section and the law
26 enforcement officers or their agents merely provided the employer with an
27 opportunity to commit the violation. It is not entrapment for law
28 enforcement officers or their agents merely to use a ruse or to conceal
29 their identity. The conduct of law enforcement officers and their agents
30 may be considered in determining if an employer has proven entrapment.

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

33 23-212.01. Intentionally employing unauthorized immigrants;
34 prohibition; false and frivolous complaints;
35 violation; classification; license suspension
36 and revocation; affirmative defense

37 A. An employer shall not intentionally employ an unauthorized ~~alien~~
38 IMMIGRANT. If, in the case when an employer uses a contract, subcontract
39 or other independent contractor agreement to obtain the labor of an ~~alien~~
40 IMMIGRANT in this state, the employer intentionally contracts with an
41 unauthorized ~~alien~~ IMMIGRANT or with a person who employs or contracts
42 with an unauthorized ~~alien~~ IMMIGRANT to perform the labor, the employer
43 violates this subsection.

44 B. The attorney general shall prescribe a complaint form for a
45 person to allege a violation of subsection A of this section. The
46 complainant shall not be required to list the complainant's social

1 security number on the complaint form or to have the complaint form
2 notarized. On receipt of a complaint on a prescribed complaint form that
3 an employer allegedly intentionally employs an unauthorized ~~alien~~
4 IMMIGRANT, the attorney general or county attorney shall investigate
5 whether the employer has violated subsection A of this section. If a
6 complaint is received but is not submitted on a prescribed complaint form,
7 the attorney general or county attorney may investigate whether the
8 employer has violated subsection A of this section. This subsection ~~shall~~
9 DOES not ~~be construed to~~ prohibit the filing of anonymous complaints that
10 are not submitted on a prescribed complaint form. The attorney general or
11 county attorney shall not investigate complaints that are based solely on
12 race, color or national origin. A complaint that is submitted to a county
13 attorney shall be submitted to the county attorney in the county in which
14 the alleged unauthorized ~~alien~~ IMMIGRANT is or was employed by the
15 employer. The county sheriff or any other local law enforcement agency
16 may assist in investigating a complaint. When investigating a complaint,
17 the attorney general or county attorney shall verify the work
18 authorization of the alleged unauthorized ~~alien~~ IMMIGRANT with the federal
19 government pursuant to 8 United States Code section 1373(c). A state,
20 county or local official shall not attempt to independently make a final
21 determination on whether an ~~alien~~ IMMIGRANT is authorized to work in the
22 United States. An ~~alien's~~ IMMIGRANT'S immigration status or work
23 authorization status shall be verified with the federal government
24 pursuant to 8 United States Code section 1373(c). A person who knowingly
25 files a false and frivolous complaint under this subsection is guilty of a
26 class 3 misdemeanor.

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

29 1. The attorney general or county attorney shall notify the United
30 States immigration and customs enforcement of the unauthorized ~~alien~~
31 IMMIGRANT.

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

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

37 D. An action for a violation of subsection A of this section shall
38 be brought against the employer by the county attorney in the county where
39 the unauthorized ~~alien~~ IMMIGRANT employee is or was employed by the
40 employer. The county attorney shall not bring an action against any
41 employer for any violation of subsection A of this section that occurs
42 before January 1, 2008. A second violation of this section shall be based
43 only on an unauthorized ~~alien~~ IMMIGRANT who is or was employed by the
44 employer after an action has been brought for a violation of subsection A
45 of this section or section 23-212, subsection A.

1 E. For any action in superior court under this section, the court
2 shall expedite the action, including assigning the hearing at the earliest
3 practicable date.

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

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

7 (a) Order the employer to terminate the employment of all
8 unauthorized aliens.

9 (b) Order the employer to be subject to a ~~five-year~~ FIVE-YEAR
10 probationary period for the business location where the unauthorized ~~alien~~
11 IMMIGRANT performed work. During the probationary period the employer
12 shall file quarterly reports in the form provided in section 23-722.01
13 with the county attorney of each new employee who is hired by the employer
14 at the business location where the unauthorized ~~alien~~ IMMIGRANT performed
15 work.

16 (c) Order the appropriate agencies to suspend all licenses
17 described in subdivision (d) of this paragraph that are held by the
18 employer for a minimum of ten days. The court shall base its decision on
19 the length of the suspension under this subdivision on any evidence or
20 information submitted to it during the action for a violation of this
21 subsection and shall consider the following factors, if relevant:

22 (i) The number of unauthorized ~~aliens~~ IMMIGRANTS employed by the
23 employer.

24 (ii) Any prior misconduct by the employer.

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

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

28 (v) The duration of the violation.

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

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

32 (d) Order the employer to file a signed sworn affidavit with the
33 county attorney. The affidavit shall state that the employer has
34 terminated the employment of all unauthorized ~~aliens~~ IMMIGRANTS in this
35 state and that the employer will not intentionally or knowingly employ an
36 unauthorized ~~alien~~ IMMIGRANT in this state. The court shall order the
37 appropriate agencies to suspend all licenses subject to this subdivision
38 that are held by the employer if the employer fails to file a signed sworn
39 affidavit with the county attorney within three business days after the
40 order is issued. All licenses that are suspended under this subdivision
41 for failing to file a signed sworn affidavit shall remain suspended until
42 the employer files a signed sworn affidavit with the county attorney. For
43 the purposes of this subdivision, the licenses that are subject to
44 suspension under this subdivision are all licenses that are held by the
45 employer specific to the business location where the unauthorized ~~alien~~
46 IMMIGRANT performed work. If the employer does not hold a license

1 specific to the business location where the unauthorized ~~alien~~ IMMIGRANT
2 performed work, but a license is necessary to operate the employer's
3 business in general, the licenses that are subject to suspension under
4 this subdivision are all licenses that are held by the employer at the
5 employer's primary place of business. On receipt of the court's order and
6 notwithstanding any other law, the appropriate agencies shall suspend the
7 licenses according to the court's order. The court shall send a copy of
8 the court's order to the attorney general and the attorney general shall
9 maintain the copy pursuant to subsection G of this section.

10 2. For a second violation, as described in paragraph 3 of this
11 subsection, the court shall order the appropriate agencies to permanently
12 revoke all licenses that are held by the employer specific to the business
13 location where the unauthorized ~~alien~~ IMMIGRANT performed work. If the
14 employer does not hold a license specific to the business location where
15 the unauthorized ~~alien~~ IMMIGRANT performed work, but a license is
16 necessary to operate the employer's business in general, the court shall
17 order the appropriate agencies to permanently revoke all licenses that are
18 held by the employer at the employer's primary place of business. On
19 receipt of the order and notwithstanding any other law, the appropriate
20 agencies shall immediately revoke the licenses.

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

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

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

30 G. The attorney general shall maintain copies of court orders that
31 are received pursuant to subsection F of this section and shall maintain a
32 database of the employers and business locations that have a first
33 violation of subsection A of this section and make the court orders
34 available on the attorney general's website.

35 H. On determining whether an employee is an unauthorized ~~alien~~
36 IMMIGRANT, the court shall consider only the federal government's
37 determination pursuant to 8 United States Code section 1373(c). The
38 federal government's determination creates a rebuttable presumption of the
39 employee's lawful status. The court may take judicial notice of the
40 federal government's determination and may request the federal government
41 to provide automated or testimonial verification pursuant to 8 United
42 States Code section 1373(c).

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

1 J. For the purposes of this section, an employer that establishes
2 that it has complied in good faith with the requirements of 8 United
3 States Code section 1324a(b) establishes an affirmative defense that the
4 employer did not intentionally employ an unauthorized ~~alien~~ IMMIGRANT. An
5 employer is considered to have complied with the requirements of 8 United
6 States Code section 1324a(b), notwithstanding an isolated, sporadic or
7 accidental technical or procedural failure to meet the requirements, if
8 there is a good faith attempt to comply with the requirements.

9 K. It is an affirmative defense to a violation of subsection A of
10 this section that the employer was entrapped. To claim entrapment, the
11 employer must admit by the employer's testimony or other evidence the
12 substantial elements of the violation. An employer who asserts an
13 entrapment defense has the burden of proving the following by a
14 preponderance of the evidence:

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

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

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

22 L. An employer does not establish entrapment if the employer was
23 predisposed to violate subsection A of this section and the law
24 enforcement officers or their agents merely provided the employer with an
25 opportunity to commit the violation. It is not entrapment for law
26 enforcement officers or their agents merely to use a ruse or to conceal
27 their identity. The conduct of law enforcement officers and their agents
28 may be considered in determining if an employer has proven entrapment.

29 Sec. 19. Section 23-361.01, Arizona Revised Statutes, is amended to
30 read:

31 23-361.01. Employer requirements; cash payments; unlawful
32 practices; civil penalty

33 A. An employer that has two or more employees and pays hourly wages
34 or salary by cash to any employee shall comply with all of the following:

35 1. The income tax withholding laws prescribed in title 43,
36 chapter 4.

37 2. The employer reporting laws prescribed in section 23-722.01.

38 3. The employment security laws prescribed in chapter 4 of this
39 title.

40 4. The workers' compensation laws prescribed in chapter 6 of this
41 title.

42 B. For a violation of subsection A of this section, the attorney
43 general may bring an action in superior court against an employer. On a
44 finding of a violation of subsection A of this section, the court shall
45 order the employer to pay a civil penalty that is equal to treble the
46 amount of all withholdings, payments, contributions or premiums that the

1 employer failed to remit as prescribed by subsection A of this section or
 2 ~~five thousand dollars~~ \$5,000 for each employee for whom a violation was
 3 committed, whichever is greater.

4 C. The court shall transmit the monies collected pursuant to
 5 subsection B of this section to the state treasurer, and the state
 6 treasurer shall deposit the monies in the state general fund. Monies
 7 deposited in the state general fund pursuant to this subsection shall be
 8 equally appropriated to the department of education and the department of
 9 health services ~~for the purposes of offsetting~~ TO OFFSET increased costs
 10 to this state by unauthorized ~~aliens~~ IMMIGRANTS.

11 D. The civil penalty under this section is in addition to any other
 12 penalties that may be imposed by law.

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

15 23-781. Denial of benefits to certain athletes and immigrants

16 A. Benefits based on services, substantially all of which consist
 17 of participating in sports or athletic events or training or preparing to
 18 ~~so~~ participate, shall not be paid to an individual for any week of
 19 unemployment ~~which~~ THAT begins during the period between two successive
 20 sport seasons, or similar periods, if the individual performed such
 21 services in the first of such seasons or similar periods and there is a
 22 reasonable assurance that such individual will perform such services in
 23 the later of such seasons or similar periods.

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

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

45 23-901. Definitions

46 In this chapter, unless the context otherwise requires:

- 1 1. "Award" means the finding or decision of an administrative law
2 judge or the commission as to the amount of compensation or benefit due an
3 injured employee or the dependents of a deceased employee.
- 4 2. "Client" means an individual, association, company, firm,
5 partnership, corporation or any other legally recognized entity that is
6 subject to this chapter and that enters into a professional employer
7 agreement with a professional employer organization.
- 8 3. "Co-employee" means every person employed by an injured
9 employee's employer.
- 10 4. "Commission" means the industrial commission of Arizona.
- 11 5. "Compensation" means the compensation and benefits provided by
12 this chapter.
- 13 6. "Employee", "workman", "worker" and "operative" means:
- 14 (a) Every person in the service of this state or a county, city,
15 town, municipal corporation or school district, including regular members
16 of lawfully constituted police and fire departments of cities and towns,
17 whether by election, appointment or contract of hire.
- 18 (b) Every person in the service of any employer subject to this
19 chapter, including ~~aliens~~ IMMIGRANTS and minors legally or illegally
20 allowed to work for hire, but not including a person whose employment is
21 both:
- 22 (i) Casual.
- 23 (ii) Not in the usual course of the trade, business or occupation
24 of the employer.
- 25 (c) Lessees of mining property and the lessees' employees and
26 contractors engaged in the performance of work that is a part of the
27 business conducted by the lessor and over which the lessor retains
28 supervision or control are within the meaning of this paragraph employees
29 of the lessor, and are deemed to be drawing wages as are usually paid
30 employees for similar work. The lessor may deduct from the proceeds of
31 ores mined by the lessees the premium required by this chapter to be paid
32 for such employees.
- 33 (d) Regular members of volunteer fire departments organized
34 pursuant to title 48, chapter 5, article 1, regular firefighters of any
35 volunteer fire department, including private fire protection service
36 organizations, organized pursuant to title 10, chapters 24 through 40,
37 volunteer firefighters serving as members of a fire department of any
38 incorporated city or town or an unincorporated area without pay or without
39 full pay and on a part-time basis, and voluntary policemen and volunteer
40 firefighters serving in any incorporated city, town or unincorporated area
41 without pay or without full pay and on a part-time basis, are deemed to be
42 employees, but for the purposes of this chapter, the basis for computing
43 wages for premium payments and compensation benefits for regular members
44 of volunteer fire departments organized pursuant to title 48, chapter 5,
45 article 1, or organized pursuant to title 10, chapters 24 through 40,
46 regular members of any private fire protection service organization,

1 volunteer firefighters and volunteer policemen of these departments or
2 organizations shall be the salary equal to the beginning salary of the
3 same rank or grade in the full-time service with the city, town, volunteer
4 fire department or private fire protection service organization, provided
5 if there is no full-time equivalent then the salary equivalent shall be as
6 determined by resolution of the governing body of the city, town or
7 volunteer fire department or corporation.

8 (e) Members of the department of public safety reserve, organized
9 pursuant to section 41-1715, are deemed to be employees. For the purposes
10 of this chapter, the basis for computing wages for premium payments and
11 compensation benefits for a member of the department of public safety
12 reserve who is a peace officer shall be the salary received by officers of
13 the department of public safety for the officers' first month of regular
14 duty as an officer. For members of the department of public safety
15 reserve who are not peace officers, the basis for computing premiums and
16 compensation benefits is \$400 a month.

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

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

1 as a participant in a search and rescue mission or a search and rescue
2 training mission.

3 (h) A working member of a partnership may be deemed to be an
4 employee entitled to the benefits provided by this chapter on written
5 acceptance, by endorsement, at the discretion of the insurance carrier for
6 the partnership of an application for coverage by the working partner.
7 The basis for computing premium payments and compensation benefits for the
8 working partner shall be an assumed average monthly wage of not less than
9 \$600 or more than the maximum wage provided in section 23-1041 and is
10 subject to the discretionary approval of the insurance carrier. Any
11 compensation for permanent partial or permanent total disability payable
12 to the partner is computed on the lesser of the assumed monthly wage
13 agreed to by the insurance carrier on the acceptance of the application
14 for coverage or the actual average monthly wage received by the partner at
15 the time of injury.

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

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

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

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

7 (m) Personnel who participate in a search or rescue operation or a
8 search or rescue training operation that carries a mission identifier
9 assigned by the division of emergency management as provided in section
10 35-192.01 and who serve without compensation as volunteer state employees.
11 The basis for computation of wages for premium purposes and compensation
12 benefits is the total volunteer man-hours recorded by the division of
13 emergency management in a given quarter multiplied by the amount
14 determined by the appropriate risk management formula.

15 (n) Personnel who participate in emergency management training,
16 exercises or drills that are duly enrolled or registered with the division
17 of emergency management or any political subdivision as provided in
18 section 26-314, subsection C and who serve without compensation as
19 volunteer state employees. The basis for computation of wages for premium
20 purposes and compensation benefits is the total volunteer man-hours
21 recorded by the division of emergency management or political subdivision
22 during a given training session, exercise or drill multiplied by the
23 amount determined by the appropriate risk management formula.

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

30 (p) Every person employed pursuant to a professional employer
31 agreement.

32 (q) A working member of a limited liability company who owns less
33 than fifty percent of the membership interest in the limited liability
34 company.

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

1 the insurance carrier on the acceptance of the application for coverage or
2 the actual average monthly wage received by the working member at the time
3 of injury.

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

6 (t) A working shareholder of a corporation who owns fifty percent
7 or more of the beneficial interest in the corporation may be deemed to be
8 an employee entitled to the benefits provided by this chapter on the
9 written acceptance, by endorsement, of an application for coverage by the
10 working shareholder at the discretion of the insurance carrier for the
11 corporation. The basis for computing wages for premium payments and
12 compensation benefits for the working shareholder is an assumed average
13 monthly wage of \$600 or more but not more than the maximum wage provided
14 in section 23-1041 and is subject to the discretionary approval of the
15 insurance carrier. Any compensation for permanent partial or permanent
16 total disability payable to the working shareholder is computed on the
17 lesser of the assumed monthly wage agreed to by the insurance carrier on
18 the acceptance of the application for coverage or the actual average
19 monthly wage received by the working shareholder at the time of injury.

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

22 8. "Heart-related or perivascular injury, illness or death" means
23 myocardial infarction, coronary thrombosis or any other similar sudden,
24 violent or acute process involving the heart or perivascular system, or
25 any death resulting therefrom, and any weakness, disease or other
26 condition of the heart or perivascular system, or any death resulting
27 therefrom.

28 9. "Insurance carrier" means every insurance carrier duly
29 authorized by the director of the department of insurance and financial
30 institutions to write workers' compensation or occupational disease
31 compensation insurance in this state.

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

35 11. "Mental injury, illness or condition" means any mental,
36 emotional, psychotic or neurotic injury, illness or condition.

37 12. "Order" means and includes any rule, direction, requirement,
38 standard, determination or decision other than an award or a directive by
39 the commission or an administrative law judge relative to any entitlement
40 to compensation benefits, or to the amount of compensation benefits, and
41 any procedural ruling relative to the processing or adjudicating of a
42 compensation matter.

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

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

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

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

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

11 (a) In which the professional employer organization expressly
12 agrees to co-employ all or a majority of the employees providing services
13 for the client. In determining whether the professional employer
14 organization employs all or a majority of the employees of a client, any
15 person employed pursuant to the terms of the professional employer
16 agreement after the initial placement of client employees on the payroll
17 of the professional employer organization shall be included.

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

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

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

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

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

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

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

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

35 19. "Weakness, disease or other condition of the heart or
36 perivascular system" means arteriosclerotic heart disease, cerebral
37 vascular disease, peripheral vascular disease, cardiovascular disease,
38 angina pectoris, congestive heart trouble, coronary insufficiency,
39 ischemia and all other similar weaknesses, diseases and conditions, and
40 also previous episodes or instances of myocardial infarction, coronary
41 thrombosis or any similar sudden, violent or acute process involving the
42 heart or perivascular system.

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

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

3 28-3511. Removal and immobilization or impoundment of
4 vehicle; Arizona crime information center database

5 A. A peace officer shall cause the removal and either
6 immobilization or impoundment of a vehicle if the peace officer determines
7 that:

8 1. A person is driving the vehicle while any of the following
9 applies:

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

15 (b) The person has ~~not ever~~ NEVER been issued a valid driver
16 license or permit by this state and the person does not produce evidence
17 of ever having a valid driver license or permit issued by another
18 jurisdiction. This subdivision does not apply to the operation of an
19 implement of husbandry.

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

25 (d) In furtherance of the ~~illegal~~ presence of an ~~alien~~ UNDOCUMENTED
26 IMMIGRANT in the United States and in violation of a criminal offense, the
27 person is transporting or moving or attempting to transport or move an
28 ~~alien~~ IMMIGRANT in this state in a vehicle if the person knows or
29 recklessly disregards the fact that the ~~alien~~ IMMIGRANT has come to, has
30 entered or remains in the United States in violation of law.

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

36 2. A person is driving ~~a~~ THE vehicle in violation of section
37 28-693 and the peace officer reasonably believes that allowing the person
38 to continue driving the vehicle would expose other persons to the risk of
39 serious bodily injury or death.

40 3. A person is driving ~~a~~ THE vehicle in violation of section
41 28-708 and the peace officer reasonably believes that allowing the person
42 to continue driving the vehicle would expose other persons to the risk of
43 serious bodily injury or death.

44 4. A person is obstructing a highway or other public thoroughfare
45 in violation of section 13-2906 and the peace officer reasonably believes

1 that allowing the person to continue driving the vehicle would expose
2 other persons to the risk of serious bodily injury or death.

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

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

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

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

15 3. The person is driving a vehicle that is involved in an accident
16 that results in either property damage or injury to or death of another
17 person.

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

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

26 1. The peace officer determines that the vehicle is currently
27 registered and that the driver or the vehicle is in compliance with the
28 financial responsibility requirements of chapter 9, article 4 of this
29 title.

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

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

34 (a) Has a valid driver license.

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

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

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

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

45 E. Except as provided in subsection H of this section and as
46 otherwise provided in this article, a vehicle that is removed and either

1 immobilized or impounded pursuant to subsection A, B or C of this section
2 shall be immobilized or impounded for twenty days. An insurance company
3 does not have a duty to pay any benefits for charges or fees for
4 immobilization or impoundment.

5 F. The owner of a vehicle that is removed and either immobilized or
6 impounded pursuant to subsection A, B or C of this section, the spouse of
7 the owner and each person who has provided the department with indicia of
8 ownership as prescribed in section 28-3514 or other interest in the
9 vehicle that exists immediately before the immobilization or impoundment
10 shall be provided with an opportunity for an immobilization or poststorage
11 hearing pursuant to section 28-3514.

12 G. A law enforcement agency that employs the peace officer who
13 removes and either immobilizes or impounds a vehicle pursuant to this
14 section shall enter information about the removal and either
15 immobilization or impoundment of the vehicle in the Arizona crime
16 information center database within three business days after the removal
17 and either immobilization or impoundment.

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

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

23 32-1822. Qualifications of applicant; application;
24 fingerprinting; fees

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

27 1. Is the person named on the application and on all supporting
28 documents submitted.

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

30 3. Is a graduate of a school of osteopathic medicine approved by
31 the American osteopathic association.

32 4. Has successfully completed an approved internship, the first
33 year of an approved multiple-year residency or a board-approved
34 equivalency.

35 5. Has passed the approved examinations for licensure within seven
36 years of application or has the board-approved equivalency of practice
37 experience.

38 6. Has not engaged in any conduct that, if it occurred in this
39 state, would be considered unprofessional conduct or, if the applicant has
40 engaged in unprofessional conduct, is rehabilitated from the underlying
41 conduct.

42 7. Is physically, mentally and emotionally able to practice
43 medicine, or, if limited, restricted or impaired in the ability to
44 practice medicine, consents to contingent licensure pursuant to subsection
45 E of this section or to entry into a program prescribed in section
46 32-1861.

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

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

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

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

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

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

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

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

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

33 32-1829. Training permits; issuance of permits

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

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

41 (a) Is the person named on the application and on all supporting
42 documentation.

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

- 1 (c) Is a graduate of a school approved by the American osteopathic
2 association.
- 3 (d) Participated in postgraduate training, if any.
- 4 (e) Has passed approved examinations appropriate to the applicant's
5 level of education and training.
- 6 (f) Has not engaged in any conduct that, if it occurred in this
7 state, would be considered unprofessional conduct or, if the applicant has
8 engaged in unprofessional conduct, is rehabilitated from the underlying
9 conduct.
- 10 (g) Is physically, mentally and emotionally able to practice
11 medicine, or, if limited, restricted or impaired in the ability to
12 practice medicine, consents to a contingent permit or to entry into a
13 program described in section 32-1861.
- 14 2. Pay the nonrefundable application fee prescribed by the board.
- 15 B. If a permittee who is participating in a teaching hospital's
16 accredited internship, residency or clinical fellowship training program
17 must repeat or make up time in the program due to resident progression or
18 for other reasons, the board may grant that person an extension of the
19 training permit if requested to do so by the program's director of medical
20 education or a person who holds an equivalent position. The extended
21 permit limits the permittee to practicing only in the supervised setting
22 of that program for a period of time sufficient to repeat or make up the
23 training.
- 24 C. The board may grant a training permit to a person who is not
25 licensed in this state and who is participating in a short-term training
26 program of four months or less for continuing medical education conducted
27 in an approved school of osteopathic medicine or a hospital that has an
28 accredited hospital internship, residency or clinical fellowship training
29 program in this state. Before the board issues the permit, the person
30 shall:
- 31 1. Submit an application on a form and in a manner prescribed by
32 the board and proof that the applicant meets the requirements prescribed
33 in subsection A, paragraph 1 of this section.
- 34 2. Pay the nonrefundable application fee prescribed by the board.
- 35 D. A permittee is subject to the disciplinary provisions of this
36 chapter.
- 37 E. The executive director may issue a permit to an applicant who
38 meets the requirements of this chapter.
- 39 F. If a permit is not issued pursuant to subsection E of this
40 section, the board may issue a permit or may:
- 41 1. Issue a permit that is contingent on the applicant entering into
42 a stipulated agreement that may include a period of probation or a
43 restriction on the permittee's practice.
- 44 2. Deny a permit to an applicant who does not meet the requirements
45 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.

45 D. Each applicant or licensee shall designate an agent who is
46 authorized to receive communications from the department, including legal

1 service of process, and to file and sign documents for the applicant or
2 licensee. The designated agent shall be all of the following:

- 3 1. A controlling person.
- 4 2. A citizen of the United States or a legal resident ~~alien~~
5 IMMIGRANT.
- 6 3. A resident of this state.

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

9 36-2903.03. United States citizenship and qualified immigrant
10 requirements for eligibility; report;
11 definition

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

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

- 25 1. Is designated as one of the exception groups under 8 United
26 States Code section 1613(b).
- 27 2. Has been a qualified ~~alien~~ IMMIGRANT for at least five years.
- 28 3. Has been continuously present in the United States since August
29 21, 1996.

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

38 D. A person who is a qualified ~~alien~~ IMMIGRANT who does not meet
39 the requirements of subsection B of this section or who is a noncitizen
40 who does not claim and provide verification of qualified ~~alien~~ IMMIGRANT
41 status may apply for title XIX eligibility under section 36-2901,
42 paragraph 6, subdivision (a) and, if otherwise eligible for title XIX, may
43 receive only emergency services pursuant to section 1903(v) of the social
44 security act.

45 E. In determining the eligibility for all qualified ~~aliens~~
46 IMMIGRANTS pursuant to this chapter, the income and resources of any

1 person who executed an affidavit of support pursuant to section 213A of
2 the immigration and nationality act on behalf of the qualified ~~alien~~
3 IMMIGRANT and the income and resources of the spouse, if any, of the
4 sponsoring individual shall be counted at the time of application and for
5 the redetermination of eligibility for the duration of the attribution
6 period as specified in federal law.

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

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

13 1. The number of individuals for whom the administration verified
14 immigration status using the systematic alien verification for
15 entitlements program administered by the United States citizenship and
16 immigration services.

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

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

20 4. The number of citizens of the United States who were referred by
21 the administration for prosecution pursuant to violations of state or
22 federal law and the number of individuals referred by the administration
23 for prosecution who were not citizens.

24 H. The administration shall provide copies of the report to the
25 secretary of state and the director of the Arizona state library, archives
26 and public records.

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

29 1. Defined as a qualified alien under 8 United States Code section
30 1641.

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

33 3. An Indian described in 8 United States Code section
34 1612(b)(2)(E).

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

37 36-2931. Definitions

38 In this article, unless the context otherwise requires:

39 1. "Administration" means the Arizona health care cost containment
40 system administration.

41 2. "Capitation rate" means a mode of payment ~~which~~ THAT the program
42 contractor receives for the delivery of services to members pursuant to
43 this article and ~~which~~ THAT is based on a fixed rate per person
44 notwithstanding the amount of services provided to a member.

45 3. "Department" means the department of economic security.

1 4. "Director" means the director of the Arizona health care cost
2 containment system administration.

3 5. "Eligible person" means a person who:

4 (a) Is a resident of this state and a United States citizen or a
5 person who meets the requirements for qualified ~~alien~~ IMMIGRANT status as
6 determined pursuant to section 36-2903.03, who entered the United States
7 on or before August 21, 1996 or who entered the United States on or after
8 August 22, 1996 and who is a member of an exception group under Public Law
9 104-193, section 412.

10 (b) Meets the eligibility criteria pursuant to section 36-2934.

11 (c) Needs institutional services as determined pursuant to section
12 36-2936.

13 (d) Is defined as eligible pursuant to section
14 1902(a)(10)(A)(ii)(XV) and (XVI) of title XIX of the social security act
15 and who meets the income requirements of section 36-2950.

16 6. "Home and community based services" means services described in
17 section 36-2939, subsection B, paragraph 2 and subsection C.

18 7. "Institutional services" means services described in section
19 36-2939, subsection A, paragraph 1 and subsection B, paragraph 1.

20 8. "Member" means an eligible person who is enrolled in the system.

21 9. "Noncontracting provider" means a person who provides services
22 as prescribed by section 36-2939 and who does not have a subcontract with
23 a program contractor.

24 10. "Program contractor" means the department or any other entity
25 that contracts with the administration pursuant to section 36-2940 or
26 36-2944 to provide services to members pursuant to this article.

27 11. "Provider" means a person who subcontracts with a program
28 contractor for the delivery of services to members pursuant to this
29 article.

30 12. "Special health care district" means a special health care
31 district organized pursuant to title 48, chapter 31.

32 13. "State plan" means a written agreement between the centers for
33 medicare and medicaid services and the Arizona health care cost
34 containment system administration that describes eligibility, covered
35 services and the requirements for participation in the medicaid program
36 except those requirements that are waived pursuant to the research and
37 demonstration waiver pursuant to section 1115 of the social security act.

38 14. "System" means the Arizona long-term care system.

39 15. "Uniform accounting system" means a standard method of
40 collecting, recording and safeguarding Arizona long-term care system data.

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

43 36-2932. Arizona long-term care system; powers and duties of
44 the director; expenditure limitation

45 A. The Arizona long-term care system is established. The system
46 includes the management and delivery of hospitalization, medical care,

1 institutional services and home and community based services to members
2 through the administration, the program contractors and providers pursuant
3 to this article together with federal participation under title XIX of the
4 social security act. The director in the performance of all duties shall
5 consider the use of existing programs, rules and procedures in the
6 counties and department where appropriate in meeting federal requirements.

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

9 1. Contracting with and certification of program contractors in
10 compliance with all applicable federal laws.

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

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

16 4. Providing technical assistance to the program contractors.

17 5. Developing a uniform accounting system to be implemented by
18 program contractors and providers of institutional services and home and
19 community based services.

20 6. Conducting quality control on eligibility determinations and
21 preadmission screenings.

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

24 8. Establishing an enrollment system.

25 9. Establishing a member case management tracking system.

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

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

30 12. Establishing standards for the coordination of services.

31 13. Establishing financial and performance audit requirements for
32 program contractors, providers and noncontracting providers.

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

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

43 16. Establishing requirements and guidelines for the review of
44 trusts ~~for the purposes of establishing~~ TO ESTABLISH eligibility for the
45 system pursuant to section 36-2934.01 and posteligibility treatment of
46 income pursuant to subsection L of this section.

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

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

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

22 D. Notwithstanding any other provision of this article, the
23 administration may contract by an intergovernmental agreement with an
24 Indian tribe, a tribal council or a tribal organization for the provision
25 of long-term care services pursuant to section 36-2939, subsection A,
26 paragraphs 1, 2, 3 and 4 and the home and community based services
27 pursuant to section 36-2939, subsection B, paragraph 2 and subsection C,
28 subject to the restrictions in section 36-2939, subsections D and E for
29 eligible members.

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

36 F. Subject to applicable law relating to privilege and protection,
37 the director shall adopt rules prescribing the types of information that
38 are confidential and circumstances under which that information may be
39 used or released, including requirements for physician-patient
40 confidentiality. Notwithstanding any other law, these rules shall provide
41 for the exchange of necessary information among the program contractors,
42 the administration and the department ~~for the purposes of~~ **TO DETERMINE**
43 eligibility ~~determination~~ under this article.

44 G. The director shall adopt rules to specify methods for the
45 transition of members into, within and out of the system. The rules shall

1 include provisions for the transfer of members, the transfer of medical
2 records and the initiation and termination of services.

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

6 I. The director shall:

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

10 2. Apply for and accept federal monies available under title XIX of
11 the social security act in support of the system. In addition, the
12 director may apply for and accept grants, contracts and private donations
13 in support of the system.

14 3. Not less than thirty days before the administration implements a
15 policy or a change to an existing policy relating to reimbursement,
16 provide notice to interested parties. Parties interested in receiving
17 notification of policy changes shall submit a written request for
18 notification to the administration.

19 J. The director may apply for federal monies available for the
20 support of programs to investigate and prosecute violations arising from
21 the administration and operation of the system. Available state monies
22 appropriated for the administration of the system may be used as matching
23 monies to secure federal monies pursuant to this subsection.

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

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

35 1. A personal needs allowance for members receiving institutional
36 services of at least fifteen ~~per cent~~ PERCENT of the maximum monthly
37 supplemental security income payment for an individual or a personal needs
38 allowance for members receiving home and community based services based on
39 a reasonable assessment of need.

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

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

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

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

12 O. The administration, program contractors and providers may
13 establish and maintain review committees dealing with the delivery of
14 care. Review committees and their staff are subject to the same
15 requirements, protections, privileges and immunities prescribed pursuant
16 to section 36-2917.

17 P. If the director determines that the financial viability of a
18 nursing care institution or hospice is in question, the director may
19 require a nursing care institution and a hospice providing services
20 pursuant to this article to submit quarterly financial statements within
21 thirty days after the end of its financial quarter unless the director
22 grants an extension in writing before that date. Quarterly financial
23 statements submitted to the department shall include the following:

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

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

28 Q. The director may require monthly financial statements if the
29 director determines that the financial viability of a nursing care
30 institution or hospice is in question. The director shall prescribe the
31 requirements of these statements.

32 R. The total amount of state monies that may be spent in any fiscal
33 year by the administration for long-term care shall not exceed the amount
34 appropriated or authorized by section 35-173 for that purpose. This
35 article ~~shall~~ DOES not ~~be construed to~~ impose a duty on an officer, agent
36 or employee of this state to discharge a responsibility or to create any
37 right in a person or group if the discharge or right would require an
38 expenditure of state monies in excess of the expenditure authorized by
39 legislative appropriation for that specific purpose.

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

42 36-2983. Eligibility for the program

43 A. The administration shall establish a streamlined eligibility
44 process for applicants to the program and shall issue a certificate of
45 eligibility at the time eligibility for the program is determined.
46 Eligibility ~~shall be~~ IS based on gross household income for a member as

1 defined in section 36-2981. The administration shall not apply a resource
2 test in the eligibility determination or redetermination process.

3 B. The administration shall use a simplified eligibility form that
4 may be mailed to the administration. Once a completed application is
5 received, including adequate verification of income, the administration
6 shall expedite the eligibility determination and enrollment on a
7 prospective basis.

8 C. The date of eligibility is the first day of the month following
9 a determination of eligibility if the decision is made by the twenty-fifth
10 day of the month. A person who is determined eligible for the program
11 after the twenty-fifth day of the month is eligible for the program the
12 first day of the second month following the determination of eligibility.

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

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

21 F. In determining the eligibility for all qualified ~~aliens~~
22 IMMIGRANTS pursuant to this article, the income and resources of a person
23 who executed an affidavit of support pursuant to section 213A of the
24 immigration and nationality act on behalf of the qualified ~~alien~~ IMMIGRANT
25 and the income and resources of the spouse, if any, of the sponsoring
26 individual shall be counted at the time of application and for the
27 redetermination of eligibility for the duration of the attribution period
28 as specified in federal law.

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

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

33 2. Covered by any group health plan or other health insurance
34 coverage as defined in section 2791 of the public health service act.
35 ~~Group health plan or other health insurance coverage does not include~~
36 ~~coverage to persons who are defined as eligible pursuant to the premium~~
37 ~~sharing program.~~

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

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

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

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

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

20 41-906. Return of immigrant and nonresident public charges

21 A. The governor shall cooperate with the ~~United States commissioner~~
22 ~~general of immigration~~ ASSISTANT SECRETARY OF THE UNITED STATES
23 IMMIGRATION AND CUSTOMS ENFORCEMENT AND THE DIRECTOR OF THE UNITED STATES
24 CITIZENSHIP AND IMMIGRATION SERVICES and with boards or officials of
25 foreign countries for ~~the purpose of~~ arranging and providing for the
26 return to the foreign countries of ~~alien~~ IMMIGRANT public charges confined
27 in the state hospital or in the industrial school, and of ~~aliens~~
28 IMMIGRANTS discharged from the state prison.

29 B. To facilitate the return of nonresident public charges confined
30 in the state hospital, or in the state industrial school, the governor may
31 enter into reciprocal agreements or arrangements with officers of other
32 states for the mutual exchange of such public charges, and in pursuance
33 thereof the governor may give written consent and approval of the return
34 to the state of any resident of this state confined in a public
35 institution of another state, corresponding to hospitals or asylums for
36 the insane, or of a state institution for the reformation of delinquent
37 minors.

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

42 D. The expenses incurred in returning ~~aliens~~ IMMIGRANTS and
43 nonresident public charges shall be paid by the state, but the expense of
44 returning residents of this state to this state shall not be paid by this
45 state.

1 individual, on renewal or reinstatement of a license, is not required to
2 provide subsequent documentation of that status.

3 D. If, on renewal or reinstatement of a license, an individual
4 holds a limited form of work authorization issued by the federal
5 government that has expired, the individual shall provide documentation of
6 that status.

7 E. If a document listed in subsection A, paragraphs 1 through 12 of
8 this section does not contain a photograph of the individual, the
9 individual shall also present a government issued document that contains a
10 photograph of the individual.

11 F. For the purposes of this section:

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

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

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

24 41-1462. Exemption; nonresident immigrants, religious
25 institutions

26 This article does not apply to an employer with respect to the
27 employment of ~~aliens~~ IMMIGRANTS outside any state or to a religious
28 corporation, association, educational institution or society with respect
29 to the employment of individuals of a particular religion to perform work
30 connected with the ~~carrying on by such~~ CONTINUATION OF THE corporation,
31 association, educational institution or society of its activities.

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

34 43-210. Premium tax credit; health insurance; certification
35 of qualified persons; violation; classification;
36 definitions

37 A. The department shall issue a certificate of eligibility to a
38 person who files an application with the department in the form and manner
39 prescribed by the department on a ~~first come, first served~~ FIRST-COME,
40 FIRST-SERVED basis, subject to subsection E OF THIS SECTION. An
41 application submitted to the department under this section shall contain
42 or be verified by a written declaration that it is made under penalty of
43 perjury. A person is entitled to receive a certificate if the department
44 determines monies are available for this program pursuant to subsection E
45 OF THIS SECTION, the person has never ~~before~~ received a certificate and
46 the person is either:

- 1 1. A small business.
- 2 2. An individual who satisfies all of the following:
- 3 (a) Earns less than two hundred fifty ~~per cent~~ PERCENT of the
- 4 federal poverty level.
- 5 (b) Is a legal resident of this state and a citizen of the United
- 6 States or a legal resident ~~alien~~ IMMIGRANT.
- 7 (c) Has not been covered under a health insurance policy for at
- 8 least six consecutive months before the application.
- 9 (d) Is not enrolled in the Arizona health care cost containment
- 10 system, medicare or any other state or federal government health insurance
- 11 program.
- 12 B. A health care insurer that enrolls an individual or small
- 13 business certified pursuant to this section shall deduct the amount of the
- 14 certificate from the premium.
- 15 C. For an individual, the amount of the certificate is the lesser
- 16 of:
- 17 1. ~~One thousand dollars~~ \$1,000 for coverage on a single person,
- 18 ~~five hundred dollars~~ \$500 for coverage on a child or ~~three thousand~~
- 19 ~~dollars~~ \$3,000 for family coverage.
- 20 2. Fifty ~~per cent~~ PERCENT of the health insurance premium.
- 21 D. For a small business, the amount of the certificate is the
- 22 lesser of:
- 23 1. ~~One thousand dollars~~ \$1,000 for coverage on each single employee
- 24 or ~~three thousand dollars~~ \$3,000 for each employee who elects family
- 25 coverage.
- 26 2. Fifty ~~per cent~~ PERCENT of the health insurance premium.
- 27 E. A health care insurer that enrolls an individual or small
- 28 business certified pursuant to this section shall notify the department of
- 29 the enrollment and the amount of premium tax credit it intends to claim
- 30 for the current calendar year no later than the fifteenth day of the month
- 31 following commencement of coverage. The department shall not issue any
- 32 certificates under this section that exceed in the aggregate a combined
- 33 total of ~~five million dollars~~ \$5,000,000 in any calendar year.
- 34 F. The initial certificate is valid for a period of ninety days
- 35 after the date the department issues the certificate. If the individual
- 36 or small business obtains health care insurance within this ~~period of~~ time
- 37 PERIOD, the certificate is valid for one year ~~from~~ AFTER commencement of
- 38 coverage.
- 39 G. Sixty days before the expiration of the certificate the
- 40 department shall review the status of the individual or small business.
- 41 If the individual or small business continues to meet the qualifications
- 42 pursuant to subsection A, paragraph 1 or paragraph 2, subdivisions (a),
- 43 (b) and (d) OF THIS SECTION, the department shall reissue the certificate
- 44 of eligibility.
- 45 H. Individuals and small businesses are eligible for a maximum of
- 46 two reissued certificates of eligibility.

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

3 J. The department shall issue the certificate of eligibility in the
4 name of a specific individual and the certificate is nontransferable. A
5 person who sells, conveys, transfers or assigns the certificate to another
6 person or attempts to sell, convey, transfer or assign the certificate to
7 another person is guilty of a class 2 misdemeanor.

8 K. For the purposes of this section:

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

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

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

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

17 2. "Federal poverty level" means the federal poverty level
18 guidelines published annually by the United States department of health
19 and human services.

20 3. "Health care insurer" means a disability insurer, group
21 disability insurer, blanket disability insurer, health care services
22 organization, hospital service corporation, medical service corporation or
23 hospital and medical service corporation that provides health insurance in
24 this state.

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

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