

REFERENCE TITLE: immigration; law enforcement; repeal

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **SB 1349**

Introduced by  
Senators Miranda: Alston, Bravo, Diaz, Fernandez, Gabaldón, Gonzales,  
Hatathlie, Hernandez, Mendez; Representatives Crews, Hernandez A

### 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 AND BORDER SECURITY.

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4 repealed.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

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

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

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

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

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

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

1           Sec. 3. Repeal  
2           Section 13-1509, Arizona Revised Statutes, is repealed.

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

5           13-2319. Smuggling; classification; definitions

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

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

9           C. Notwithstanding subsection B of this section, a violation of  
10 this section:

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

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

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

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

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

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

31           2. "Procurement of transportation" means any participation in or  
32 facilitation of transportation and includes:

33           (a) Providing services that facilitate transportation including  
34 travel arrangement services or money transmission services.

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

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

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

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

6           13-3883. Arrest by officer without warrant

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

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

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

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

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

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

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

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

33           23-212. Knowingly employing unauthorized aliens; prohibition;  
34 false and frivolous complaints; violation;  
35 classification; license suspension and revocation

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

42           B. The attorney general shall prescribe a complaint form for a  
43 person to allege a violation of subsection A of this section. The  
44 complainant shall not be required to list the complainant's social  
45 security number on the complaint form or to have the complaint form

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

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

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

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

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

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

43 E. For any action in superior court under this section, the court  
44 shall expedite the action, including assigning the hearing at the earliest  
45 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.

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 performed work. During the probationary period the  
9 employer shall file quarterly reports in the form provided in section  
10 23-722.01 with the county attorney of each new employee who is hired by  
11 the employer at the business location where the unauthorized alien  
12 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  
15 issued. The affidavit shall state that the employer has terminated the  
16 employment of all unauthorized aliens in this state and that the employer  
17 will not intentionally or knowingly employ an unauthorized alien in this  
18 state. The court shall order the appropriate agencies to suspend all  
19 licenses subject to this subdivision that are held by the employer if the  
20 employer fails to file a signed sworn affidavit with the county attorney  
21 within three business days after the order is issued. All licenses that  
22 are suspended under this subdivision shall remain suspended until the  
23 employer files a signed sworn affidavit with the county attorney.  
24 Notwithstanding any other law, on filing of the affidavit the suspended  
25 licenses shall be reinstated immediately by the appropriate agencies. For  
26 the purposes of this subdivision, the licenses that are subject to  
27 suspension under this subdivision are all licenses that are held by the  
28 employer specific to the business location where the unauthorized alien  
29 performed work. If the employer does not hold a license specific to the  
30 business location where the unauthorized alien performed work, but a  
31 license is necessary to operate the employer's business in general, the  
32 licenses that are subject to suspension under this subdivision are all  
33 licenses that are held by the employer at the employer's primary place of  
34 business. On receipt of the court's order and notwithstanding any other  
35 law, the appropriate agencies shall suspend the licenses according to the  
36 court's order. The court shall send a copy of the court's order to the  
37 attorney general and the attorney general shall maintain the copy pursuant  
38 to subsection G of this section.

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

45 (i) The number of unauthorized aliens employed by the employer.

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

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

20 3. The violation shall be considered:

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

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

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

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

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

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 knowingly employ an unauthorized alien. An employer is  
5 considered to have complied with the requirements of 8 United States Code  
6 section 1324a(b), notwithstanding an isolated, sporadic or accidental  
7 technical or procedural failure to meet the requirements, if there is a  
8 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. 8. Section 23-212.01, Arizona Revised Statutes, is amended to  
30 read:

31 23-212.01. Intentionally employing unauthorized aliens;  
32 prohibition; false and frivolous complaints;  
33 violation; classification; license suspension  
34 and revocation

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

41 B. The attorney general shall prescribe a complaint form for a  
42 person to allege a violation of subsection A of this section. The  
43 complainant shall not be required to list the complainant's social  
44 security number on the complaint form or to have the complaint form  
45 notarized. On receipt of a complaint on a prescribed complaint form that



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

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

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

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

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

4 (a) Order the employer to terminate the employment of all  
5 unauthorized aliens.

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

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

18 (i) The number of unauthorized aliens employed by the employer.

19 (ii) Any prior misconduct by the employer.

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

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

23 (v) The duration of the violation.

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

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

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

1 receipt of the court's order and notwithstanding any other law, the  
2 appropriate agencies shall suspend the licenses according to the court's  
3 order. The court shall send a copy of the court's order to the attorney  
4 general and the attorney general shall maintain the copy pursuant to  
5 subsection G of this section.

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

17 3. The violation shall be considered:

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

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

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

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

39 I. For the purposes of this section, proof of verifying the  
40 employment authorization of an employee through the e-verify program  
41 creates a rebuttable presumption that an employer did not intentionally  
42 employ an unauthorized alien.

43 J. For the purposes of this section, an employer that establishes  
44 that it has complied in good faith with the requirements of 8 United  
45 States Code section 1324a(b) establishes an affirmative defense that the

1 employer did not intentionally employ an unauthorized alien. An employer  
2 is considered to have complied with the requirements of 8 United States  
3 Code section 1324a(b), notwithstanding an isolated, sporadic or accidental  
4 technical or procedural failure to meet the requirements, if there is a  
5 good faith attempt to comply with the requirements.

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

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

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

16 ~~3. The employer was not predisposed to commit the violation before  
17 the law enforcement officers or their agents urged and induced the  
18 employer to commit the violation.~~

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

26 Sec. 9. Section 23-214, Arizona Revised Statutes, is amended to  
27 read:

28 23-214. Verification of employment eligibility; e-verify  
29 program; economic development incentives; list of  
30 registered employers

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

36 B. In addition to any other requirement for an employer to receive  
37 an economic development incentive from a government entity, the employer  
38 shall register with and participate in the e-verify program. Before  
39 receiving the economic development incentive, the employer shall provide  
40 proof to the government entity that the employer is registered with and is  
41 participating in the e-verify program. If the government entity  
42 determines that the employer is not complying with this subsection, the  
43 government entity shall notify the employer by certified mail of the  
44 government entity's determination of noncompliance and the employer's  
45 right to appeal the determination. On a final determination of

1 noncompliance, the employer shall repay all monies received as an economic  
2 development incentive to the government entity within thirty days ~~of~~ AFTER  
3 the final determination. For the purposes of this subsection:

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

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

10 C. Every three months the attorney general shall request from the  
11 United States department of homeland security a list of employers from  
12 this state that are registered with the e-verify program. On receipt of  
13 the list of employers, the attorney general shall make the list available  
14 on the attorney general's website.

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

17 28-3511. Removal and immobilization or impoundment of  
18 vehicle; Arizona crime information center database

19 A. A peace officer shall cause the removal and either  
20 immobilization or impoundment of a vehicle if the peace officer determines  
21 that:

22 1. A person is driving the vehicle while any of the following  
23 applies:

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

29 (b) The person has ~~not ever~~ NEVER been issued a valid driver  
30 license or permit by this state and the person does not produce evidence  
31 of ever having a valid driver license or permit issued by another  
32 jurisdiction. This subdivision does not apply to the operation of an  
33 implement of husbandry.

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

39 ~~(d) In furtherance of the illegal presence of an alien in the~~  
40 ~~United States and in violation of a criminal offense, the person is~~  
41 ~~transporting or moving or attempting to transport or move an alien in this~~  
42 ~~state in a vehicle if the person knows or recklessly disregards the fact~~  
43 ~~that the alien has come to, has entered or remains in the United States in~~  
44 ~~violation of law.~~

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

6 2. A person is driving ~~a~~ THE vehicle in violation of section  
7 28-693 and the peace officer reasonably believes that allowing the person  
8 to continue driving the vehicle would expose other persons to the risk of  
9 serious bodily injury or death.

10 3. A person is driving ~~a~~ THE vehicle in violation of section  
11 28-708 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 4. A person is obstructing a highway or other public thoroughfare  
15 in violation of section 13-2906 and the peace officer reasonably believes  
16 that allowing the person to continue driving the vehicle would expose  
17 other persons to the risk of serious bodily injury or death.

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

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

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

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

30 3. The person is driving a vehicle that is involved in an accident  
31 that results in either property damage or injury to or death of another  
32 person.

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

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

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

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

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

4           (a) Has a valid driver license.

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

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

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

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

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

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

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

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

37          Sec. 11. Repeal

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