

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 1549, 1771, 1395 & 2366

AN ACT

To repeal sections 8.283, 302.720, and 544.470, RSMo,
and to enact in lieu thereof twenty-four 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 8.283, 302.720, and 544.470, RSMo, are
repealed and twenty-four new sections enacted in lieu thereof, to
be known as sections 43.032, 67.307, 208.009, 285.309, 285.500,
285.503, 285.506, 285.512, 285.515, 285.525, 285.530, 285.535,
285.540, 285.543, 285.550, 285.555, 292.675, 302.063, 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 patrol shall designate that some or all
members of the highway patrol be trained in accordance with a
memorandum of understanding between the state of Missouri and the
United States Department of Homeland Security concerning the
enforcement of federal immigration laws during the course of
their normal duties in the state of Missouri, in accordance with

1 8 U.S.C. Section 1357(g). The superintendent shall have the
2 authority to negotiate the terms of such memorandum. The
3 memorandum shall be signed by the superintendent of the highway
4 patrol, the governor, and the director of the department of
5 public safety.

6 67.307. 1. As used in this section, the following terms
7 mean:

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

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

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

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

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

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

23 2. No municipality shall enact or adopt any sanctuary
24 policy. Any municipality that enacts or adopts a sanctuary
25 policy shall be ineligible for any moneys provided through grants
26 administered by any state agency or department until the
27 sanctuary policy is repealed or is no longer in effect. Upon the
28 complaint of any state resident regarding a specific government

1 entity, agency, or political subdivision of this state or prior
2 to the provision of funds or awarding of any grants to a
3 government entity, agency, or political subdivision of this
4 state, any member of the general assembly may request that the
5 attorney general of the state of Missouri issue an opinion
6 stating whether the government entity, agency, or political
7 subdivision has current policies in contravention of this
8 section.

9 3. The governing body, sheriff, or chief of police of each
10 municipality shall provide each law enforcement officer with
11 written notice of their duty to cooperate with state and federal
12 agencies and officials on matters pertaining to enforcement of
13 state and federal laws governing immigration.

14 4. This section shall become effective on January 1, 2009.

15 208.009. 1. No alien unlawfully present in the United
16 States shall receive any state or local public benefit, except
17 for state or local public benefits that may be offered under 8
18 U.S.C. 1621(b). Nothing in this section shall be construed to
19 prohibit the rendering of emergency medical care, prenatal care,
20 services offering alternatives to abortion, emergency assistance,
21 or legal assistance to any person.

22 2. As used in this section, "public benefit" means any
23 grant, contract, or loan provided by an agency of state or local
24 government; or any retirement, welfare, health, postsecondary
25 education, state grants and scholarships, disability, housing, or
26 food assistance benefit under which payments, assistance,
27 credits, or reduced rates or fees are provided. The term "public
28 benefit" shall not include unemployment benefits payable under

1 chapter 288, RSMo. The unemployment compensation program shall
2 verify the lawful presence of an alien for the purpose of
3 determining eligibility for benefits in accordance with its own
4 procedures.

5 3. In addition to providing proof of other eligibility
6 requirements, at the time of application for any state or local
7 public benefit, an applicant who is eighteen years of age or
8 older shall provide affirmative proof that the applicant is a
9 citizen or a permanent resident of the United States or is
10 lawfully present in the United States, provided, however, that in
11 the case of state grants and scholarships, such proof shall be
12 provided before the applicant receives any state grant or
13 scholarship. Such affirmative proof shall include documentary
14 evidence recognized by the department of revenue when processing
15 an application for a driver's license, a Missouri driver's
16 license, as well as any document issued by the federal government
17 that confirms an alien's lawful presence in the United States.
18 In processing applications for public benefits, an employee of an
19 agency of state or local government shall not inquire about the
20 legal status of a custodial parent or guardian applying for a
21 public benefit on behalf of his or her dependent child who is a
22 citizen or permanent resident of the United States.

23 4. An applicant who cannot provide the proof required under
24 this section at the time of application may alternatively sign an
25 affidavit under oath, attesting to either United States
26 citizenship or classification by the United States as an alien
27 lawfully admitted for permanent residence, in order to receive
28 temporary benefits or a temporary identification document as

1 provided in this section. The affidavit shall be on or
2 consistent with forms prepared by the state or local government
3 agency administering the state or local public benefits and shall
4 include the applicant's Social Security number or any applicable
5 federal identification number and an explanation of the penalties
6 under state law for obtaining public assistance benefits
7 fraudulently.

8 5. An applicant who has provided the sworn affidavit
9 required under subsection 4 of this section is eligible to
10 receive temporary public benefits as follows:

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

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

21 6. An applicant who is an alien shall not receive any state
22 or local public benefit unless the alien's lawful presence in the
23 United States is first verified by the federal government. State
24 and local agencies administering public benefits in this state
25 shall cooperate with the United States Department of Homeland
26 Security in achieving verification of an alien's lawful presence
27 in the United States in furtherance of this section. The system
28 utilized may include the Systematic Alien Verification for

1 Entitlements Program operated by the United States Department of
2 Homeland Security.

3 7. The provisions of this section shall not be construed to
4 require any nonprofit organization organized under the Internal
5 Revenue Code to enforce the provisions of this section, nor does
6 it prohibit such an organization from providing aid.

7 8. Any agency that administers public benefits shall
8 provide assistance in obtaining appropriate documentation to
9 persons applying for public benefits who sign the affidavit
10 required by subsection 4 of this section stating they are
11 eligible for such benefits but lack the documents required under
12 subsection 3 of this section.

13 285.309. 1. Every employer doing business in this state
14 who employs five or more employees shall, if applicable, submit
15 federal 1099 miscellaneous forms to the department of revenue.
16 Such forms shall be submitted to the department of revenue within
17 the time lines established for the filing of Missouri form 99
18 forms.

19 2. Any employer who intentionally, on five or more
20 occasions, fails to submit information required under subsection
21 1 of this section shall be fined not more than two hundred
22 dollars for each time the employer fails to submit the
23 information on or after the fifth occurrence.

24 285.500. For the purposes of sections 285.500 to 285.515
25 the following terms mean:

26 (1) "Employee", any individual who performs services for an
27 employer that would indicate an employer-employee relationship in
28 satisfaction of the factors in IRS Rev. Rule 87-41, 1987-1

1 C.B.296.;

2 (2) "Employer", any individual, organization, partnership,
3 political subdivision, corporation, or other legal entity which
4 has or had in the entity's employ five or more individuals
5 performing public works as defined in section 290.210, RSMo;

6 (3) "Knowingly", a person acts knowingly or with knowledge,

7 (a) With respect to the person's conduct or to attendant
8 circumstances when the person is aware of the nature of the
9 person's conduct or that those circumstances exist; or

10 (b) With respect to a result of the person's conduct when
11 the person is aware that the person's conduct is practically
12 certain to cause that result.

13 285.503. 1. An employer knowingly misclassifies a worker
14 if that employer fails to claim the worker as an employee but
15 knows that the worker is an employee.

16 2. The attorney general may investigate alleged or
17 suspected violations of sections 285.500 to 285.515 and shall
18 have all powers provided by sections 407.040 to 407.090, RSMo, in
19 connection with any investigation of an alleged or suspected
20 violation of sections 285.500 to 285.515 as if the acts
21 enumerated in sections 285.500 to 285.515 are unlawful acts
22 proscribed by chapter 407, RSMo. The attorney general may serve
23 and enforce subpoenas related to the enforcement of sections
24 285.500 to 285.515.

25 285.506. In any action brought under sections 285.500 to
26 285.515, the state shall have the burden of proving that the
27 employer misclassified the worker.

28 285.512. Whenever the attorney general has reason to

1 believe that an employer is engaging in any conduct that would be
2 a violation of sections 285.500 to 285.515, the attorney general
3 may seek an injunction prohibiting the employer from engaging in
4 such conduct. The attorney general may bring an action for
5 injunctive relief in the circuit court of any county where the
6 alleged violation is occurring or about to occur.

7 285.515. If a court determines that an employer has
8 knowingly misclassified a worker, the court shall enter a
9 judgment in favor of the state and award penalties in the amount
10 of fifty dollars per day per misclassified worker up to a maximum
11 of fifty thousand dollars. The attorney general may enter into a
12 consent judgment with any person alleged to have violated
13 sections 285.500 to 285.515.

14 285.525. As used in sections 285.525 to 285.550, the
15 following terms shall have the following meanings:

16 (1) "Business entity", any person or group of persons
17 performing or engaging in any activity, enterprise, profession,
18 or occupation for gain, benefit, advantage, or livelihood. The
19 term "business entity" shall include but not be limited to self-
20 employed individuals, partnerships, corporations, contractors,
21 and subcontractors. The term "business entity" shall include any
22 business entity that possesses a business permit, license, or tax
23 certificate issued by the state, any business entity that is
24 exempt by law from obtaining such a business permit, and any
25 business entity that is operating unlawfully without such a
26 business permit. The term "business entity" shall not include a
27 self-employed individual with no employees or entities utilizing
28 the services of direct sellers as defined in subdivision (17) of

1 subsection 12 of section 288.034, RSMo;

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

9 (3) "Employee", any person performing work or service of
10 any kind or character for hire within the state of Missouri;

11 (4) "Employer", any person or entity employing any person
12 for hire within the state of Missouri, including a public
13 employer. Where there are two or more putative employers, any
14 person or entity taking a business tax deduction for the employee
15 in question shall be considered an employer of that person for
16 purposes of sections 285.525 to 285.550;

17 (5) "Employment", the act of employing or state of being
18 employed, engaged, or hired to perform work or service of any
19 kind or character within the state of Missouri;

20 (6) "Federal work authorization program", any of the
21 electronic verification of work authorization programs operated
22 by the United States Department of Homeland Security or an
23 equivalent federal work authorization program operated by the
24 United States Department of Homeland Security to verify
25 information of newly hired employees, under the Immigration
26 Reform and Control Act of 1986 (IRCA), P.L.99-603;

27 (7) "Knowingly", a person acts knowingly or with knowledge,

1 (a) With respect to the person's conduct or to attendant
2 circumstances when the person is aware of the nature of the
3 person's conduct or that those circumstances exist; or

4 (b) With respect to a result of the person's conduct when
5 the person is aware that the person's conduct is practically
6 certain to cause that result;

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

10 (9) "Public employer", every department, agency, or
11 instrumentality of the state or political subdivision of the
12 state;

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

16 (11) "Work", any job, task, employment, labor, personal
17 services, or any other activity for which compensation is
18 provided, expected, or due, including but not limited to all
19 activities conducted by business entities.

20 285.530. 1. No business entity or employer shall knowingly
21 employ, hire for employment, or continue to employ an
22 unauthorized alien to perform work within the state of Missouri.

23 2. As a condition for the award of any contract or grant in
24 excess of five thousand dollars by the state or by any political
25 subdivision of the state to a business entity, or for any
26 business entity receiving a state-administered or subsidized tax
27 credit, tax abatement, or loan from the state, the business
28 entity shall, by sworn affidavit and provision of documentation,

affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

3. All public employers shall enroll and actively participate in a federal work authorization program.

4. An employer may enroll and participate in a federal work authorization program and shall verify the employment eligibility of every employee in the employer's hire whose employment commences after the employer enrolls in a federal work authorization program. The employer shall retain a copy of the dated verification report received from the federal government. Any business entity that participates in such program shall have an affirmative defense that such business entity has not violated subsection 1 of this section.

5. A general contractor or subcontractor of any tier shall not be liable under sections 285.525 to 285.550 when such general contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of this section, if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of subsection 1 of this section and shall not henceforth be in such violation and the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

1 285.535. 1. The attorney general shall enforce the
2 requirements of sections 285.525 to 285.550.

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

13 3. Upon receipt of a valid complaint, the attorney general
14 shall, within fifteen business days, request identity information
15 from the business entity regarding any persons alleged to be
16 unauthorized aliens. Such request shall be made by certified
17 mail. The attorney general shall direct the applicable municipal
18 or county governing body to suspend any applicable license,
19 permit, or exemptions of any business entity which fails, within
20 fifteen business days after receipt of the request, to provide
21 such information.

22 4. The attorney general, after receiving the requested
23 identity information from the business entity, shall submit
24 identity data required by the federal government to verify, under
25 8 U.S.C. 1373, the immigration status of such persons, and shall
26 provide the business entity with written notice of the results of
27 the verification request:

28 (1) If the federal government notifies the attorney general

1 that an employee is authorized to work in the United States, the
2 attorney general shall take no further action on the complaint;

3 (2) If the federal government notifies the attorney general
4 that an employee is not authorized to work in the United States,
5 the attorney general shall proceed on the complaint as provided
6 in subsection 5 of this section;

7 (3) If the federal government notifies the attorney general
8 that it is unable to verify whether an employee is authorized to
9 work in the United States, the attorney general shall take no
10 further action on the complaint until a verification from the
11 federal government concerning the status of the individual is
12 received. At no point shall any state official attempt to make
13 an independent determination of any alien's legal status without
14 verification from the federal government.

15 5. (1) If the federal government notifies the attorney
16 general that an employee is not authorized to work in the United
17 States, and the employer of the unauthorized alien participates
18 in a federal work authorization program, there shall be a
19 rebuttable presumption that the employer has met the requirements
20 for an affirmative defense under subsection 4 of section 285.530,
21 and the employer shall comply with subsection 6 of this section.

22 (2) If the federal government notifies the attorney general
23 that an employee is not authorized to work in the United States,
24 the attorney general shall bring a civil action in Cole County if
25 the attorney general reasonably believes the business entity
26 knowingly violated subsection 1 of section 285.530.

27 (a) If the court finds that a business entity did not
28 knowingly violate subsection 1 of section 285.530, the employer

1 shall have fifteen business days to comply with subdivision (1)
2 and paragraph (a) of subdivision (2) of subsection 6 of this
3 section. If the entity fails to do so, the court shall direct
4 the applicable municipal or county governing body to suspend the
5 business permit, if such exists, and any applicable licenses or
6 exemptions of the entity until the entity complies with
7 subsection 6 of this section;

8 (b) If the court finds that a business entity knowingly
9 violated subsection 1 of section 285.530, the court shall direct
10 the applicable municipal or county governing body to suspend the
11 business permit, if such exists, and any applicable licenses or
12 exemptions of such business entity for fourteen days. Permits,
13 licenses, and exemptions shall be reinstated for entities who
14 comply with subsection 6 of this section at the end of the
15 fourteen day period.

16 6. The correction of a violation with respect to the
17 employment of an unauthorized alien shall include the following
18 actions:

19 (1) (a) The business entity terminates the unauthorized
20 alien's employment. If the business entity attempts to terminate
21 the unauthorized alien's employment and such termination is
22 challenged in a court of the state of Missouri, the fifteen-
23 business-day period for providing information to the attorney
24 general referenced in subsection 3 of this section shall be
25 tolled while the business entity pursues the termination of the
26 unauthorized alien's employment in such forum; or

27 (b) The business entity, after acquiring additional
28 information from the employee, requests a secondary or additional

verification by the federal government of the employee's
authorization, under the procedures of a federal work
authorization program. While this verification is pending, the
fifteen-business-day period for providing information to the
attorney general referenced in subsection 3 of this section shall
be tolled; and

(2) A legal representative of the business entity submits,
at an office designated by the attorney general, the following:

(a) A sworn affidavit stating that the violation has ended
that shall include a description of the specific measures and
actions taken by the business entity to end the violation, and
the name, address, and other adequate identifying information for
any unauthorized aliens related to the complaint; and

(b) Documentation acceptable to the attorney general which
confirms that the business entity has enrolled in and is
participating in a federal work authorization program.

7. The suspension of a business license or licenses under
subsection 5 of this section shall terminate one business day
after a legal representative of the business entity submits the
affidavit and other documentation required under subsection 6 of
this section following any period of restriction required under
subsection 5 of this section.

8. For an entity that violates subsection 1 of section
285.530 for a second time, the court shall direct the applicable
municipal or county governing body to suspend, for one year, the
business permit, if such exists, and any applicable license or
exemptions of the business entity. For a subsequent violation,
the court shall direct the applicable municipal or county

1 governing body to forever suspend the business permit, if such
2 exists, and any applicable license or exemptions of the business
3 entity.

4 9. In addition to the penalties in subsections 5 and 8 of
5 this section:

6 (1) Upon the first violation of subsection 1 of section
7 285.530 by any business entity awarded a state contract or grant
8 or receiving a state-administered tax credit, tax abatement, or
9 loan from the state, the business entity shall be deemed in
10 breach of contract and the state may terminate the contract and
11 suspend or debar the business entity from doing business with the
12 state for a period of three years. Upon such termination, the
13 state may withhold up to twenty-five percent of the total amount
14 due to the business entity;

15 (2) Upon a second or subsequent violation of subsection 1
16 of section 285.530 by any business entity awarded a state
17 contract or grant or receiving a state-administered tax credit,
18 tax abatement, or loan from the state, the business entity shall
19 be deemed in breach of contract and the state may terminate the
20 contract and permanently suspend or debar the business entity
21 from doing business with the state. Upon such termination, the
22 state may withhold up to twenty-five percent of the total amount
23 due to the business entity.

24 10. Sections 285.525 to 285.550 shall not be construed to
25 deny any procedural mechanisms or legal defenses included in a
26 federal work authorization program.

27 11. Any business entity subject to a complaint and
28 subsequent enforcement under sections 285.525 to 285.540, or any

1 employee of such a business entity, may challenge the enforcement
2 of this section with respect to such entity or employee in the
3 courts of the state of Missouri.

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

19 13. The determination of whether a worker is an
20 unauthorized alien shall be made by the federal government. A
21 determination of such status of an individual by the federal
22 government shall create a rebuttable presumption as to that
23 individual's status in any judicial proceedings brought under
24 this section or section 285.530. The court may take judicial
25 notice of any verification of an individual's status previously
26 provided by the federal government and may request the federal
27 government to provide automated or testimonial verification.

28 14. Compensation, whether in money or in kind or in

1 services, knowingly provided to any unauthorized alien shall not
2 be allowed as a business expense deduction from any income or
3 business taxes of this state.

4 15. Any business entity which terminates an employee in
5 accordance with this section shall not be liable for any claims
6 made against the business entity under chapter 213, RSMo, for the
7 termination.

8 285.540. The attorney general shall promulgate rules to
9 implement the provisions of sections 285.525 to 285.550. Any
10 rule or portion of a rule, as that term is defined in section
11 536.010, RSMo, that is created under the authority delegated in
12 this section shall become effective only if it complies with and
13 is subject to all of the provisions of chapter 536, RSMo, and, if
14 applicable, section 536.028, RSMo. This section and chapter 536,
15 RSMo, are nonseverable and if any of the powers vested with the
16 general assembly under chapter 536, RSMo, to review, to delay the
17 effective date, or to disapprove and annul a rule are
18 subsequently held unconstitutional, then the grant of rulemaking
19 authority and any rule proposed or adopted after August 28, 2008,
20 shall be invalid and void.

21 285.543. The attorney general shall maintain a database
22 that documents any business entity whose permit, license, or
23 exemption has been suspended or state contract has been
24 terminated.

25 285.550. If any municipal or county governing body fails to
26 suspend the business permit, if such exists, and applicable
27 licenses or exemptions as directed by the attorney general as a
28 result of a violation of section 285.530 or 285.535 within

fifteen days after notification by the attorney general, the municipality shall be deemed to have adopted a sanctuary 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 implement any federal work authorization program, the general assembly shall review sections 285.525 to 285.555 for the purpose of determining whether the sections are no longer applicable and should be repealed.

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

(1) "Construction", construction, reconstruction, demolition, painting and decorating, or major repair;

(2) "Department", the department of labor and industrial relations;

(3) "Person", any natural person, joint venture, partnership, corporation, or other business or legal entity;

(4) "Public body", the state of Missouri or any officer, official, authority, board or commission of the state, or other political subdivision thereof, or any institution supported in whole or in part by public funds;

(5) "Public works", all fixed works constructed for public use or benefit or paid for wholly or in part out of public funds.

"Public works" includes any work done directly by any public utility company when performed by it pursuant to the order of the public service commission or other public authority whether or not it be done under public supervision or direction or paid for wholly or in part out of public funds when let to contract by

1 said utility.

2 2. Any person signing a contract to work on the
3 construction of public works for any public body shall provide a
4 ten-hour Occupational Safety and Health Administration (OSHA)
5 construction safety program for their on-site employees which
6 includes a course in construction safety and health approved by
7 OSHA or a similar program approved by the department which is at
8 least as stringent as an approved OSHA program. All employees
9 are required to complete the program within sixty days of
10 beginning work on such construction project.

11 3. Any employee found on a worksite subject to this section
12 without documentation of the successful completion of the course
13 required under subsection 2 of this section shall be afforded
14 twenty days to produce such documentation before being subject to
15 removal from the project.

16 4. The public body shall specify the requirements of this
17 section in the resolution or ordinance and in the call for bids
18 for the contract. The contractor to whom the contract is awarded
19 and any subcontractor under such contractor shall require all on-
20 site employees to complete the ten-hour training program required
21 under subsection 2 of this section. The public body awarding the
22 contract shall include this requirement in the contract. The
23 contractor shall forfeit as a penalty to the public body on whose
24 behalf the contract is made or awarded, two thousand five hundred
25 dollars plus one hundred dollars for each employee employed by
26 the contractor or subcontractor, for each calendar day, or
27 portion thereof, such employee is employed without the required
28 training. The penalty shall not begin to accrue until the time

1 period in subsections 2 and 3 of this section have elapsed. The
2 public body awarding the contract shall include notice of these
3 penalties in the contract. The public body awarding the contract
4 shall withhold and retain therefrom, all sums and amounts due and
5 owing as a result of any violation of this section when making
6 payments to the contractor under the contract. The contractor
7 may withhold from any subcontractor, sufficient sums to cover any
8 penalties the public body has withheld from the contractor
9 resulting from the subcontractor's failure to comply with the
10 terms of this section. If the payment has been made to the
11 subcontractor without withholding, the contractor may recover the
12 amount of the penalty resulting from the fault of the
13 subcontractor in an action maintained in the circuit court in the
14 county in which the public works project is located from the
15 subcontractor.

16 5. In determining whether a violation of this section has
17 occurred, and whether the penalty under subsection 4 of this
18 section shall be imposed, the department shall investigate any
19 claim of violation. Upon completing such investigation, the
20 department shall notify the public body and any party found to be
21 in violation of this section of its findings and whether a
22 penalty shall be assessed. Determinations under this section may
23 be appealed in the circuit court in the county in which the
24 public works project is located.

25 6. If the contractor or subcontractor fails to pay the
26 penalty within forty-five days following notification by the
27 department, the department shall pursue an enforcement action to
28 enforce the monetary penalty provisions of subsection 4 of this

1 section against the contractor or subcontractor found to be in
2 violation of this section. If the court orders payment of the
3 penalties as prescribed under subsection 4 of this section, the
4 department shall be entitled to recover its actual cost of
5 enforcement in addition to such penalty amount.

6 7. The department may establish rules and regulations for
7 the purpose of implementing the provisions of this section. Any
8 rule or portion of a rule, as that term is defined in section
9 536.010, RSMo, that is created under the authority delegated in
10 this section shall become effective only if it complies with and
11 is subject to all of the provisions of chapter 536, RSMo, and, if
12 applicable, section 536.028, RSMo. This section and chapter 536,
13 RSMo, are nonseverable and if any of the powers vested with the
14 general assembly pursuant to chapter 536, RSMo, to review, to
15 delay the effective date, or to disapprove and annul a rule are
16 subsequently held unconstitutional, then the grant of rulemaking
17 authority and any rule proposed or adopted after August 28, 2008,
18 shall be invalid and void.

19 8. This section shall not apply to work performed by public
20 utilities which are under the jurisdiction of the public service
21 commission, or their contractors, or work performed at or on
22 facilities owned or operated by said public utilities.

23 9. The provisions of this section shall not apply to rail
24 grade crossing improvement projects where there exists a signed
25 agreement between the railroad and the Missouri department of
26 transportation or an order issued by the department of
27 transportation ordering such construction.

28 10. This section shall take effect on August 28, 2009.

1 302.063. The department of revenue shall not issue any
2 driver's license to an illegal alien nor to any person who cannot
3 prove his or her lawful presence pursuant to the provisions of
4 this chapter and the regulations promulgated thereunder. A
5 driver's license issued to an illegal alien in another state
6 shall not be honored by the state of Missouri and the department
7 of revenue for any purpose. The state of Missouri hereby
8 declares that granting driver's licenses to illegal aliens is
9 repugnant to the public policy of Missouri and therefore Missouri
10 shall not extend full faith and credit to out-of-state driver's
11 licenses issued to illegal aliens. As used in this section, the
12 term "illegal alien" shall mean an alien who is not lawfully
13 present in the United States, according to the terms of 8 U.S.C.
14 Section 1101, et seq.

15 302.720. 1. Except when operating under an instruction
16 permit as described in this section, no person may drive a
17 commercial motor vehicle unless the person has been issued a
18 commercial driver's license with applicable endorsements valid
19 for the type of vehicle being operated as specified in sections
20 302.700 to 302.780. A commercial driver's instruction permit
21 shall allow the holder of a valid license to operate a commercial
22 motor vehicle when accompanied by the holder of a commercial
23 driver's license valid for the vehicle being operated and who
24 occupies a seat beside the individual, or reasonably near the
25 individual in the case of buses, for the purpose of giving
26 instruction in driving the commercial motor vehicle. A
27 commercial driver's instruction permit shall be valid for the
28 vehicle being operated for a period of not more than six months,

1 and shall not be issued until the permit holder has met all other
2 requirements of sections 302.700 to 302.780, except for the
3 driving test. A permit holder, unless otherwise disqualified,
4 may be granted one six-month renewal within a one-year period.
5 The fee for such permit or renewal shall be five dollars. In the
6 alternative, a commercial driver's instruction permit shall be
7 issued for a thirty-day period to allow the holder of a valid
8 driver's license to operate a commercial motor vehicle if the
9 applicant has completed all other requirements except the driving
10 test. The permit may be renewed for one additional thirty-day
11 period and the fee for the permit and for renewal shall be five
12 dollars.

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

1 Secretary.

2 (1) The written and driving tests shall be held at such
3 times and in such places as the superintendent may designate. A
4 twenty-five dollar examination fee shall be paid by the applicant
5 upon completion of any written or driving test. The director
6 shall delegate the power to conduct the examinations required
7 under sections 302.700 to 302.780 to any member of the highway
8 patrol or any person employed by the highway patrol qualified to
9 give driving examinations. The written test shall only be
10 administered in the English language. No translators shall be
11 allowed for applicants taking the test.

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

20 (3) Beginning August 28, 2006, the director shall only
21 issue or renew third-party tester certification to junior
22 colleges or community colleges established under chapter 178,
23 RSMo, or to private companies who own, lease, or maintain their
24 own fleet and administer in-house testing to their employees, or
25 to school districts and their agents that administer in-house
26 testing to the school district's or agent's employees. Any
27 third-party tester who violates any of the rules and regulations
28 adopted and promulgated pursuant to this section shall be subject

1 to having his certification revoked by the department. The
2 department shall provide written notice and an opportunity for
3 the third-party tester to be heard in substantially the same
4 manner as provided in chapter 536, RSMo. If any applicant
5 submits evidence that he has successfully completed a test
6 administered by a third-party tester, the actual driving test for
7 a commercial driver's license may then be waived.

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

17 (5) The director shall have the authority to waive the
18 driving skills test for any qualified military applicant for a
19 commercial driver's license who is currently licensed at the time
20 of application for a commercial driver's license. The director
21 shall impose conditions and limitations to restrict the
22 applicants from whom the department may accept alternative
23 requirements for the skills test described in federal regulation
24 49 C.F.R. 383.77. An applicant must certify that, during the
25 two-year period immediately preceding application for a
26 commercial driver's license, all of the following apply:

- 27 (a) The applicant has not had more than one license;
28 (b) The applicant has not had any license suspended,

1 revoked, or cancelled;

2 (c) The applicant has not had any convictions for any type
3 of motor vehicle for the disqualifying offenses contained in this
4 chapter or federal rule 49 C.F.R. 383.51(b);

5 (d) The applicant has not had more than one conviction for
6 any type of motor vehicle for serious traffic violations;

7 (e) The applicant has not had any conviction for a
8 violation of state or local law relating to motor vehicle traffic
9 control, but not including any parking violation, arising in
10 connection with any traffic accident, and has no record of an
11 accident in which he or she was at fault;

12 (f) The applicant is regularly employed in a job requiring
13 operation of a commercial motor vehicle and has operated the
14 vehicle for at least sixty days during the two years immediately
15 preceding application for a commercial driver's license. The
16 vehicle must be representative of the commercial motor vehicle
17 the driver applicant operates or expects to operate;

18 (g) The applicant, if on active duty, must provide a
19 notarized affidavit signed by a commanding officer as proof of
20 driving experience as indicated in paragraph (f) of this
21 subdivision;

22 (h) The applicant, if honorably discharged from military
23 service, must provide a form-DD214 or other proof of military
24 occupational specialty;

25 (i) The applicant must meet all federal and state
26 qualifications to operate a commercial vehicle; and

27 (j) The applicant will be required to complete all
28 applicable knowledge tests.

1 3. A commercial driver's license may not be issued to a
2 person while the person is disqualified from driving a commercial
3 motor vehicle, when a disqualification is pending in any state or
4 while the person's driver's license is suspended, revoked, or
5 canceled in any state; nor may a commercial driver's license be
6 issued unless the person first surrenders in a manner prescribed
7 by the director any commercial driver's license issued by another
8 state, which license shall be returned to the issuing state for
9 cancellation.

10 4. Beginning July 1, 2005, the director shall not issue an
11 instruction permit under this section unless the director
12 verifies that the applicant is lawfully present in the United
13 States before accepting the application. The director may, by
14 rule or regulation, establish procedures to verify the lawful
15 presence of the applicant under this section. No rule or portion
16 of a rule promulgated pursuant to the authority of this section
17 shall become effective unless it has been promulgated pursuant to
18 chapter 536, RSMo.

19 544.470. 1. If the offense is not bailable, or if the
20 person does not meet the conditions for release, as provided in
21 section 544.455, the prisoner shall be committed to the jail of
22 the county in which the same is to be tried, there to remain
23 until he be discharged by due course of law.

24 2. There shall be a presumption that releasing the person
25 under any conditions as provided by section 544.455 shall not
26 reasonably assure the appearance of the person as required if the
27 circuit judge or associate circuit judge reasonably believes that
28 the person is an alien unlawfully present in the United States.

1 If such presumption exists, the person shall be committed to the
2 jail, as provided in subsection 1 of this section, until such
3 person provides verification of his or her lawful presence in the
4 United States to rebut such presumption. If the person
5 adequately proves his or her lawful presence, the circuit judge
6 or associate circuit judge shall review the issue of release, as
7 provided under section 544.455, without regard to previous issues
8 concerning whether the person is lawfully present in the United
9 States. If the person cannot prove his or her lawful presence,
10 the person shall continue to be committed to the jail and remain
11 until discharged by due course of law.

12 577.722. 1. It shall be unlawful for any person to
13 knowingly transport, move, or attempt to transport in the state
14 of Missouri any illegal alien who is not lawfully present in the
15 United States, according to the terms of 8 U.S.C. Section 1101,
16 et seq., for the purposes of trafficking in violation of sections
17 566.200 to 566.215, RSMo, drug trafficking in violation of
18 sections 195.222 to 195.223, RSMo, prostitution in violation of
19 chapter 567, RSMo, or employment.

20 2. Any person violating the provisions of subsection 1 of
21 this section shall be guilty of a felony for which the authorized
22 term of imprisonment is a term of years not less than one year,
23 or by a fine in an amount not less than one thousand dollars, or
24 by both such fine and imprisonment.

25 3. Nothing in this section shall be construed to deny any
26 victim of an offense under sections 566.200 to 566.215, RSMo, of
27 rights afforded by the federal Trafficking Victims Protection Act
28 of 2000, Public Law 106-386, as amended.

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

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

21 578.570. Any person who:

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

26 (2) Knowing or in reckless disregard of the truth, assists
27 any person in making application for an instruction permit,
28 driver's license, or nondriver's license that contains or is

1 substantiated with false or fraudulent information or
2 documentation;

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

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

10 650.681. 1. Notwithstanding any other provision of law, no
11 government entity, political subdivision, or government official
12 within the state of Missouri shall prohibit, or in any way
13 restrict, any government entity or official from communicating or
14 cooperating with the United States Bureau of Immigration and
15 Customs Enforcement regarding the citizenship or immigration
16 status, lawful or unlawful, of any individual.

17 2. Municipalities and political subdivisions may collect
18 and share the identity of persons by the same means the Federal
19 Bureau of Investigation or its successor agency uses in its
20 Integrated Automated Fingerprint Identification System or its
21 successor program.

22 3. Notwithstanding any other provision of law, no person or
23 agency within the state of Missouri shall prohibit, or in any way
24 restrict, a public employee from doing any of the following with
25 respect to information regarding the immigration status, lawful
26 or unlawful, of any individual:

27 (1) Sending such information to, or requesting or receiving
28 such information from, the United States Bureau of Immigration

1 and Customs Enforcement;

2 (2) Maintaining such information; or

3 (3) Exchanging such information with any other federal,
4 state, or local government entity.

5 4. Upon the complaint of any state resident regarding a
6 specific government entity, agency, or political subdivision of
7 this state or prior to the provision of funds or awarding of any
8 grants to a government entity, agency, or political subdivision
9 of this state, any member of the general assembly may request
10 that the attorney general of the state of Missouri issue an
11 opinion stating whether the government entity, agency, or
12 political subdivision has current policies in contravention of
13 subsections 1 and 3 of this section.

14 5. No state agency or department shall provide any funding
15 or award any monetary grants to any government entity, agency, or
16 political subdivision determined under subsection 4 of this
17 section to have a policy in contravention of subsections 1 and 3
18 of this section until the policy is repealed or no longer in
19 effect.

20 6. The provisions of subsections 1 and 3 of this section
21 shall not apply to any state or local agency administering one or
22 more federal public benefit programs as such term is defined in 8
23 U.S.C. Section 1612.

24 [8.283. 1. If a state agency for whom work is
25 being performed by a contractor determines upon
26 reasonable evidence that the contractor or a
27 subcontractor engaged to complete work required by the
28 contract hired one or more aliens who are unauthorized
29 to work in the United States, the state agency shall
30 order the contractor to cause the discharge of such
31 unauthorized workers.

32 2. If upon reasonable evidence the state agency

1 determines that a contractor or subcontractor has
2 knowingly violated the Immigration Reform and Control
3 Act of 1986, or its successor statute, in employing
4 aliens unauthorized to work in the United States, the
5 agency may cause up to twenty percent of the total
6 amount of the contract or subcontract performed by the
7 employer of such unauthorized workers to be withheld
8 from payment to the employer in violation of such
9 statute.

10 3. If a contractor is determined by a state
11 agency upon reasonable evidence to have engaged a
12 subcontractor to complete work required by the contract
13 with knowledge that the subcontractor violated or
14 intended to violate the Immigration Reform and Control
15 Act of 1986, or its successor statute, in hiring or
16 continuing to employ aliens unauthorized to work in the
17 United States, the state agency may withhold from the
18 contractor up to double the amount caused to be
19 withheld from payments to the subcontractor.

20 4. Any contractor or subcontractor from whom
21 payment is withheld under subsection 2 or 3 of this
22 section shall be ineligible to perform other contracts
23 or subcontracts for the state of Missouri for a period
24 of two years from the date of such action.

25 5. No state agency or contractor taking any
26 action authorized by this section shall be subject to
27 any claim arising from such action and shall be deemed
28 in compliance with the laws of this state regarding
29 timely payment.

30 6. The provisions of this section shall only be
31 effective to the extent that such provisions are not
32 preempted or prohibited by Section 1324(a) of Title 8
33 of the United States Code, as now or hereafter amended,
34 and any regulations promulgated thereunder, relating to
35 the employment of unauthorized aliens.】

36 Section B. The provisions of sections 67.307, 285.525,
37 285.530, 285.535, 285.540, 285.543, 285.550, 285.555, and 650.681
38 of section A of this act shall become effective on January 1,
39 2009.

40 Section C. The enactment of section 292.675 of section A of
41 this act shall become effective on August 28, 2009.
