

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILLS NOS. 1549, 1771, 1395 & 2366

AN ACT

To repeal sections 8.283, 302.720, and 544.470, RSMo, and to enact in lieu thereof eighteen 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:

1 Section A. Sections 8.283, 302.720, and 544.470, RSMo, are
2 repealed and eighteen new sections enacted in lieu thereof, to be
3 known as sections 43.032, 67.307, 208.009, 285.525, 285.530,
4 285.535, 285.540, 285.543, 285.550, 285.555, 292.675, 302.063,
5 302.720, 544.470, 577.722, 577.900, 578.570, and 650.681, to read
6 as follows:

7 43.032. Subject to appropriation, the superintendent of the
8 Missouri state highway patrol shall designate that some or all
9 members of the highway patrol be trained in accordance with a
10 memorandum of understanding between the state of Missouri and the
11 United States Department of Homeland Security concerning the
12 enforcement of federal immigration laws during the course of
13 their normal duties in the state of Missouri, in accordance with
14 8 U.S.C. Section 1357(g). The superintendent shall have the
15 authority to negotiate the terms of such memorandum. The
16 memorandum shall be signed by the superintendent of the highway

1 patrol, the governor, and the director of the department of
2 public safety.

3 67.307. 1. As used in this section, the following terms
4 mean:

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

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

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

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

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

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

20 2. No municipality shall enact or adopt any sanctuary
21 policy. Any municipality that enacts or adopts a sanctuary
22 policy shall be ineligible for any moneys provided through grants
23 administered by any state agency or department until the
24 sanctuary policy is repealed or is no longer in effect. Upon the
25 complaint of any state resident regarding a specific government
26 entity, agency, or political subdivision of this state or prior
27 to the provision of funds or awarding of any grants to a
28 government entity, agency, or political subdivision of this

1 state, any member of the general assembly may request that the
2 attorney general of the state of Missouri issue an opinion
3 stating whether the government entity, agency, or political
4 subdivision has current policies in contravention of this
5 section.

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

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

12 208.009. 1. No alien unlawfully present in the United
13 States shall receive any state or local public benefit, except
14 for state or local public benefits that may be offered under 8
15 U.S.C. 1621(b). Nothing in this section shall be construed to
16 prohibit the rendering of emergency medical care, emergency
17 assistance, or legal assistance to any person.

18 2. As used in this section, "public benefit" means any
19 grant, contract, or loan provided by an agency of state or local
20 government; or any retirement, welfare, health, postsecondary
21 education, state grants and scholarships, disability, housing, or
22 food assistance benefit under which payments, assistance,
23 credits, or reduced rates or fees are provided. The term "public
24 benefit" shall not include unemployment benefits payable under
25 chapter 288, RSMo. The unemployment compensation program shall
26 verify the lawful presence of an alien for the purpose of
27 determining eligibility for benefits in accordance with its own
28 procedures.

1 3. In addition to providing proof of other eligibility
2 requirements, at the time of application for any state or local
3 public benefit, an applicant who is eighteen years of age or
4 older shall provide affirmative proof that the applicant is a
5 citizen or a permanent resident of the United States or is
6 lawfully present in the United States, provided, however, that in
7 the case of state grants and scholarships, such proof shall be
8 provided before the applicant receives any state grant or
9 scholarship. Such affirmative proof shall include documentary
10 evidence recognized by the department of revenue when processing
11 an application for a driver's license, a Missouri driver's
12 license, as well as any document issued by the federal government
13 that confirms an alien's lawful presence in the United States.

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

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

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

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

11 6. An applicant who is an alien shall not receive any state
12 or local public benefit unless the alien's lawful presence in the
13 United States is first verified by the federal government, under
14 8 U.S.C. 1373(c). State and local agencies administering public
15 benefits in this state shall cooperate with the United States
16 Department of Homeland Security in achieving verification of an
17 alien's lawful presence in the United States in furtherance of
18 this section. The system utilized may include the Systematic
19 Alien Verification for Entitlements Program operated by the
20 United States Department of Homeland Security.

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

25 285.525. As used in sections 285.525 to 285.550, the
26 following terms shall have the following meanings:

27 (1) "Business entity", any person or group of persons
28 performing or engaging in any activity, enterprise, profession,

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

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

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

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

1 285.550;

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

5 (6) "Federal work authorization program", any of the
6 electronic verification of work authorization programs operated
7 by the United States Department of Homeland Security or an
8 equivalent federal work authorization program operated by the
9 United States Department of Homeland Security to verify
10 information of newly hired employees, under the Immigration
11 Reform and Control Act of 1986 (IRCA), P.L.99-603;

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

15 (8) "Public employer", every department, agency, or
16 instrumentality of the state or political subdivision of the
17 state;

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

21 (10) "Work", any job, task, employment, labor, personal
22 services, or any other activity for which compensation is
23 provided, expected, or due, including but not limited to all
24 activities conducted by business entities.

25 285.530. 1. No business entity or employer shall knowingly
26 employ, recruit, hire for employment, or continue to employ an
27 unauthorized alien to perform work within the state of Missouri.

28 2. As a condition for the award of any contract or grant in

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

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

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

23 5. A general contractor or subcontractor of any tier shall
24 not be liable under sections 285.525 to 285.550 when such general
25 contractor or subcontractor contracts with its immediate
26 subcontractor who violates subsection 1 of this section, if the
27 contract binding the contractor and subcontractor affirmatively
28 states that the subcontractor is not knowingly in violation of

1 subsection 1 of this section and shall not henceforth be in such
2 violation and that the subcontractor is enrolled in a federal
3 work authorization program with respect to the services provided
4 under the contract or the contractor receives a sworn affidavit
5 under the penalty of perjury attesting to the fact that the
6 direct subcontractor's employees are lawfully present in the
7 United States.

8 285.535. 1. The attorney general shall enforce the
9 requirements of sections 285.525 to 285.550.

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

20 3. Upon receipt of a valid complaint, the attorney general
21 shall, within fifteen business days, request identity information
22 from the business entity regarding any persons alleged to be
23 unauthorized aliens. Such request shall be made by certified
24 mail. The attorney general shall direct the applicable municipal
25 or county governing body to suspend any applicable license,
26 permit, or exemptions of any business entity which fails, within
27 fifteen business days after receipt of the request, to provide
28 such information.

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

7 (1) If the federal government notifies the attorney general
8 that an employee is authorized to work in the United States, the
9 attorney general shall take no further action on the complaint;

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

14 (3) If the federal government notifies the attorney general
15 that it is unable to verify whether an employee is authorized to
16 work in the United States, the attorney general shall take no
17 further action on the complaint until a verification from the
18 federal government concerning the status of the individual is
19 received. At no point shall any state official attempt to make
20 an independent determination of any alien's legal status without
21 verification from the federal government under 8 U.S.C. 1373(c).

22 5. (1) If the federal government notifies the attorney
23 general that an employee is not authorized to work in the United
24 States, and the employer of the unauthorized alien participates
25 in a federal work authorization program, there shall be a
26 rebuttable presumption that the employer has met the requirements
27 for an affirmative defense under subsection 4 of section 285.530,
28 and the employer shall comply with subsection 6 of this section.

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

6 (a) If the court finds that a business entity did not
7 knowingly violate subsection 1 of section 285.530, the employer
8 shall have fifteen business days to comply with subsection 6 of
9 this section. If the entity fails to do so, the court shall
10 direct the applicable municipal or county governing body to
11 suspend the business permit and any applicable licenses or
12 exemptions of the entity until the entity complies with
13 subsection 6 of this section;

14 (b) If the court finds that a business entity knowingly
15 violated subsection 1 of section 285.530, the court shall direct
16 the applicable municipal or county governing body to suspend the
17 business permit and any applicable licenses or exemptions of such
18 business entity for fourteen days. Permits, licenses, and
19 exemptions shall be reinstated for entities who comply with
20 subsection 6 of this section at the end of the fourteen day
21 period.

22 6. The correction of a violation with respect to the
23 employment of an unauthorized alien shall include the following
24 actions:

25 (1) (a) The business entity terminates the unauthorized
26 alien's employment. If the business entity attempts to terminate
27 the unauthorized alien's employment and such termination is
28 challenged in a court of the state of Missouri, the ten business

day period for providing information to the attorney general referenced in subsection 3 of this section shall be tolled while the business entity pursues the termination of the unauthorized alien's employment in such forum; or

(b) The business entity, after acquiring additional 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 ten 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.

1 8. For an entity that violates subsection 1 of section
2 285.530 for a second time, the court shall direct the applicable
3 municipal or county governing body to suspend, for one year, the
4 business permit and any applicable license or exemptions of the
5 business entity. For a subsequent violation, the court shall
6 direct the applicable municipal or county governing body to
7 forever suspend the business permit and any applicable license or
8 exemptions of the business entity.

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

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

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

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

4 11. Any business entity subject to a complaint and
5 subsequent enforcement under sections 285.525 to 285.540, or any
6 employee of such a business entity, may challenge the enforcement
7 of this section with respect to such entity or employee in the
8 courts of the state of Missouri.

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

25 13. The determination of whether a worker is an
26 unauthorized alien shall be made by the federal government under
27 8 U.S.C. 1373(c). A determination of such status of an
28 individual by the federal government shall create a rebuttable

1 presumption as to that individual's status in any judicial
2 proceedings brought under sections 285.530 and 285.535. The
3 court may take judicial notice of any verification of an
4 individual's status previously provided by the federal government
5 and may request the federal government to provide automated or
6 testimonial verification under 8 U.S.C. 1373(c).

7 14. Compensation, whether in money or in kind or in
8 services, knowingly provided to any unauthorized alien shall not
9 be allowed as a business expense deduction from any income or
10 business taxes of this state.

11 15. Any business entity which terminates an employee in
12 accordance with this section shall not be liable for any claims
13 made against the business entity under chapter 213, RSMo.

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

27 285.543. The attorney general shall maintain a database
28 that documents any business entity whose permit, license, or

1 exemption has been suspended or state contract that has been
2 terminated.

3 285.550. If any municipal or county governing body fails to
4 suspend the business permit and applicable licenses or exemptions
5 as directed by the attorney general as a result of a violation of
6 section 285.535, the municipality shall be deemed to have adopted
7 a sanctuary policy as defined in section 67.307, RSMo, and shall
8 be subject to the penalties thereunder.

9 285.555. Should the federal government discontinue or fail
10 to authorize or implement any federal work authorization program,
11 the general assembly shall review the sections of this act for
12 the purpose of determining whether the sections are no longer
13 applicable and should be repealed.

14 292.675. 1. As used in this section, the following terms
15 shall mean:

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

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

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

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

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

28 "Public works" includes any work done directly by any public

1 utility company when performed by it pursuant to the order of the
2 public service commission or other public authority whether or
3 not it be done under public supervision or direction or paid for
4 wholly or in part out of public funds when let to contract by
5 said utility.

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

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

20 4. The public body shall specify the requirements of this
21 section in the resolution or ordinance and in the call for bids
22 for the contract. The contractor to whom the contract is awarded
23 and any subcontractor under such contractor shall require all on-
24 site employees to complete the ten-hour training program required
25 under subsection 2 of this section. The public body awarding the
26 contract shall include this requirement in the contract. The
27 contractor shall forfeit as a penalty to the public body on whose
28 behalf the contract is made or awarded, two thousand five hundred

dollars plus one hundred dollars for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. The penalty shall not begin to accrue until the time period in subsections 2 and 3 of this section have elapsed. The public body awarding the contract shall include notice of these penalties in the contract. The public body awarding the contract shall withhold and retain therefrom, all sums and amounts due and owing as a result of any violation of this section when making payments to the contractor under the contract. The contractor may withhold from any subcontractor, sufficient sums to cover any penalties the public body has withheld from the contractor resulting from the subcontractor's failure to comply with the terms of this section. If the payment has been made to the subcontractor without withholding, the contractor may recover the amount of the penalty resulting from the fault of the subcontractor in an action maintained in the circuit court in the county in which the public works project is located from the subcontractor.

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

1 6. If the contractor or subcontractor fails to pay the
2 penalty within forty-five days following notification by the
3 department, the department shall pursue an enforcement action to
4 enforce the monetary penalty provisions of subsection 4 of this
5 section against the contractor or subcontractor found to be in
6 violation of this section. If the court orders payment of the
7 penalties as prescribed under subsection 4 of this section, the
8 department shall be entitled to recover its actual cost of
9 enforcement in addition to such penalty amount.

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

23 8. This section shall not apply to work performed by public
24 utilities which are under the jurisdiction of the public service
25 commission, or their contractors, or work performed at or on
26 facilities owned or operated by said public utilities.

27 9. The provisions of this section shall not apply to rail
28 grade crossing improvement projects where there exists a signed

1 agreement between the railroad and the Missouri department of
2 transportation or an order issued by the department of
3 transportation ordering such construction.

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

5 302.063. The department of revenue shall not issue any
6 driver's license to an illegal alien nor to any person who cannot
7 prove his or her lawful presence pursuant to the provisions of
8 this chapter and the regulations promulgated thereunder. A
9 driver's license issued to an illegal alien in another state
10 shall not be honored by the state of Missouri and the department
11 of revenue for any purpose. The state of Missouri hereby
12 declares that granting driver's licenses to illegal aliens is
13 repugnant to the public policy of Missouri and therefore Missouri
14 shall not extend full faith and credit to out-of-state driver's
15 licenses issued to illegal aliens. As used in this section, the
16 term "illegal alien" shall mean an alien who is not lawfully
17 present in the United States, according to the terms of 8 U.S.C.
18 1101, et seq.

19 302.720. 1. Except when operating under an instruction
20 permit as described in this section, no person may drive a
21 commercial motor vehicle unless the person has been issued a
22 commercial driver's license with applicable endorsements valid
23 for the type of vehicle being operated as specified in sections
24 302.700 to 302.780. A commercial driver's instruction permit
25 shall allow the holder of a valid license to operate a commercial
26 motor vehicle when accompanied by the holder of a commercial
27 driver's license valid for the vehicle being operated and who
28 occupies a seat beside the individual, or reasonably near the

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

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

1 formats for those who are functionally illiterate; provided,
2 however, that any such alternate test must comply with the
3 minimum requirements of the Commercial Motor Vehicle Safety Act
4 of 1986 (Title XII of Pub. Law 99-570) as established by the
5 Secretary.

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

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

24 (3) Beginning August 28, 2006, the director shall only
25 issue or renew third-party tester certification to junior
26 colleges or community colleges established under chapter 178,
27 RSMo, or to private companies who own, lease, or maintain their
28 own fleet and administer in-house testing to their employees, or

1 to school districts and their agents that administer in-house
2 testing to the school district's or agent's employees. Any
3 third-party tester who violates any of the rules and regulations
4 adopted and promulgated pursuant to this section shall be subject
5 to having his certification revoked by the department. The
6 department shall provide written notice and an opportunity for
7 the third-party tester to be heard in substantially the same
8 manner as provided in chapter 536, RSMo. If any applicant
9 submits evidence that he has successfully completed a test
10 administered by a third-party tester, the actual driving test for
11 a commercial driver's license may then be waived.

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

21 (5) The director shall have the authority to waive the
22 driving skills test for any qualified military applicant for a
23 commercial driver's license who is currently licensed at the time
24 of application for a commercial driver's license. The director
25 shall impose conditions and limitations to restrict the
26 applicants from whom the department may accept alternative
27 requirements for the skills test described in federal regulation
28 49 C.F.R. 383.77. An applicant must certify that, during the

1 two-year period immediately preceding application for a
2 commercial driver's license, all of the following apply:

3 (a) The applicant has not had more than one license;

4 (b) The applicant has not had any license suspended,
5 revoked, or cancelled;

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

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

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

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

22 (g) The applicant, if on active duty, must provide a
23 notarized affidavit signed by a commanding officer as proof of
24 driving experience as indicated in paragraph (f) of this
25 subdivision;

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

1 (I) The applicant must meet all federal and state
2 qualifications to operate a commercial vehicle; and

3 (j) The applicant will be required to complete all
4 applicable knowledge tests.

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

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

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

28 2. There shall be a presumption that releasing the person

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

16 577.722. 1. It shall be unlawful for any person to
17 knowingly transport, move, or attempt to transport in the state
18 of Missouri any illegal alien who is not lawfully present in the
19 United States, according to the terms of U.S.C. 1101, et seq.,
20 for the purposes of trafficking in violation of sections 566.200
21 to 566.215, RSMo, drug trafficking in violation of sections
22 195.222 to 195.223, RSMo, prostitution in violation of chapter
23 567, RSMo, or employment.

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

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 This section only applies to officers employed by the department
15 of public safety to include: the highway patrol, water patrol,
16 capitol police, fire marshal's office, and alcohol and tobacco
17 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. Notwithstanding any other provision of law, no person or
18 agency within the state of Missouri shall prohibit, or in any way
19 restrict, a public employee from doing any of the following with
20 respect to information regarding the immigration status, lawful
21 or unlawful, of any individual:

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

25 (2) Maintaining such information; or

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

28 3. Upon the complaint of any state resident regarding a

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

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

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

2. If upon reasonable evidence the state agency determines that a contractor or subcontractor has knowingly violated the Immigration Reform and Control Act of 1986, or its successor statute, in employing aliens unauthorized to work in the United States, the agency may cause up to twenty percent of the total amount of the contract or subcontract performed by the employer of such unauthorized workers to be withheld from payment to the employer in violation of such statute.

3. If a contractor is determined by a state agency upon reasonable evidence to have engaged a subcontractor to complete work required by the contract with knowledge that the subcontractor violated or intended to violate the Immigration Reform and Control Act of 1986, or its successor statute, in hiring or continuing to employ aliens unauthorized to work in the United States, the state agency may withhold from the

1 contractor up to double the amount caused to be
2 withheld from payments to the subcontractor.

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

8 5. No state agency or contractor taking any
9 action authorized by this section shall be subject to
10 any claim arising from such action and shall be deemed
11 in compliance with the laws of this state regarding
12 timely payment.

13 6. The provisions of this section shall only be
14 effective to the extent that such provisions are not
15 preempted or prohibited by Section 1324(a) of Title 8
16 of the United States Code, as now or hereafter amended,
17 and any regulations promulgated thereunder, relating to
18 the employment of unauthorized aliens.】

19
20 _____Section B. The provisions of sections 67.307, 285.525,
21 285.530, 285.535, 285.540, 285.543, 285.550, 285.555, and 650.681
22 of section A of this act shall become effective on January 1,
23 2009.

24 Section C. The enactment of section 292.675 of this act
25 shall become effective on August 28, 2009.