

SECOND REGULAR SESSION

HOUSE BILL NO. 1736

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHNEIDER (Sponsor), JETTON, NOLTE, PRATT, AVERY,
GEORGE, NANCE, DOUGHERTY, DAVIS, BIVINS, MUNZLINGER, WALLACE, SMITH (150),
LEMBKE, SCHOELLER, YATES, FISHER, MOORE, BROWN (30),
RUESTMAN AND NIEVES (Co-sponsors).

Read 1st time January 17, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4372L.01I

AN ACT

To amend chapter 650, RSMo, by adding thereto five new sections relating to illegal immigration, with a penalty provision.

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

Section A. Chapter 650, RSMo, is amended by adding thereto five new sections, to be
2 known as sections 650.675, 650.677, 650.679, 650.681, and 650.683, to read as follows:

3 **650.675. 1. Sections 650.675 to 650.683 shall be known and may be cited as the**
4 **"Missouri Illegal Immigration Relief Act". All officials, agencies, and personnel covered**
5 **by the provisions of sections 650.675 to 650.683 shall fully comply with, and, to the full**
6 **extent permitted by law, support the enforcement of federal law prohibiting the entry into,**
7 **presence, or residence in the United States of aliens in violation of federal immigration law.**
8 **The purpose of sections 650.675 to 650.683 is to assist the federal government in enforcing**
9 **federal immigration law to its full extent.**

10 **2. As used in sections 650.675 to 650.683, the following terms shall have the**
11 **following meanings:**

12 **(1) "Agency", any agency, department, board, or commission of this state;**

(2) "Employee", any person performing or applying to perform work or services
of any kind or character under an employment relationship. A person performing casual

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

13 **domestic labor for an individual in his or her personal abode shall not be considered an**
14 **employee, consistent with federal law;**

15 **(3) "Employer", a duly licensed person or organization that transacts business**
16 **within this state and pays for the services of an individual employee to engage in an**
17 **activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood.**
18 **Employer includes this state, any political subdivision or agency of this state, and self-**
19 **employed persons;**

20 **(4) "Employment", the act of employing or state of being employed, engaged, or**
21 **hired;**

22 **(5) "E-Verify", the electronic verification of federal employment authorization**
23 **program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L.**
24 **104-208, Division C, Section 403(a); 8 U.S.C. Section 1324a, and operated by the United**
25 **States Department of Homeland Security or its successor program;**

26 **(6) "Federal employment authorization", the legal right or authorization under**
27 **federal law to work in the United States. The state of Missouri shall not conclude that a**
28 **person lacks federal employment authorization until and unless an authorized**
29 **representative of the state has verified with the federal government that the individual is**
30 **an unauthorized alien under 8 U.S.C. Section 1373(c);**

31 **(7) "Federal public benefit", a benefit as defined in 8 U.S.C. Section 1611(c);**

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

37 **(9) "Independent contractor", any subcontractor, contract employee, staffing**
38 **agency, or any other contractor;**

39 **(10) "License", any agency permit, certificate, approval, registration, charter, or**
40 **similar form of authorization that is required by law and that is issued by an agency for**
41 **the purposes of operating a business in this state;**

42 **(11) "Political subdivision", the state or any local subdivision of the state or public**
43 **instrumentality or public corporate body created by or under authority of state law;**

44 **(12) "Public employer", every department, agency, or instrumentality of the state**
45 **or a political subdivision of the state;**

46 **(13) "State or local public benefit", a benefit as defined in 8 U.S.C. Section 1621(c);**

47 **(14) "Unauthorized alien", an alien as defined in 8 U.S.C. Section 1324a(h)(3).**

650.677. 1. Notwithstanding any other provision of law and except as provided in subsections 5 and 6 of this section, an alien who is unlawfully present in the United States shall not be eligible to receive any state or local benefit or any federal public benefit that is administered by an agency or political subdivision of the state.

2. At the time of application for any public benefit subject to the provisions of subsection 1 of this section, all applicants eighteen years of age or older shall execute a sworn affidavit under penalty of perjury attesting that he or she is a citizen of the United States or is a qualified alien, as defined in 8 U.S.C. Section 1641(b). The agency or political subdivision providing the public benefit shall provide notary services at no cost to the applicant.

3. The affidavit required under subsection 2 of this section may be presumed to be proof of lawful presence for the purpose of this section until such time as eligibility verification may be completed as required under subsection 4 of this section. In that case, the applicant shall be eligible to receive temporary public benefits for a period not to exceed sixty days or until such time that it is determined that the applicant is not lawfully present in the United States. Nothing in this subsection shall be construed to prohibit an agency or political subdivision from uniformly withholding public benefits until the verification required under subsection 4 of this section is complete.

4. Upon execution of an affidavit as required under subsection 2 of this section by an applicant for a public benefit, the relevant agency or political subdivision of this state shall verify that the applicant is lawfully present in the United States. Verification shall be conducted through the Systematic Alien Verification for Entitlements (SAVE) Program operated by the United States Department of Homeland Security or an equivalent program operated by the United States Department of Homeland Security.

5. The provisions of this section shall not apply with respect to state or local public benefits that are exempted under 8 U.S.C. Section 1621(b), nor shall it apply with respect to kindergarten through twelfth grade education.

6. The provisions of this section shall not apply with respect to federal benefits administered by an agency or political subdivision of this state that are exempted under 8 U.S.C. Section 1611(b).

7. Agencies or political subdivisions of this state may adopt variations to the requirements of the provisions of this section, which demonstrably improve the efficiency or reduce delay in the verification process. Such variations shall not be inconsistent with the policy adopted herein. No such variation shall permit a representative of the agency or political subdivision to determine that an alien is an unqualified or illegal alien unless and until the federal government verifies the alien's status under 8 U.S.C. Section 1373(c).

37 **8. The provisions of this section shall be enforced without regard to race, religion,**
38 **gender, ethnicity, or national origin.**

39 **9. Any individual denied a public benefit under this section shall have access to any**
40 **and all administrative review provided by the agency or political subdivision in question,**
41 **with right of appeal to the relevant circuit court of the state of Missouri.**

650.679. 1. Every employer within the state of Missouri shall register with and
2 **utilize E-Verify to verify the federal employment authorization of all new employees.**

3 **2. All employers shall be in compliance with this section by January 1, 2009. The**
4 **employer shall retain all documentation received in connection with its participation in E-**
5 **Verify that verifies the federal employment authorization of every employee verified**
6 **through E-Verify for at least three years after the termination of the employment of the**
7 **employee. This documentation shall be provided to the department of revenue upon**
8 **request.**

9 **3. After January 1, 2009, public employers shall not enter into a contract for the**
10 **performance of services within this state unless the contractor is registered with and**
11 **utilizing E-Verify to verify the federal employment authorization of all new employees and**
12 **under his or her employ.**

13 **4. On a finding of the first violation of subsection 1 of this section by an employer,**
14 **the court shall order the appropriate agencies to suspend all licenses that are held by the**
15 **employer for a minimum of thirty days and a maximum of sixty days.**

16 **5. On a finding of a second violation of subsection 1 of this section by an employer**
17 **within a three-year period, the court shall order the appropriate agencies to suspend all**
18 **licenses held by the employer for a minimum of one year and a maximum of two years.**

19 **6. On a finding of any third violation of subsection 1 of this section by an employer,**
20 **the court shall order the appropriate agencies to suspend all licenses held by the employer**
21 **for a minimum of five years and a maximum of ten years.**

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

6 **2. Notwithstanding any other provision of law, no person or agency within the state**
7 **of Missouri shall prohibit, or in any way restrict, a public employee from doing any of the**
8 **following with respect to information regarding the immigration status, lawful or unlawful,**
9 **of any individual:**

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

12 **(2) Maintaining such information;**

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

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

16 **3. Prior to January 1, 2009, the attorney general of the state of Missouri shall issue**
17 **an opinion informing the general assembly of all government entities, agencies, and**
18 **political subdivisions within the state of Missouri that have current policies, written or**
19 **unwritten, in contravention of subsections 1 and 2 of this section.**

20 **4. Prior to the appropriating of funds to any government entity, agency, or political**
21 **subdivision of this state, any member of the general assembly may request that the attorney**
22 **general of the state of Missouri issue an opinion stating whether the government entity,**
23 **agency, or political subdivision has current policies, written or unwritten, in contravention**
24 **of subsections 1 and 2 of this section.**

25 **5. The state of Missouri shall not provide any funding to any government entity,**
26 **agency, or political subdivision found to have a policy in contravention of subsections 1 and**
27 **2 of this section for the fiscal year directly following the violation.**

650.683. 1 Any political subdivision of this state may enact laws that restrict or
2 **prohibit the knowing employment of unauthorized aliens and may deny, suspend, or**
3 **permanently revoke any licenses held by the employers of unauthorized aliens.**

4 **2. Any political subdivision of this state may enact laws which restrict or prohibit**
5 **the harboring of illegal aliens, including the leasing of rental accommodations to illegal**
6 **aliens. The political subdivision may impose fines of up to ten thousand dollars per**
7 **violation and may deny any licenses or permits held by an individual or entity that harbors**
8 **illegal aliens.**

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