

REFERENCE TITLE: immigration; law enforcement; repeal..

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2365

Introduced by
Representatives Sandoval: Aguilar, Austin, Blattman, Contreras P, De Los Santos, Mathis, Ortiz, Peshlakai, Seaman, Stahl Hamilton, Villegas

AN ACT

REPEALING TITLE 11, CHAPTER 7, ARTICLE 8, ARIZONA REVISED STATUTES; AMENDING SECTION 12-116.04, ARIZONA REVISED STATUTES; REPEALING SECTION 13-1509, ARIZONA REVISED STATUTES; AMENDING SECTION 13-2319, ARIZONA REVISED STATUTES; REPEALING SECTIONS 13-2928 AND 13-2929, ARIZONA REVISED STATUTES; AMENDING SECTIONS 13-3883, 23-212, 23-212.01, 23-214 AND 28-3511, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1724, ARIZONA REVISED STATUTES; RELATING TO IMMIGRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Title 11, chapter 7, article 8, Arizona Revised Statutes, is
4 repealed.

5 Sec. 2. Section 12-116.04, Arizona Revised Statutes, is amended to
6 read:

7 12-116.04. Assessment; law enforcement officer equipment;
8 gang and immigration intelligence team
9 enforcement mission

10 A. In addition to any other penalty assessment provided by law, a
11 penalty assessment shall be levied in an amount of ~~thirteen dollars~~ \$13 on
12 every fine, penalty and forfeiture imposed and collected by the courts for
13 criminal offenses and any civil penalty imposed and collected for a civil
14 traffic violation and fine, penalty or forfeiture for a violation of the
15 motor vehicle statutes, for any local ordinance relating to the stopping,
16 standing or operation of a vehicle or for a violation of the game and fish
17 statutes in title 17.

18 B. The court shall transmit the assessments collected pursuant to
19 this section and a remittance report of the fines, civil penalties and
20 assessments collected pursuant to this section to the county treasurer,
21 except that municipal courts shall transmit the assessments and the
22 remittance report of the fines, civil penalties and assessments to the
23 city treasurer.

24 C. The city or county treasurer shall transmit ~~eight dollars~~ \$8 of
25 the assessment and the remittance report to the state treasurer. ~~The~~
26 ~~state treasurer shall~~ FOR deposit ~~four dollars of the assessment~~ in the
27 public safety equipment fund established by section 41-1723 ~~and the~~
28 ~~remaining four dollars of the assessment in the gang and immigration~~
29 ~~intelligence team enforcement mission border security and law enforcement~~
30 ~~subaccount established by section 41-1724.~~

31 D. The city or county treasurer shall transmit ~~four dollars~~ \$4 of
32 the assessment and the remittance report to the agency that investigated
33 the offense or issued the citation to be used to supplement, not supplant,
34 monies available for officer safety equipment.

35 E. The city treasurer shall transmit ~~one dollar~~ \$1 of the
36 assessment and the remittance report to the county treasurer. The county
37 treasurer shall transmit ~~one dollar~~ \$1 of the assessment and any monies
38 received from the city treasurer pursuant to this subsection to the
39 following entities to be used to improve, maintain and enhance the ability
40 to collect and manage monies assessed or received by the courts, to
41 improve court automation and to improve case processing or the
42 administration of justice:

43 1. In a county with a population of less than two million persons,
44 to the justice courts, distributed proportionally based on the judicial
45 productivity credits calculated pursuant to section 22-125.

1 2. In a county with a population of two million persons or more, to
2 the justice court administration.

3 Sec. 3. Repeal

4 Section 13-1509, Arizona Revised Statutes, is repealed.

5 Sec. 4. Section 13-2319, Arizona Revised Statutes, is amended to
6 read:

7 13-2319. Smuggling; classification; definitions

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

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

11 C. Notwithstanding subsection B of this section, a violation of
12 this section:

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

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

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

25 ~~E. Notwithstanding any other law, in the enforcement of this
26 section a peace officer may lawfully stop any person who is operating a
27 motor vehicle if the officer has reasonable suspicion to believe the
28 person is in violation of any civil traffic law.~~

29 ~~F.~~ E. For the purposes of this section:

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

33 2. "Procurement of transportation" means any participation in or
34 facilitation of transportation and includes:

35 (a) Providing services that facilitate transportation including
36 travel arrangement services or money transmission services.

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

41 3. "Smuggling of human beings" means the transportation,
42 procurement of transportation or use of property or real property by a
43 person or an entity that knows or has reason to know that the person or
44 persons transported or to be transported are not United States citizens,
45 permanent resident aliens or persons otherwise lawfully in this state or

1 have attempted to enter, entered or remained in the United States in
2 violation of law.

3 Sec. 5. Repeal
4 Sections 13-2928 and 13-2929, Arizona Revised Statutes, are
5 repealed.

6 Sec. 6. Section 13-3883, Arizona Revised Statutes, is amended to
7 read:

8 13-3883. Arrest by officer without warrant

9 A. A peace officer, without a warrant, may arrest a person if the
10 officer has probable cause to believe:

11 1. A felony has been committed and probable cause to believe the
12 person to be arrested has committed the felony.

13 2. A misdemeanor has been committed in the officer's presence and
14 probable cause to believe the person to be arrested has committed the
15 offense.

16 3. The person to be arrested has been involved in a traffic
17 accident and violated any criminal section of title 28, and that such
18 violation occurred prior to or immediately following such traffic
19 accident.

20 4. A misdemeanor or a petty offense has been committed and probable
21 cause to believe the person to be arrested has committed the offense. A
22 person arrested under this paragraph is eligible for release under section
23 13-3903.

24 ~~5. The person to be arrested has committed any public offense that~~
25 ~~makes the person removable from the United States.~~

26 B. A peace officer may stop and detain a person as is reasonably
27 necessary to investigate an actual or suspected violation of any traffic
28 law committed in the officer's presence and may serve a copy of the
29 traffic complaint for any alleged civil or criminal traffic violation. A
30 peace officer who serves a copy of the traffic complaint shall do so
31 within a reasonable time of the alleged criminal or civil traffic
32 violation.

33 Sec. 7. Section 23-212, Arizona Revised Statutes, is amended to
34 read:

35 23-212. Knowingly employing unauthorized aliens; prohibition;
36 false and frivolous complaints; violation;
37 classification; license suspension and revocation

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

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

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

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

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

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

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

42 (d) May order the appropriate agencies to suspend all licenses
43 described in subdivision (c) of this paragraph that are held by the
44 employer for not ~~to exceed~~ **MORE THAN** ten business days. The court shall
45 base its decision to suspend **THE LICENSE** under this subdivision on any

1 evidence or information submitted to it during the action for a violation
2 of this subsection and shall consider the following factors, if relevant:

- 3 (i) The number of unauthorized aliens employed by the employer.
- 4 (ii) Any prior misconduct by the employer.
- 5 (iii) The degree of harm resulting from the violation.
- 6 (iv) Whether the employer made good faith efforts to comply with
7 any applicable requirements.
- 8 (v) The duration of the violation.
- 9 (vi) The role of the directors, officers or principals of the
10 employer in the violation.
- 11 (vii) Any other factors the court deems appropriate.

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

23 3. The violation shall be considered:

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

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

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

37 H. On determining whether an employee is an unauthorized alien, the
38 court shall consider only the federal government's determination pursuant
39 to 8 United States Code section 1373(c). The federal government's
40 determination creates a rebuttable presumption of the employee's lawful
41 status. The court may take judicial notice of the federal government's
42 determination and may request the federal government to provide automated
43 or testimonial verification pursuant to 8 United States Code section
44 1373(c).

1 I. For the purposes of this section, proof of verifying the
2 employment authorization of an employee through the e-verify program
3 creates a rebuttable presumption that an employer did not knowingly employ
4 an unauthorized alien.

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

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

19 ~~1. The idea of committing the violation started with law
20 enforcement officers or their agents rather than with the employer.~~

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

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

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

33 Sec. 8. Section 23-212.01, Arizona Revised Statutes, is amended to
34 read:

35 23-212.01. Intentionally employing unauthorized aliens;
36 prohibition; false and frivolous complaints;
37 violation; classification; license suspension
38 and revocation

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

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

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

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

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

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

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

1 has been brought for a violation of subsection A of this section or
2 section 23-212, subsection A.

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

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

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

9 (a) Order the employer to terminate the employment of all
10 unauthorized aliens.

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

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

23 (i) The number of unauthorized aliens employed by the 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 in this state and
35 that the employer will not intentionally or knowingly employ an
36 unauthorized alien in this state. The court shall order the appropriate
37 agencies to suspend all licenses subject to this subdivision that are held
38 by the employer if the employer fails to file a signed sworn affidavit
39 with the county attorney within three business days after the order is
40 issued. All licenses that are suspended under this subdivision for
41 failing to file a signed sworn affidavit shall remain suspended until the
42 employer files a signed sworn affidavit with the county attorney. For the
43 purposes of this subdivision, the licenses that are subject to suspension
44 under this subdivision are all licenses that are held by the employer
45 specific to the business location where the unauthorized alien performed

1 work. If the employer does not hold a license specific to the business
 2 location where the unauthorized alien performed work, but a license is
 3 necessary to operate the employer's business in general, the licenses that
 4 are subject to suspension under this subdivision are all licenses that are
 5 held by the employer at the employer's primary place of business. On
 6 receipt of the court's order and notwithstanding any other law, the
 7 appropriate agencies shall suspend the licenses according to the court's
 8 order. The court shall send a copy of the court's order to the attorney
 9 general and the attorney general shall maintain the copy pursuant to
 10 subsection G of this section.

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 performed work. If the employer
 15 does not hold a license specific to the business location where the
 16 unauthorized alien performed work, but a license is necessary to operate
 17 the employer's business in general, the court shall order the appropriate
 18 agencies to permanently revoke all licenses that are held by the employer
 19 at the employer's primary place of business. On receipt of the order and
 20 notwithstanding any other law, the appropriate agencies shall immediately
 21 revoke the licenses.

22 3. The violation shall be 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, subsection F for that employer's
 26 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, 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, the
 37 court shall consider only the federal government's determination pursuant
 38 to 8 United States Code section 1373(c). The federal government's
 39 determination creates a rebuttable presumption of the employee's lawful
 40 status. The court may take judicial notice of the federal government's
 41 determination and may request the federal government to provide automated
 42 or testimonial verification pursuant to 8 United States Code section
 43 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 intentionally
2 employ an unauthorized alien.

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 intentionally employ an unauthorized alien. An employer
7 is considered to have complied with the requirements of 8 United States
8 Code section 1324a(b), notwithstanding an isolated, sporadic or accidental
9 technical or procedural failure to meet the requirements, if there is a
10 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. 9. Section 23-214, Arizona Revised Statutes, is amended to
32 read:

33 23-214. Verification of employment eligibility; e-verify
34 program; economic development incentives; list of
35 registered employers

36 A. ~~After December 31, 2007,~~ Every employer, after hiring an
37 employee, shall verify the employment eligibility of the employee through
38 the e-verify program ~~and shall keep a record of the verification for the~~
39 ~~duration of the employee's employment or at least three years, whichever~~
40 ~~is longer.~~

41 B. In addition to any other requirement for an employer to receive
42 an economic development incentive from a government entity, the employer
43 shall register with and participate in the e-verify program. Before
44 receiving the economic development incentive, the employer shall provide
45 proof to the government entity that the employer is registered with and is

1 participating in the e-verify program. If the government entity
2 determines that the employer is not complying with this subsection, the
3 government entity shall notify the employer by certified mail of the
4 government entity's determination of noncompliance and the employer's
5 right to appeal the determination. On a final determination of
6 noncompliance, the employer shall repay all monies received as an economic
7 development incentive to the government entity within thirty days ~~of~~ AFTER
8 the final determination. For the purposes of this subsection:

9 1. "Economic development incentive" means any grant, loan or
10 performance-based incentive from any government entity that is awarded
11 after September 30, 2008. Economic development incentive does not include
12 any tax provision under title 42 or 43.

13 2. "Government entity" means this state and any political
14 subdivision of this state that receives and uses tax revenues.

15 C. Every three months the attorney general shall request from the
16 United States department of homeland security a list of employers from
17 this state that are registered with the e-verify program. On receipt of
18 the list of employers, the attorney general shall make the list available
19 on the attorney general's website.

20 Sec. 10. Section 28-3511, Arizona Revised Statutes, is amended to
21 read:

22 28-3511. Removal and immobilization or impoundment of
23 vehicle; Arizona crime information center database

24 A. A peace officer shall cause the removal and either
25 immobilization or impoundment of a vehicle if the peace officer determines
26 that:

27 1. A person is driving the vehicle while any of the following
28 applies:

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

34 (b) The person has ~~not ever~~ NEVER been issued a valid driver
35 license or permit by this state and the person does not produce evidence
36 of ever having a valid driver license or permit issued by another
37 jurisdiction. This subdivision does not apply to the operation of an
38 implement of husbandry.

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

44 ~~(d) In furtherance of the illegal presence of an alien in the~~
45 ~~United States and in violation of a criminal offense, the person is~~

1 ~~transporting or moving or attempting to transport or move an alien in this~~
2 ~~state in a vehicle if the person knows or recklessly disregards the fact~~
3 ~~that the alien has come to, has entered or remains in the United States in~~
4 ~~violation of law.~~

5 ~~(e) The person is concealing, harboring or shielding or attempting~~
6 ~~to conceal, harbor or shield from detection an alien in this state in a~~
7 ~~vehicle if the person knows or recklessly disregards the fact that the~~
8 ~~alien has come to, entered or remains in the United States in violation of~~
9 ~~law.~~

10 2. A person is driving ~~a~~ THE vehicle in violation of section
11 28-693 and the peace officer reasonably believes that allowing the person
12 to continue driving the vehicle would expose other persons to the risk of
13 serious bodily injury or death.

14 3. A person is driving ~~a~~ THE vehicle in violation of section
15 28-708 and the peace officer reasonably believes that allowing the person
16 to continue driving the vehicle would expose other persons to the risk of
17 serious bodily injury or death.

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

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

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

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

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

34 3. The person is driving a vehicle that is involved in an accident
35 that results in either property damage or injury to or death of another
36 person.

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

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

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

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

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

9 (a) Has a valid driver license.

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

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

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

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

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

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

33 G. A law enforcement agency that employs the peace officer who
34 removes and either immobilizes or impounds a vehicle pursuant to this
35 section shall enter information about the removal and either
36 immobilization or impoundment of the vehicle in the Arizona crime
37 information center database within three business days after the removal
38 and either immobilization or impoundment.

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

42 Sec. 11. Repeal

43 Section 41-1724, Arizona Revised Statutes, is repealed.