

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE #2 FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
**SENATE BILL NOS. 858, 750, 751, 927,
1186, 1255, 1268 & 1269**
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Immigration May 15, 2008 with recommendation that House Committee Substitute #2 for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 858, 750, 751, 927, 1186, 1255, 1268 & 1269 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

3595L.14C

AN ACT

To repeal sections 172.360, 173.030, 174.130, 178.635, 178.780, 302.720, and 544.470, RSMo, and to enact in lieu thereof twenty-five new sections relating to illegal aliens, with penalty provisions and an effective date for certain sections.

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

Section A. Sections 172.360, 173.030, 174.130, 178.635, 178.780, 302.720, and
2 544.470, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known
3 as sections 43.032, 67.307, 172.360, 173.030, 174.130, 175.025, 178.635, 178.780, 178.785,
4 208.009, 285.525, 285.530, 285.535, 285.540, 285.543, 285.550, 285.555, 285.560, 302.063,
5 302.720, 544.470, 577.722, 577.900, 578.570, and 650.681, to read as follows:

43.032. Subject to appropriation, the superintendent of the Missouri state highway
2 **patrol shall designate that some or all members of the highway patrol be trained in**
3 **accordance with a memorandum of understanding between the state of Missouri and the**
4 **United States Department of Homeland Security concerning the enforcement of federal**
5 **immigration laws during the course of their normal duties in the state of Missouri, in**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 accordance with 8 U.S.C. Section 1357(g). The superintendent shall have the authority to
7 negotiate the terms of such memorandum. The memorandum shall be signed by the
8 superintendent of the highway patrol, the governor, and the director of the department of
9 public safety.

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

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

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

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

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

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

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

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

23 3. The governing body, sheriff, or chief of police of each municipality shall provide
24 each law enforcement officer with written notice of their duty to cooperate with state and
25 federal agencies and officials on matters pertaining to enforcement of state and federal
26 laws governing immigration.

172.360. 1. All youths, resident of the state of Missouri, shall be admitted to all the
2 privileges and advantages of the various classes of all the departments of the University of the
3 State of Missouri; provided, that each applicant for admission therein shall possess such
4 scholastic attainments and mental and moral qualifications as shall be prescribed in rules adopted
5 and established by the board of curators; **provided that aliens unlawfully present in the**

6 **United States shall not be eligible for enrollment in the university;** and provided further, that
7 the board of curators may charge and collect reasonable tuition and other fees necessary for the
8 maintenance and operation of all departments of the university, as they may deem necessary.

9 **2. Prior to approval of any appropriations by the general assembly for the**
10 **University of Missouri, the registrar for each campus of the University of Missouri shall**
11 **annually certify to the coordinating board for higher education that its campus has not**
12 **knowingly enrolled any aliens unlawfully present in the United States in the preceding**
13 **year. Within thirty days of receipt of the certification, the coordinating board for higher**
14 **education shall forward the certification to the governor, the president pro tem of the**
15 **senate, the speaker of the house of representatives, and the chair of the committee for**
16 **appropriation of state funds in the house of representatives and the senate.**

173.030. The coordinating board, in addition, shall have responsibility, within the
2 provisions of the constitution and the statutes of the state of Missouri, for:

3 (1) Requesting the governing boards of all state-supported institutions of higher
4 education, and of major private institutions to submit to the coordinating board any proposed
5 policy changes which would create additional institutions of higher education, additional
6 residence centers, or major additions in degree and certificate programs, and make pertinent
7 recommendations relating thereto;

8 (2) Recommending to the governing board of any institution of higher education in the
9 state the development, consolidation, or elimination of programs, degree offerings, physical
10 facilities or policy changes where that action is deemed by the coordinating board as in the best
11 interests of the institutions themselves and/or the general requirements of the state.
12 Recommendations shall be submitted to governing boards by twelve months preceding the term
13 in which the action may take effect;

14 (3) Recommending to the governing boards of state-supported institutions of higher
15 education, including public junior colleges receiving state support, formulas to be employed in
16 specifying plans for general operations, for development and expansion, and for requests for
17 appropriations from the general assembly. Such recommendations will be submitted to the
18 governing boards by April first of each year preceding a regular session of the general assembly
19 of the state of Missouri;

20 (4) Promulgating rules to include selected off-campus instruction in public college and
21 university appropriation recommendations where prior need has been established in areas
22 designated by the coordinating board for higher education. Funding for such off-campus
23 instruction shall be included in the appropriation recommendations, shall be determined by the

24 general assembly and shall continue, within the amounts appropriated therefor, unless the general
25 assembly disapproves the action by concurrent resolution;

26 (5) Coordinating reciprocal agreements between or among Missouri state institutions of
27 higher education at the request of one or more of the institutions party to the agreement, and
28 between or among Missouri state institutions of higher education and publicly supported higher
29 education institutions located outside the state of Missouri at the request of any Missouri
30 institution party to the agreement;

31 (6) Administering the nurse training incentive fund;

32 (7) Conducting, in consultation with each public four-year institution's governing board
33 and the governing board of technical colleges and community colleges, a review every five years
34 of the mission statements of the institutions comprising Missouri's system of public higher
35 education. This review shall be based upon the needs of the citizens of the state as well as the
36 requirements of business, industry, the professions and government. The purpose of this review
37 shall be to ensure that Missouri's system of higher education is responsive to the state's needs and
38 is focused, balanced, cost-effective, and characterized by programs of high quality as
39 demonstrated by student performance and program outcomes. As a component of this review,
40 each institution shall prepare, in a manner prescribed by the coordinating board, a mission
41 implementation plan for the coordinating board's consideration and approval. If the coordinating
42 board determines that an institution has qualified for a mission change or additional targeted
43 resources pursuant to review conducted under this subdivision and subdivision (8) of this
44 subsection, the coordinating board shall submit a report to the general assembly that outlines the
45 proposed mission change or targeted state resources. No change of mission for an institution
46 under this subdivision establishing a statewide mission shall become effective until the general
47 assembly approves the proposed mission change by concurrent resolution, except for the
48 institution defined pursuant to subdivision (1) of section 174.010, RSMo, and has been approved
49 by the coordinating board and the institutions for which the coordinating board has
50 recommended a statewide mission prior to August 28, 1995. The effective date of any mission
51 change under this subdivision shall be the first day of July immediately following the approval
52 of the concurrent resolution by the general assembly as required under this subdivision, and shall
53 be August 28, 1995, for any institution for which the coordinating board has recommended a
54 statewide mission which has not yet been implemented on such date. Nothing in this subdivision
55 shall preclude an institution from initiating a request to the coordinating board for a revision of
56 its mission; [and]

57 (8) Reviewing applications from institutions seeking a statewide mission. Such
58 institutions shall provide evidence to the coordinating board that they have the capacity to
59 discharge successfully such a mission. Such evidence shall consist of the following:

60 (a) That the institution enrolls a representative cross-section of Missouri students.
61 Examples of evidence for meeting this requirement which the institution may present include,
62 but are not limited to, the following: enrolling at least forty percent of its Missouri resident,
63 first-time degree-seeking freshmen from outside its historic statutory service region; enrolling
64 its Missouri undergraduate students from at least eighty percent of all Missouri counties; or
65 enrolling one or more groups of special population students such as minorities, economically
66 disadvantaged, or physically disadvantaged from outside its historic statutory service region at
67 rates exceeding state averages of such populations enrolled in the higher educational institutions
68 of this state;

69 (b) That the institution offers one or more programs of unusual strength which respond
70 to a specific statewide need. Examples of evidence of meeting this requirement which the
71 institution may present include, but are not limited to, the following: receipt of national,
72 discipline-specific accreditation when available; receipt of independent certification for meeting
73 national or state standards or requirements when discipline-specific accreditation is not available;
74 for occupationally specific programs, placement rates significantly higher than average; for
75 programs for which state or national licensure is required or for which state or national licensure
76 or registration is available on a voluntary basis, licensure or registration rates for graduates
77 seeking such recognition significantly higher than average; or quality of program faculty as
78 measured by the percentage holding terminal degrees, the percentage writing publications in
79 professional journals or other appropriate media, and the percentage securing competitively
80 awarded research grants which are higher than average;

81 (c) That the institution has a clearly articulated admission standard consistent with the
82 provisions of subdivision (4) of subsection 2 of section 173.005 or section 174.130, RSMo;

83 (d) That the institution is characterized by a focused academic environment which
84 identifies specific but limited areas of academic emphasis at the undergraduate, and if
85 appropriate, at the graduate and professional school levels, including the identification of
86 programs to be continued, reduced, terminated or targeted for excellence. The institution shall,
87 consistent with its focused academic environment, also have the demonstrable capacity to
88 provide significant public service or research support that address statewide needs for
89 constituencies beyond its historic statutory service region; and

90 (e) That the institution has adopted and maintains a program of continuous quality
91 improvement, or the equivalent of such a program, and reports annually appropriate and

verifiable measures of institutional accountability related to such program. Such measures shall include, but not be limited to, indicators of student achievement and institutional mission attainment such as percentage of students meeting institutional admission standards; success of remediation programs, if offered; student retention rate; student graduation rate; objective measures of student, alumni, and employer satisfaction; objective measures of student learning in general education and the major, including written and oral communication skills and critical thinking skills; percentage of students attending graduate or professional schools; student placement, licensure and professional registration rates when appropriate to a program's objectives; objective measures of successful attainment of statewide goals as may be expressed from time to time by the coordinating board or by the general assembly; and objective measures of faculty teaching effectiveness. In the development and evaluation of these institutional accountability reports, the coordinating board and institutions are expected to use multiple measures of success, including nationally developed and verified as well as locally developed and independently verified assessment instruments; however, preference shall be given to nationally developed instruments when they are available and if they are appropriate. Institutions which serve or seek to serve a statewide mission shall be judged to have met the prerequisites for such a mission when they demonstrate to the coordinating board that they have met the criteria described in this subdivision. As a component of this process, each institution shall prepare, in a manner prescribed by the coordinating board, a mission implementation plan for the coordinating board's consideration and approval; **and**

(9) Receiving and forwarding certification relating to the enrollment of unlawfully present aliens in universities, colleges, and junior colleges under section 172.360, RSMo, section 174.130, RSMo, section 175.025, RSMo, and sections 178.635, 178.780, and 178.785, RSMo.

174.130. 1. Each board may make such rules and regulations for the admission of students as may be deemed proper; **provided that aliens unlawfully present in the United States shall not be eligible for enrollment in the university or college.**

2. **Prior to approval of any appropriations by the general assembly for the university or college, the registrar for each university or college shall annually certify to the coordinating board for higher education that its university or college has not knowingly enrolled any aliens unlawfully present in the United States in the preceding year. Within thirty days of receipt of the certification, the coordinating board for higher education shall forward the certification to the governor, the president pro tem of the senate, the speaker of the house of representatives, and the chair of the committee for appropriation of state funds in the house of representatives and the senate.**

175.025. 1. The board of curators of Lincoln University may make such rules and regulations for the admission of students as it may be deemed proper; provided that aliens unlawfully present in the United States shall not be eligible for enrollment in the university.

2. Prior to approval of any appropriations by the general assembly for the university, the registrar shall annually certify to the coordinating board for higher education that the university has not knowingly enrolled any aliens unlawfully present in the United States in the preceding year. Within thirty days of receipt of the certification, the coordinating board for higher education shall forward the certification to the governor, the president pro tem of the senate, the speaker of the house of representatives, and the chair of the committee for appropriation of state funds in the house of representatives and the senate.

178.635. 1. The board of regents of Linn State Technical College shall organize in the manner provided by law for the board of curators of the University of Missouri. The powers, duties, authority, responsibilities, privileges, immunities, liabilities and compensation of the board of Linn State Technical College in regard to Linn State Technical College shall be the same as those prescribed by statute for the board of curators of the University of Missouri in regard to the University of Missouri, except that Linn State Technical College shall be operated only as a state technical college. Nothing in this section shall be construed to authorize Linn State Technical College to become a community college or a university offering four-year or graduate degrees.

2. All lawful bonded indebtedness incurred by the issuance of revenue bonds, as defined in section 176.010, RSMo, by Linn Technical College, shall be deemed to be an indebtedness of the board of regents of Linn State Technical College after the date upon which the conditions of section 178.631 are met. Such indebtedness shall be retired through tuition revenues.

3. The board of regents may make such rules and regulations for the admission of students as it may be deemed proper; provided that aliens unlawfully present in the United States shall not be eligible for enrollment in Linn State Technical College.

4. Prior to approval of any appropriations by the general assembly for Linn State Technical College, the registrar shall annually certify to the coordinating board for higher education that the college has not knowingly enrolled any aliens unlawfully present in the United States in the preceding year. Within thirty days of receipt of the certification, the coordinating board for higher education shall forward the certification to the governor, the president pro tem of the senate, the speaker of the house of representatives, and the chair of the committee for appropriation of state funds in the house of representatives and the senate.

178.780. 1. Tax supported junior colleges formed prior to October 13, 1961, and those formed under the provisions of sections 178.770 to 178.890 shall be under the supervision of the coordinating board for higher education.

2. The coordinating board for higher education shall:

(1) Establish the role of the two-year college in the state;

(2) Set up a survey form to be used for local surveys of need and potential for two-year colleges; provide supervision in the conducting of surveys; require that the results of the studies be used in reviewing applications for approval; and establish and use the survey results to set up priorities;

(3) Require that the initiative to establish two-year colleges come from the area to be served;

(4) Administer the state financial support program;

(5) Supervise the junior college districts formed under the provisions of sections 178.770 to 178.890 and the junior colleges now in existence and formed prior to October 13, 1961;

(6) Formulate and put into effect uniform policies as to budgeting, record keeping, and student accounting;

(7) Establish uniform minimum entrance requirements and uniform curricular offerings for all junior colleges **and ensure that aliens unlawfully present in the United States are not eligible for enrollment in any junior college;**

(8) Make a continuing study of junior college education in the state; and

(9) Be responsible for the accreditation of each junior college under its supervision. Accreditation shall be conducted annually or as often as deemed advisable and made in a manner consistent with rules and regulations established and applied uniformly to all junior colleges in the state. Standards for accreditation of junior colleges shall be formulated with due consideration given to curriculum offerings and entrance requirements of the University of Missouri.

178.785. Prior to approval of any appropriations by the general assembly for a junior college, the registrar for the college shall annually certify to the coordinating board for higher education that its junior college has not knowingly enrolled any aliens unlawfully present in the United States in the preceding year. Within thirty days of receipt of the certification, the coordinating board for higher education shall forward the certification to the governor, the president pro tem of the senate, the speaker of the house of representatives, and the chair of the committee for appropriation of state funds in the house of representatives and the senate.

208.009. 1. No person who is not a citizen or a permanent resident of the United States or who does not possess lawful immigration status shall receive any state or local public benefit, as defined in 8 U.S.C. Section 1621(c)(1)(B), under this chapter, except for a state or local public benefit that is specified under 8 U.S.C. Section 1621(b) or otherwise mandated by federal law.

2. In addition to providing proof of other eligibility requirements, at the time of application for any state or local public benefit, an applicant who is nineteen years of age or older shall provide affirmative proof that the applicant is a citizen or a permanent resident of the United States or is lawfully present in the United States; provided, however, that in the case of state grants and scholarships, such proof shall be provided before the applicant receives any state grant or scholarship. Such affirmative proof shall consist of documentary evidence recognized by the department of revenue when processing an application for a driver's license. A state or local government agency administering state or local public benefits shall accept any identification card issued by a state or local government agency, including a driver's license, to establish identity or determine eligibility for the state or local public benefit if the state or local government agency that issued the card has verified the eligibility of the applicant.

3. An applicant who cannot provide the proof required under this section at the time of application may alternatively sign an affidavit under oath, attesting to either United States citizenship or to classification by the United States as an alien lawfully admitted for permanent residence, in order to receive temporary benefits or a temporary identification document as provided in this section. The affidavit shall be on or consistent with forms prepared by the state or local government agency administering the state or local public benefits and shall include the applicant's Social Security number and an explanation of the penalties under state law for obtaining state or local public benefits fraudulently.

4. An applicant who has provided the sworn affidavit required under subsection 3 of this section is eligible to receive temporary state or local public benefits as follows:

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

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

35 **5. Any applicant whose lawful presence in the United States is not established**
36 **under this section shall be reported to the United States Department of Homeland Security**
37 **and the United States Department of Citizenship and Immigration Services.**

38 **6. Nothing in this section shall be deemed to require any nonprofit organization**
39 **organized under the Internal Revenue Code to enforce the provisions of this section, nor**
40 **does it prohibit a nonprofit organization from providing aid.**

285.525. 1. As used in sections 285.525 to 285.560, the following terms shall have
2 **the following meanings:**

3 **(1) "Business entity", any person or group of persons performing or engaging in**
4 **any activity, enterprise, profession, or occupation for gain, benefit, advantage, or**
5 **livelihood. The term business entity shall include but not be limited to self-employed**
6 **individuals, partnerships, corporations, contractors, and subcontractors. The term**
7 **business entity shall include any business entity that possesses a business or other**
8 **applicable license, permit, or tax certificate issued by the state or any political subdivision**
9 **thereof, any business entity that is exempt by law from obtaining such a license or permit,**
10 **and any business entity that is operating unlawfully without such a license or permit. The**
11 **term business entity shall not include a self-employed individual with no employees or**
12 **entities utilizing the services of direct sellers as defined in subdivision (17) of subsection 12**
13 **of section 288.034, RSMo;**

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

19 **(3) "Division", the division of labor standards within the department of labor and**
20 **industrial relations;**

21 **(4) "Employee", any person performing or applying for work or service of any**
22 **kind or character for hire within the state of Missouri;**

23 **(5) "Employer", any person or entity employing or seeking to employ any person**
24 **for hire within the state of Missouri, including a public employer. Where there are two or**
25 **more putative employers, any person or entity taking a business tax deduction for the**
26 **employee in question shall be considered an employer of that person for purposes of**
27 **sections 285.525 to 285.560;**

28 **(6) "Employment", the act of employing or state of being employed, engaged, or**
29 **hired to perform work or service of any kind or character within the state of Missouri;**

30 (7) "Federal Work Authorization Program", any of the electronic verification of
31 work authorization programs operated by the United States Department of Homeland
32 Security or any equivalent federal work authorization program operated by the United
33 States Department of Homeland Security to verify information of newly hired employees,
34 under the Immigration Reform and Control Act of 1986 (IRCA), D.L.99-603;

35 (8) "Illegal alien", an alien who is not lawfully present in the United States,
36 according to the terms of 8 U.S.C. 1101, et seq. The state of Missouri shall not conclude
37 that a person is an illegal alien unless and until an authorized representative of the state
38 of Missouri has verified with the federal government that the person is an alien who is not
39 lawfully present in the United States under 8 U.S.C. 1373(c);

40 (9) "Political subdivision", any agency or unit of this state which now is, or
41 hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied;

42 (10) "Public employer", every department, agency, or instrumentality of the state
43 or political subdivision of the state;

44 (11) "Unauthorized alien", an alien who does not have the legal right or
45 authorization under federal law to work in the United States, as defined in 8 U.S.C.
46 1324a(h)(3);

47 (12) "Work", any job, task, employment, labor, personal services, or any other
48 activity for which compensation is provided, expected, or due, including but not limited to
49 all activities conducted by business entities.

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

4 2. As a condition for the award of any state contract or grant in excess of five
5 thousand dollars by the state or any political subdivision of the state to a business entity,
6 or for any business entity receiving a state-administered tax credit, tax abatement, or loan
7 from the state, the business entity shall, by sworn affidavit and provision of documentation,
8 affirm its enrollment and participation in any federal work authorization program. Every
9 business entity shall also sign an affidavit affirming that it does not knowingly employ any
10 person who is an unauthorized alien.

11 3. All public employers shall enroll and actively participate in any federal work
12 authorization program.

13 4. If an employer enrolls and participates in any federal work authorization
14 program, the business entity shall retain a written or electronic copy of the dated
15 verification report received from the federal government. Any business entity that

16 participates in such program shall have an affirmative defense that such business entity
17 has not violated the provisions of this section and section 285.535, unless it is proven by
18 clear and convincing evidence that the business entity had actual knowledge of the
19 unauthorized status of the employee under the Immigration Reform and Control Act of
20 1986 (8 U.S.C. 1324a), or its successor.

21 5. A contractor will not be held liable under this section if:

22 (1) The contractor provides documented proof of enrollment in any federal work
23 authorization program; and

24 (2) The contractor obtains from a direct subcontractor documented proof of the
25 subcontractor's enrollment in any federal work authorization program or a sworn affidavit
26 under penalty of perjury attesting that all the direct subcontractor's employees are
27 lawfully present in the United States.

285.535. 1. The division shall enforce the requirements of sections 285.525 to
2 285.560. For purposes of sections 285.525 to 285.560, the division shall have the same
3 power and authority as in section 290.280, RSMo.

4 2. An enforcement action shall be initiated by means of a written, signed complaint
5 under penalty of perjury as defined in section 575.040, RSMo, to the division submitted by
6 any state official, business entity, or state resident. A valid complaint shall include an
7 allegation which describes the alleged violator as well as the actions constituting the
8 violation, and the date and location where such actions occurred. A complaint which
9 alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall
10 be deemed invalid and shall not be enforced.

11 3. Upon receipt of a valid complaint, the division shall, within ten business days,
12 request identity information from the business entity regarding any persons alleged to be
13 unauthorized aliens. Such request shall be made by certified mail. The division shall
14 direct the applicable municipal or county governing body to suspend any applicable
15 license, permit, or exemptions of any business entity which fails, within ten business days
16 after receipt of the request, to provide such information. The suspension of any applicable
17 license, permit, or exemption under this subsection shall terminate one business day after
18 a legal representative of the business entity submits the identity information required
19 under this subsection.

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

24 **(1) If the federal government notifies the division that an employee is authorized**
25 **to work in the United States, the division shall take no further action on the complaint;**

26 **(2) If the federal government notifies the division that an employee is not**
27 **authorized to work in the United States, the division shall proceed on the complaint as**
28 **provided in subsection 5 of this section;**

29 **(3) If the federal government notifies the division that it is unable to verify whether**
30 **an employee is authorized to work in the United States, the division shall take no further**
31 **action on the complaint until a verification from the federal government concerning the**
32 **status of the individual is received. At no point shall any state official attempt to make an**
33 **independent determination of any alien's legal status without verification from the federal**
34 **government under 8 U.S.C. 1373(c).**

35 **5. (1) If the federal government notifies the division that an employee is not**
36 **authorized to work in the United States, and the employer of the unauthorized alien**
37 **participates in any federal work authorization program, there shall be a rebuttable**
38 **presumption that the employer has met the requirements for an affirmative defense under**
39 **subsection 4 of section 285.530, and the employer shall comply with subsection 6 of this**
40 **section.**

41 **(2) If the federal government notifies the division that an employee is not**
42 **authorized to work in the United States, and the employer of the unauthorized alien does**
43 **not participate in any federal work authorization program, the division shall, after notice**
44 **and a hearing, determine whether the business entity knowingly violated this section and**
45 **section 285.530:**

46 **(a) If the division finds that a business entity did not knowingly violate this act, the**
47 **employer shall comply with subsection 6 of this section;**

48 **(b) If the division finds that a business entity knowingly violated this act, the**
49 **division shall direct the applicable municipal or county governing body to suspend any**
50 **applicable licenses, permits, or exemptions of any business entity for fourteen days after**
51 **notification of the violation by the division. The division shall direct the applicable**
52 **municipal or county governing body to reinstate any applicable license, permit, or**
53 **exemptions after the end of the suspension period, and upon receipt by the division of the**
54 **prescribed affidavit under subsection 6 of this section and documentation which confirms**
55 **that the business entity has enrolled in and is participating in any federal work**
56 **authorization program. The division shall forward the affidavit, complaint, and associated**
57 **documents to the Bureau of Immigration and Customs Enforcement of the United States**
58 **Department of Homeland Security.**

59 **6. The correction of a violation with respect to the employment of an unauthorized**
60 **alien shall include the following actions:**

61 **(1) (a) The business entity terminates the unauthorized alien's employment. If the**
62 **business entity attempts to terminate the unauthorized alien's employment and such**
63 **termination is challenged in a court of the state of Missouri, the fourteen-day period**
64 **referenced in subsection 5 of this section shall be tolled while the business entity pursues**
65 **the termination of the unauthorized alien's employment in such forum; or**

66 **(b) The business entity, after acquiring additional information from the employee,**
67 **requests a secondary or additional verification by the federal government of the employee's**
68 **authorization, under the procedures of any federal work authorization program. While**
69 **this verification is pending, the fourteen-day period referenced in subsection 5 of this**
70 **section shall be tolled; and**

71 **(2) A legal representative of the business entity submits, at an office designated by**
72 **the division, a sworn affidavit stating that the violation has ended:**

73 **(a) The affidavit shall include a description of the specific measures and actions**
74 **taken by the business entity to end the violation, and shall include the name, address, and**
75 **other adequate identifying information for any unauthorized aliens related to the**
76 **complaint;**

77 **(b) When any of the alleged unauthorized aliens were verified to be unauthorized**
78 **aliens, the legal representative of the business entity shall submit to the division, in addition**
79 **to the prescribed affidavit, documentation acceptable to the division which confirms that**
80 **the business entity has enrolled in and is participating in any federal work authorization**
81 **program.**

82 **7. For a second violation of this act, the division shall direct the applicable**
83 **municipal or county governing body to suspend any applicable license, permit, or**
84 **exemptions of the business entity for a minimum of thirty days and a maximum of sixty**
85 **days. For a third violation of this act, the division shall direct the applicable municipal or**
86 **county governing body to suspend any applicable license, permit, or exemptions of the**
87 **business entity for a minimum of one year and a maximum of five years. The division shall**
88 **direct the applicable municipal or county governing body to reinstate any applicable**
89 **license, permit, or exemptions after the end of the suspension period, and upon receipt by**
90 **the division of the prescribed affidavit under subsection 6 of this section and**
91 **documentation which confirms that the business entity has enrolled in and is participating**
92 **in any federal work authorization program. The division shall forward the affidavit,**

complaint, and associated documents to the Bureau of Immigration and Customs Enforcement of the United States Department of Homeland Security.

8. In addition to the penalties in subsections 7 and 8 of this section:

(1) Upon the first violation of section 285.530 by any business entity awarded a state contract or grant or receiving a state-administered tax credit, tax abatement, or loan from the state, the business entity shall be deemed in breach of contract and the state shall terminate the contract and suspend or debar the business entity from doing business with the state for a period of three years. Upon such termination, the state may withhold up to twenty-five percent of the total amount due to the business entity;

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

9. Sections 285.525 to 285.560 shall not be construed to deny any procedural mechanisms included in any federal work authorization program.

10. Any business entity subject to a complaint and subsequent enforcement under this act, or any employee of such a business entity, may challenge the enforcement of this section with respect to such entity or employee in the courts of the state of Missouri.

11. If the division finds that any complaint is frivolous in nature or finds no probable cause to believe that there has been a violation, the division shall dismiss the case. For purposes of this subsection, "frivolous" shall mean a complaint not shown by clear and convincing evidence to be valid. Any person who submits a frivolous complaint shall be liable for actual, compensatory, and punitive damages, and any attorney's fees and court costs, to the alleged violator for holding the alleged violator before the public in a false light. If the division finds that a complaint is frivolous or that there is not probable cause to believe there has been a violation, the division shall issue a public report to the complainant and the alleged violator stating with particularity its reasons for dismissal of the complaint. Upon such issuance, the complaint and all materials relating to the complaint shall be a public record as defined in chapter 610, RSMo.

12. The determination of whether a worker is an unauthorized alien shall be made by the federal government, under 8 U.S.C. 1373(c). A determination of such status of an individual by the federal government shall create a rebuttable presumption as to that individual's status in any judicial proceedings brought under this section and section

128 285.530. The court may take judicial notice of any verification of an individual's status
129 previously provided by the federal government and may request the federal government
130 to provide automated or testimonial verification under 8 U.S.C. 1373(c).

131 13. Compensation, whether in money or in kind or in services, knowingly provided
132 to any unauthorized alien shall not be allowed as a business expense deduction from any
133 income or business taxes of this state.

134 14. Any business entity which terminates an employee in accordance with this
135 section shall not be liable for any claims made against the business entity under chapter
136 213, RSMo.

285.540. The division shall promulgate rules to implement the provisions of sections
2 285.525 to 285.560. Any rule or portion of a rule, as that term is defined in section 536.010,
3 RSMo, that is created under the authority delegated in this section shall become effective
4 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,
5 if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
6 nonseverable and if any of the powers vested with the general assembly under chapter 536,
7 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
8 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
9 proposed or adopted after August 28, 2008, shall be invalid and void.

285.543. The division shall maintain a database that documents any business entity
2 whose permit, license, or exemption has been suspended or state-contract has been
3 terminated.

285.550. If any municipal or county governing body fails to suspend any applicable
2 licenses, permits, or exemptions as directed by the division as a result of a violation of
3 section 285.530 or section 285.535 within fifteen business days after notification of the
4 violation by the division, the municipality shall be deemed to have adopted a sanctuary
5 policy as defined in section 67.307, RSMo, and shall be subject to the penalties thereunder.

285.555. Should the federal government discontinue or fail to authorize or
2 implement any federal work authorization program, the general assembly shall review
3 sections 285.525 to 285.560 for the purpose of determining whether the sections are no
4 longer applicable and should be repealed.

285.560. The state shall indemnify, defend, and hold harmless any political
2 subdivision, public official, or employee who is sued for violation of federal civil rights
3 statutes when attempting to comply with the sections of this act.

302.063. The department of revenue shall not issue any driver's license to an illegal
2 alien nor to any person who cannot prove his or her lawful presence pursuant to the

3 **provisions of this chapter and the regulations promulgated thereunder. A driver's license**
4 **issued to an illegal alien in another state shall not be honored by the state of Missouri and**
5 **the department of revenue for any purpose. The state of Missouri hereby declares that**
6 **granting driver's licenses to illegal aliens is repugnant to the public policy of Missouri and**
7 **therefore Missouri shall not extend full faith and credit to out-of-state driver's licenses**
8 **issued to illegal aliens. As used in this section, the term "illegal alien" shall mean an alien**
9 **who is not lawfully present in the United States, according to the terms of 8 U.S.C. 1101,**
10 **et seq.**

302.720. 1. Except when operating under an instruction permit as described in this
2 section, no person may drive a commercial motor vehicle unless the person has been issued a
3 commercial driver's license with applicable endorsements valid for the type of vehicle being
4 operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit
5 shall allow the holder of a valid license to operate a commercial motor vehicle when
6 accompanied by the holder of a commercial driver's license valid for the vehicle being operated
7 and who occupies a seat beside the individual, or reasonably near the individual in the case of
8 buses, for the purpose of giving instruction in driving the commercial motor vehicle. A
9 commercial driver's instruction permit shall be valid for the vehicle being operated for a period
10 of not more than six months, and shall not be issued until the permit holder has met all other
11 requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless
12 otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee
13 for such permit or renewal shall be five dollars. In the alternative, a commercial driver's
14 instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's
15 license to operate a commercial motor vehicle if the applicant has completed all other
16 requirements except the driving test. The permit may be renewed for one additional thirty-day
17 period and the fee for the permit and for renewal shall be five dollars.

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

27 must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of
28 1986 (Title XII of Pub. Law 99-570) as established by the Secretary.

29 (1) The written and driving tests shall be held at such times and in such places as the
30 superintendent may designate. A twenty-five dollar examination fee shall be paid by the
31 applicant upon completion of any written or driving test. The director shall delegate the power
32 to conduct the examinations required under sections 302.700 to 302.780 to any member of the
33 highway patrol or any person employed by the highway patrol qualified to give driving
34 examinations. **The written test shall only be administered in the English language. No**
35 **translators shall be allowed for applicants taking the test.**

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

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

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

58 (5) The director shall have the authority to waive the driving skills test for any qualified
59 military applicant for a commercial driver's license who is currently licensed at the time of
60 application for a commercial driver's license. The director shall impose conditions and
61 limitations to restrict the applicants from whom the department may accept alternative

62 requirements for the skills test described in federal regulation 49 C.F.R. 383.77. An applicant
63 must certify that, during the two-year period immediately preceding application for a commercial
64 driver's license, all of the following apply:

- 65 (a) The applicant has not had more than one license;
- 66 (b) The applicant has not had any license suspended, revoked, or cancelled;
- 67 (c) The applicant has not had any convictions for any type of motor vehicle for the
68 disqualifying offenses contained in this chapter or federal rule 49 C.F.R. 383.51(b);
- 69 (d) The applicant has not had more than one conviction for any type of motor vehicle for
70 serious traffic violations;
- 71 (e) The applicant has not had any conviction for a violation of state or local law relating
72 to motor vehicle traffic control, but not including any parking violation, arising in connection
73 with any traffic accident, and has no record of an accident in which he or she was at fault;
- 74 (f) The applicant is regularly employed in a job requiring operation of a commercial
75 motor vehicle and has operated the vehicle for at least sixty days during the two years
76 immediately preceding application for a commercial driver's license. The vehicle must be
77 representative of the commercial motor vehicle the driver applicant operates or expects to
78 operate;
- 79 (g) The applicant, if on active duty, must provide a notarized affidavit signed by a
80 commanding officer as proof of driving experience as indicated in paragraph (f) of this
81 subdivision;
- 82 (h) The applicant, if honorably discharged from military service, must provide a
83 form-DD214 or other proof of military occupational specialty;
- 84 (i) The applicant must meet all federal and state qualifications to operate a commercial
85 vehicle; and
- 86 (j) The applicant will be required to complete all applicable knowledge tests.

87 3. A commercial driver's license may not be issued to a person while the person is
88 disqualified from driving a commercial motor vehicle, when a disqualification is pending in any
89 state or while the person's driver's license is suspended, revoked, or canceled in any state; nor
90 may a commercial driver's license be issued unless the person first surrenders in a manner
91 prescribed by the director any commercial driver's license issued by another state, which license
92 shall be returned to the issuing state for cancellation.

93 4. Beginning July 1, 2005, the director shall not issue an instruction permit under this
94 section unless the director verifies that the applicant is lawfully present in the United States
95 before accepting the application. The director may, by rule or regulation, establish procedures
96 to verify the lawful presence of the applicant under this section. No rule or portion of a rule

97 promulgated pursuant to the authority of this section shall become effective unless it has been
98 promulgated pursuant to chapter 536, RSMo.

544.470. **1.** If the offense is not bailable, or if the person does not meet the conditions
2 for release, as provided in section 544.455, the prisoner shall be committed to the jail of the
3 county in which the same is to be tried, there to remain until he be discharged by due course of
4 law.

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

577.722. **1.** It shall be unlawful for any person to transport, move, or attempt to
2 transport in the state of Missouri any illegal alien who is not lawfully present in the United
3 States, according to the terms of U.S.C. 1101, et seq., knowing or in reckless disregard of
4 the fact that the alien has come to, entered, or remained in the United States in violation
5 of law, in furtherance of the illegal presence of the alien in the United States.

6 **2.** It shall be unlawful for any person to conceal, harbor, or shelter from detection
7 any such alien in any place within the state of Missouri including any building or means
8 of transportation, knowing or in reckless disregard of the fact that the alien has come to,
9 entered, or remained in the United States in violation of law.

10 **3.** Any person violating the provisions of subsection 1 or 2 of this section shall be
11 guilty of a felony for which the authorized term of imprisonment is a term of years not less
12 than one year, or by a fine in an amount not less than one thousand dollars, or by both
13 such fine and imprisonment.

14 **4.** Individuals shall not be liable under this section for transporting an illegal alien
15 who is unlawfully present in the state for the purposes of delivering the individual to a
16 medical facility, soup kitchen, institution for crisis counseling and intervention, or short-
17 term shelter, or for sheltering such an alien who has been the victim of abuse.

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

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

578.570. Any person who:

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

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

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

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

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

2. Notwithstanding any other provision of law, no person or agency within the state of Missouri shall prohibit, or in any way restrict, a public employee from doing any of the

8 following with respect to information regarding the immigration status, lawful or unlawful,
9 of any individual:

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

12 (2) Maintaining such information;

13 (3) Exchanging such information with any other federal, state, or local government
14 entity;

15 (4) Asking an individual his or her citizenship or immigration status.

16 3. Upon the complaint of any state resident regarding a specific government entity,
17 agency, or political subdivision of this state or prior to the provision of funds or awarding
18 of any grants to a government entity, agency, or political subdivision of this state, any
19 member of the general assembly may request that the attorney general of the state of
20 Missouri issue an opinion stating whether the government entity, agency, or political
21 subdivision has current policies in contravention of subsections 1 and 2 of this section.

22 4. No state agency or department shall provide any funding or award any monetary
23 grants to any government entity, agency, or political subdivision determined under
24 subsection 3 of this section to have a policy in contravention of subsections 1 and 2 of this
25 section until the policy is repealed or no longer in effect.

Section B. The provisions of sections 67.307, 285.525, 285.530, 285.535, 285.540,
2 285.550, 285.555, 285.560, and 650.681 of section A of this act shall take effect on January 1,
3 2009.

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