



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1969

by Rep. Randy Ramey, Jr.

SYNOPSIS AS INTRODUCED:

See Index

Creates the Taxpayers Protection Act. Prohibits any limitation on the enforcement of federal immigration laws to less than the full extent permitted by federal law. Provides that for any lawful stop, detention, or arrest made by a law enforcement official where reasonable suspicion exists that the person is an alien unlawfully present in the U.S., a reasonable attempt shall, where practicable, be made to determine the immigration status of the person. Provides that an arrested person shall have his or her immigration status determined by the federal government before release. Provides penalties for willful failure to carry an alien registration document and for a person who is an unauthorized alien to seek employment. Provides that an employer shall not knowingly or intentionally employ an unauthorized alien and provides for sanctions. Provides that race, color, or national origin may not be considered in implementing the requirements of the Act except to the extent permitted by the U.S. or Illinois Constitution. Provides that the Act shall not be construed to require an employer to take action the employer believes in good faith would violate federal or State law. Provides that employers must verify the employment eligibility of all new employees and creates the voluntary employer enhanced compliance program. Makes it unlawful to hire and pick up passengers for work if doing so blocks or impedes traffic. Provides penalties for transporting, moving, concealing, harboring, or shielding unlawful aliens. Amends various Acts to make conforming changes. Preempts home rule. Provides that the provisions of the Act are severable.

LRB097 09009 HEP 49143 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning aliens.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Taxpayers Protection Act.

6 Section 5. Intent. The General Assembly finds that there is
7 a compelling interest in the cooperative enforcement of federal
8 immigration laws throughout all of Illinois. The General
9 Assembly declares that the intent of this Act is to make
10 attrition through enforcement the public policy of all State
11 and local government agencies in Illinois. The provisions of
12 this Act are intended to work together to discourage and deter
13 the unlawful entry and presence of aliens and economic activity
14 by persons unlawfully present in the United States.

15 Section 10. Definitions. For purposes of this Act:

16 (a) "Agency" means any agency, department, board, or
17 commission of this State or a county or municipality that
18 issues a license for purposes of operating a business in this
19 State.

20 (b) "Department" means the Illinois Department of Labor.

21 (c) "Employ" means hiring an employee on or after January
22 1, 2012.

1 (d) "Employee" means any person who provides services or
2 labor for an employer in this State for wages or other
3 remuneration, excluding an independent contractor.

4 (e) "Employer" means any individual or type of organization
5 that transacts business in this State, that has a license
6 issued by an agency in this State, and that employs one or more
7 employees in this State. "Employer" includes this State, any
8 political subdivision of this State, and self-employed
9 persons. In the case of an independent contractor, "employer"
10 means the independent contractor and does not mean the person
11 or organization that uses the contract labor.

12 (f) "E-Verify program" means the employment verification
13 pilot program as jointly administered by the United States
14 Department of Homeland Security and the Social Security
15 Administration or any of its successor programs.

16 (g) "Independent contractor" means any individual or
17 entity that carries on an independent business, that contracts
18 to do a piece of work according to the individual's or entity's
19 own means and methods, and that is subject to control only as
20 to results. Whether an individual or entity is an independent
21 contractor is determined on a case-by-case basis through
22 various factors, including whether the individual or entity:
23 (i) supplies the tools or materials; (ii) makes services
24 available to the general public; (iii) works or may work for a
25 number of clients at the same time; (iv) has an opportunity for
26 profit or loss as a result of labor or service provided; (v)

1 invests in the facilities for work; (vi) directs the order or
2 sequence in which the work is completed; or (vii) determines
3 the hours when the work is completed. Independent contractor
4 status applies to an individual who performs services and is
5 not an employee pursuant to Section 3508 of the Internal
6 Revenue Code.

7 (h) "Intentionally" means, with respect to a result or to
8 conduct described by a statute defining an offense, that a
9 person's objective is to cause that result or to engage in that
10 conduct.

11 (i) "Knowingly employ an unauthorized alien" means the
12 actions described in 8 U.S.C. 1324a. This term shall be
13 interpreted consistently with 8 U.S.C. 1324a and any applicable
14 federal rules and regulations.

15 (j) "License" means any agency permit, certificate,
16 approval, registration, charter, or similar form of
17 authorization that is required by law and that is issued by any
18 agency for the purposes of operating a business in this State.
19 This definition excludes professional licenses.

20 (k) "Social security number verification service" means
21 the program administered by the Social Security Administration
22 or any of its successor programs.

23 (l) "Solicit" means verbal or nonverbal communication by a
24 gesture or a nod that would indicate to a reasonable person
25 that a person is willing to be employed.

26 (m) "Unauthorized alien" means an alien who does not have

1 the legal right or authorization under federal law to work in
2 the United States as described in 8 U.S.C. 1324a(h) (3).

3 Section 15. Cooperation and assistance in enforcement of
4 immigration laws; indemnification.

5 (a) No official or agency of this State or a political
6 subdivision of this State may limit or restrict the enforcement
7 of federal immigration laws to less than the full extent
8 permitted by federal law.

9 (b) For any lawful stop, detention, or arrest made by a law
10 enforcement official or a law enforcement agency of this State
11 or a law enforcement official or a law enforcement agency of a
12 political subdivision of this State in the enforcement of any
13 other law of this State or ordinance of a county or
14 municipality where reasonable suspicion exists that the person
15 is an alien and is unlawfully present in the United States, a
16 reasonable attempt shall be made, when practicable, to
17 determine the immigration status of the person, except if the
18 determination may hinder or obstruct an investigation. Any
19 person who is arrested shall have the person's immigration
20 status determined before the person is released. The person's
21 immigration status shall be verified with the federal
22 government pursuant to 8 U.S.C. 1373(c). A law enforcement
23 official or agency of this State or a political subdivision of
24 this State may not consider race, color, or national origin in
25 implementing the requirements of this subsection (b) except to

1 the extent permitted by the United States or Illinois
2 Constitution. A person is presumed to not be an alien who is
3 unlawfully present in the United States if the person provides
4 to the law enforcement officer or agency any of the following:

5 (1) a valid Illinois driver's license;

6 (2) a valid Illinois Identification Card;

7 (3) if the entity requires proof of legal presence in
8 the United States before issuance, any valid United States
9 federal, State, or local government issued identification.

10 (c) If an alien who is unlawfully present in the United
11 States is convicted of a violation of State or local law, on
12 discharge from imprisonment or on the assessment of any
13 monetary obligation that is imposed, the United States
14 Immigration and Customs Enforcement or the United States
15 Customs and Border Protection shall be immediately notified.

16 (d) Notwithstanding any other law, a law enforcement agency
17 may securely transport an alien whom the agency has received
18 verification is unlawfully present in the United States and who
19 is in the agency's custody to a federal facility in this State
20 or to any other point of transfer into federal custody that is
21 outside the jurisdiction of the law enforcement agency. A law
22 enforcement agency shall obtain judicial authorization before
23 securely transporting an alien who is unlawfully present in the
24 United States to a point of transfer that is outside of this
25 State.

26 (e) In the implementation of this Section, an alien's

1 immigration status may be determined by:

2 (1) a law enforcement officer who is authorized by the
3 federal government to verify or ascertain an alien's
4 immigration status;

5 (2) the United States Immigration and Customs
6 Enforcement or the United States Customs and Border
7 Protection pursuant to 8 U.S.C. 1373(c).

8 (f) Except as provided in federal law, officials or
9 agencies of this State and political subdivisions of this State
10 may not be prohibited or in any way be restricted from sending,
11 receiving, or maintaining information relating to the
12 immigration status, lawful or unlawful, of any individual or
13 exchanging that information with any other federal, State, or
14 local governmental entity for the following official purposes:

15 (1) determining eligibility for any public benefit,
16 service, or license provided by any federal, State, or
17 other political subdivision of this State;

18 (2) verifying any claim of residence or domicile if
19 determination of residence or domicile is required under
20 the laws of this State or a judicial order issued pursuant
21 to a civil or criminal proceeding in this State;

22 (3) if the person is an alien, determining whether the
23 person is in compliance with the federal registration laws
24 prescribed by Title II, Chapter 7 of the federal
25 Immigration and Nationality Act; and

26 (4) pursuant to 8 U.S.C. 1373 and 8 U.S.C. 1644.

1 (g) This Section does not implement, authorize, or
2 establish and shall not be construed to implement, authorize,
3 or establish the Real ID Act of 2005 (P.L. 109-13, Division B;
4 119 Stat. 302), including the use of a radio frequency
5 identification chip.

6 (h) A person who is a legal resident of this State may
7 bring an action in circuit court to challenge any official or
8 agency of this State or a political subdivision of this State
9 that adopts or implements a policy that limits or restricts the
10 enforcement of federal immigration laws, including 8 U.S.C.
11 1373 and 1644, to less than the full extent permitted by
12 federal law. If there is a judicial finding that an entity has
13 violated this Section, the court shall order that the entity
14 pay a civil penalty of not less than \$500 and not more than
15 \$5,000 for each day that the policy has remained in effect
16 after the filing of an action pursuant to this subsection.

17 (i) A court shall collect the civil penalty prescribed in
18 subsection (h) of this Section and remit the civil penalty to
19 the State Treasurer for deposit in the Immigration Law
20 Enforcement Fund established by Section 55 of this Act.

21 (j) The court may award court costs and reasonable
22 attorney's fees to any person or any official or agency of this
23 State or a political subdivision of this State that prevails by
24 an adjudication on the merits in a proceeding brought pursuant
25 to this Section.

26 (k) Except in relation to matters in which the officer is

1 adjudged to have acted in bad faith, a law enforcement officer
2 is indemnified by the law enforcement officer's agency against
3 reasonable costs and expenses, including attorney fees,
4 incurred by the officer in connection with any action, suit, or
5 proceeding brought pursuant to this Section in which the
6 officer may be a defendant by reason of the officer being or
7 having been a member of the law enforcement agency.

8 (1) This Section shall be implemented in a manner
9 consistent with federal laws regulating immigration,
10 protecting the civil rights of all persons, and respecting the
11 privileges and immunities of United States citizens.

12 Section 20. Willful failure to complete or carry an alien
13 registration document; assessment; exception; authenticated
14 records; classification.

15 (a) In addition to any violation of federal law, a person
16 is guilty of willful failure to complete or carry an alien
17 registration document if the person is in violation of 8 U.S.C.
18 1304(e) or 1306(a).

19 (b) In the enforcement of this Section, an alien's
20 immigration status may be determined by:

21 (1) a law enforcement officer who is authorized by the
22 federal government to verify or ascertain an alien's
23 immigration status; or

24 (2) the United States Immigration and Customs
25 Enforcement or the United States Customs and Border

1 Protection pursuant to 8 U.S.C. 1373(c).

2 (c) A law enforcement official or agency of this State or a
3 political subdivision of this State may not consider race,
4 color, or national origin in the enforcement of this Section
5 except to the extent permitted by the United States or Illinois
6 Constitution.

7 (d) A person who is sentenced pursuant to this Section is
8 not eligible for suspension of sentence, probation,
9 conditional discharge, pardon, commutation of sentence, or
10 release from confinement on any basis except for medical
11 treatment or work release as authorized by the Unified Code of
12 Corrections or the County Jail Act until the sentence imposed
13 by the court has been served or the person is eligible for
14 release pursuant to Section 3 of the County Jail Good Behavior
15 Allowance Act.

16 (e) In addition to any other penalty prescribed by law, the
17 court shall order the person to pay jail costs.

18 (f) This Section does not apply to a person who maintains
19 authorization from the federal government to remain in the
20 United States.

21 (g) Any record that relates to the immigration status of a
22 person is admissible in any court without further foundation or
23 testimony from a custodian of records if the record is
24 certified as authentic by the government agency that is
25 responsible for maintaining the record.

26 (h) A violation of this Section is a Class C misdemeanor,

1 except that the maximum fine is \$100 and for a first violation
2 of this Section, the court shall not sentence the person to
3 more than 20 days in jail and for a second or subsequent
4 violation, the court shall not sentence the person to more than
5 30 days in jail.

6 Section 25. Unlawful application, solicitation, or
7 employment; classification; definitions.

8 (a) It is unlawful for a person who is unlawfully present
9 in the United States and who is an unauthorized alien to
10 knowingly apply for work, solicit work in a public place, or
11 perform work as an employee or independent contractor in this
12 State.

13 (b) A law enforcement official or agency of this State or a
14 political subdivision of this State may not consider race,
15 color, or national origin in the enforcement of this Section
16 except to the extent permitted by the United States or Illinois
17 Constitution.

18 (c) In the enforcement of this Section, an alien's
19 immigration status may be determined by:

20 (1) a law enforcement officer who is authorized by the
21 federal government to verify or ascertain an alien's
22 immigration status;

23 (2) the United States Immigration and Customs
24 Enforcement or the United States Customs and Border
25 Protection pursuant to 8 U.S.C. 1373(c).

1 (d) Sentence. A violation of this Section is a Class B
2 misdemeanor.

3 Section 30. Knowingly or intentionally employing
4 unauthorized aliens; prohibition; false and frivolous
5 complaints; violation; classification; license suspension and
6 revocation; affirmative defense.

7 (a) An employer shall not knowingly or intentionally employ
8 an unauthorized alien. If, in the case when an employer uses a
9 contract, subcontract, or other independent contractor
10 agreement to obtain the labor of an alien in this State, the
11 employer knowingly or intentionally contracts with an
12 unauthorized alien or with a person who employs or contracts
13 with an unauthorized alien to perform the labor, the employer
14 violates this subsection.

15 (b) The Department of Labor shall prescribe a complaint
16 form for a person to allege a violation of subsection (a) of
17 this Section. The complainant shall not be required to list the
18 complainant's social security number on the complaint form or
19 to have the complaint form notarized. On receipt of a complaint
20 on a prescribed complaint form that an employer allegedly
21 knowingly or intentionally employs an unauthorized alien, the
22 Department or State's Attorney shall investigate whether the
23 employer has violated subsection (a) of this Section. If a
24 complaint is received but is not submitted on a prescribed
25 complaint form, the Department or State's Attorney may

1 investigate whether the employer has violated subsection (a) of
2 this Section. This subsection shall not be construed to
3 prohibit the filing of anonymous complaints that are not
4 submitted on a prescribed complaint form. The Department or
5 State's Attorney shall not investigate complaints that are
6 based solely on race, color, or national origin. A complaint
7 that is submitted to a State's Attorney shall be submitted to
8 the State's Attorney in the county in which the alleged
9 unauthorized alien is or was employed by the employer. The
10 county sheriff or any other local law enforcement agency may
11 assist in investigating a complaint. When investigating a
12 complaint, the Department of Labor or State's Attorney shall
13 verify the work authorization of the alleged unauthorized alien
14 with the federal government pursuant to 8 U.S.C. 1373(c). In
15 order to implement this Section, the Department may take
16 evidence, administer oaths or affirmations, issue subpoenas
17 requiring attendance and testimony of witnesses, and cause
18 depositions to be taken. A State, county, or local official
19 shall not attempt to independently make a final determination
20 on whether an alien is authorized to work in the United States.
21 An alien's immigration status or work authorization status
22 shall be verified with the federal government pursuant to 8
23 U.S.C. 1373(c). A person who knowingly files a false and
24 frivolous complaint under this subsection is guilty of a Class
25 C misdemeanor.

26 (c) If, after an investigation, the Department of Labor or

1 State's Attorney determines that the complaint is not false and
2 frivolous:

3 (i) The Department or State's Attorney shall notify the
4 United States Immigration and Customs Enforcement of the
5 unauthorized alien.

6 (ii) The Department or State's Attorney shall notify
7 the local law enforcement agency of the unauthorized alien.

8 (iii) The Department shall notify the appropriate
9 State's Attorney to bring an action pursuant to subsection
10 (d) of this Section if the complaint was originally filed
11 with the Department.

12 (d) An action for a violation of subsection (a) of this
13 Section shall be brought against the employer by the State's
14 Attorney in the county where the unauthorized alien employee is
15 or was employed by the employer. The State's Attorney shall not
16 bring an action against any employer for any violation of
17 subsection (a) of this Section that occurs before January 1,
18 2012. A second violation of this Section shall be based only on
19 an unauthorized alien who is or was employed by the employer
20 after an action has been brought for a violation of subsection
21 (a) of this Section.

22 (e) For any action in court under this Section, the court
23 shall expedite the action, including assigning the hearing at
24 the earliest practicable date.

25 (f) On a finding of a violation of subsection (a) of this
26 Section:

1 (i) For a first violation, as described in paragraph
2 (iii) of this subsection, the court:

3 (1) Shall order the employer to terminate the
4 employment of all unauthorized aliens.

5 (2) Shall order the employer to be subject to a
6 probationary period for the business location where
7 the unauthorized alien performed work. If an employer
8 is found to have knowingly violated subsection (a) of
9 this Section, the probationary period will be 3 years.
10 If an employer is found to have intentionally violated
11 subsection (a) of this Section, the probationary
12 period will be 5 years. During the probationary period,
13 the employer shall file quarterly reports with the
14 State's Attorney of each new employee who is hired by
15 the employer at the business location where the
16 unauthorized alien performed work. Employers shall
17 report by submitting a W-4 form or an equivalent form
18 at the option of the employer. The report shall
19 contain: (A) the employee's name, address, and social
20 security number; and (B) the employer's name, address,
21 and federal tax identification number.

22 (3) Shall order the employer to file a signed sworn
23 affidavit with the State's Attorney within 3 business
24 days after the order is issued. The affidavit shall
25 state that the employer has terminated the employment
26 of all unauthorized aliens in this State and that the

1 employer will not intentionally or knowingly employ an
2 unauthorized alien in this State. The court shall order
3 the appropriate agencies to suspend all licenses
4 subject to this paragraph that are held by the employer
5 if the employer fails to file a signed sworn affidavit
6 with the State's Attorney within 3 business days after
7 the order is issued. All licenses that are suspended
8 under this paragraph shall remain suspended until the
9 employer files a signed sworn affidavit with the
10 State's Attorney. Notwithstanding any other law, on
11 filing of the affidavit the suspended licenses shall be
12 reinstated immediately by the appropriate agencies.
13 For the purposes of this paragraph, the licenses that
14 are subject to suspension under this paragraph are all
15 licenses that are held by the employer specific to the
16 business location where the unauthorized alien
17 performed work. If the employer does not hold a license
18 specific to the business location where the
19 unauthorized alien performed work, but a license is
20 necessary to operate the employer's business in
21 general, the licenses that are subject to suspension
22 under this paragraph are all licenses that are held by
23 the employer at the employer's primary place of
24 business. On receipt of the court's order and
25 notwithstanding any other law, the appropriate
26 agencies shall suspend the licenses according to the

1 court's order. The court shall send a copy of the
2 court's order to the Department of Labor and the
3 Department shall maintain the copy pursuant to
4 subsection (g) of this Section.

5 (4) If an employer is found to have knowingly
6 violated subsection (a) of this Section, the court may
7 order the appropriate agencies to suspend all licenses
8 described in paragraph (3) of this subsection that are
9 held by the employer for not to exceed 10 business
10 days. The court shall base its decision to suspend
11 under this paragraph (4) on any evidence or information
12 submitted to it during the action for a violation of
13 this subsection and shall consider the following
14 factors, if relevant: (A) the number of unauthorized
15 aliens employed by the employer; (B) any prior
16 misconduct by the employer; (C) the degree of harm
17 resulting from the violation; (D) whether the employer
18 made good faith efforts to comply with any applicable
19 requirements; (E) the duration of the violation; (F)
20 the role of the directors, officers, or principals of
21 the employer in the violation; and (G) any other
22 factors the court deems appropriate.

23 (5) If an employer is found to have intentionally
24 violated subsection (a) of this Section, the court
25 shall order the appropriate agencies to suspend all
26 licenses described in paragraph (3) of this subsection

1 that are held by the employer for a minimum of 10 days.
2 The court shall base its decision on the length of the
3 suspension under this paragraph (5) on any evidence or
4 information submitted to it during the action for a
5 violation of this subsection and shall consider the
6 following factors, if relevant: (A) the number of
7 unauthorized aliens employed by the employer; (B) any
8 prior misconduct by the employer; (C) the degree of
9 harm resulting from the violation; (D) whether the
10 employer made good faith efforts to comply with any
11 applicable requirements; (E) the duration of the
12 violation; (F) the role of the directors, officers, or
13 principals of the employer in the violation; or (G) any
14 other factors the court deems appropriate.

15 (ii) For a second violation, as described in paragraph
16 (iii) of this subsection, the court shall order the
17 appropriate agencies to permanently revoke all licenses
18 that are held by the employer specific to the business
19 location where the unauthorized alien performed work. If
20 the employer does not hold a license specific to the
21 business location where the unauthorized alien performed
22 work, but a license is necessary to operate the employer's
23 business in general, the court shall order the appropriate
24 agencies to permanently revoke all licenses that are held
25 by the employer at the employer's primary place of
26 business. On receipt of the order and notwithstanding any

1 other law, the appropriate agencies shall immediately
2 revoke the licenses.

3 (iii) The violation shall be considered:

4 (1) A first violation by an employer at a business
5 location if the violation did not occur during a
6 probationary period ordered by the court under this
7 subsection for that employer's business location.

8 (2) A second violation by an employer at a business
9 location if the violation occurred during a
10 probationary period ordered by the court under this
11 subsection for that employer's business location.

12 (g) The Department of Labor shall maintain copies of court
13 orders that are received pursuant to subsection (f) of this
14 Section and shall maintain a database of the employers and
15 business locations that have a first violation of subsection
16 (a) of this Section and make the court orders available on the
17 Department's website.

18 (h) On determining whether an employee is an unauthorized
19 alien, the court shall consider only the federal government's
20 determination pursuant to 8 U.S.C. 1373(c). The federal
21 government's determination creates a rebuttable presumption of
22 the employee's lawful status. The court may take judicial
23 notice of the federal government's determination and may
24 request the federal government to provide automated or
25 testimonial verification pursuant to 8 U.S.C. 1373(c).

26 (i) For the purposes of this Section, proof of verifying

1 the employment authorization of an employee through the
2 E-Verify program creates a rebuttable presumption that an
3 employer did not knowingly or intentionally employ an
4 unauthorized alien.

5 (j) For the purposes of this Section, an employer that
6 establishes that it has complied in good faith with the
7 requirements of 8 U.S.C. 1324a(b) establishes an affirmative
8 defense that the employer did not knowingly or intentionally
9 employ an unauthorized alien. An employer is considered to have
10 complied with the requirements of 8 U.S.C. 1324a(b),
11 notwithstanding an isolated, sporadic, or accidental technical
12 or procedural failure to meet the requirements, if there is a
13 good faith attempt to comply with the requirements.

14 (k) It is an affirmative defense to a violation of
15 subsection (a) of this Section that the employer was entrapped.
16 To claim entrapment, the employer must admit by the employer's
17 testimony or other evidence the substantial elements of the
18 violation. An employer who asserts an entrapment defense has
19 the burden of proving the following by a preponderance of the
20 evidence:

21 (i) The idea of committing the violation started with
22 law enforcement officers or their agents rather than with
23 the employer.

24 (ii) The law enforcement officers or their agents urged
25 and induced the employer to commit the violation.

26 (iii) The employer was not predisposed to commit the

1 violation before the law enforcement officers or their
2 agents urged and induced the employer to commit the
3 violation.

4 (1) An employer does not establish entrapment if the
5 employer was predisposed to violate subsection (a) of this
6 Section and the law enforcement officers or their agents merely
7 provided the employer with an opportunity to commit the
8 violation. It is not entrapment for law enforcement officers or
9 their agents merely to use a ruse or to conceal their identity.
10 The conduct of law enforcement officers and their agents may be
11 considered in determining if an employer has proven entrapment.

12 Section 35. Employer actions; federal or State law
13 compliance. This Act shall not be construed to require an
14 employer to take any action that the employer believes in good
15 faith would violate federal or State law.

16 Section 40. Voluntary employer enhanced compliance
17 program.

18 (a) The Department of Labor shall establish the voluntary
19 employer enhanced compliance program. The program is voluntary
20 and an employer is not required to enroll in the program.

21 (b) An employer that is on probation under Section 30 or 35
22 of this Act may not enroll in the voluntary employer enhanced
23 compliance program. A court shall not consider non-enrollment
24 in the voluntary employer enhanced compliance program as a

1 factor when determining whether to suspend or revoke a license
2 under Section 30 or 35 of this Act.

3 (c) To enroll in the voluntary employer enhanced compliance
4 program, an employer shall submit a signed sworn affidavit to
5 the Department. The affidavit shall state that the employer
6 agrees to perform all of the following actions in good faith:

7 (i) After hiring an employee, the employer shall verify
8 the employment eligibility of the employee through the
9 E-Verify program.

10 (ii) To ensure the accuracy of reporting wages to the
11 Social Security Administration, the employer shall verify
12 the accuracy of social security numbers through the social
13 security number verification service for any employee who
14 is not verified through the E-Verify program. Within 30
15 days after enrolling in the voluntary employer enhanced
16 compliance program, the employer shall submit the
17 necessary information to the social security number
18 verification service, including the full name, the social
19 security number, the date of birth, and the gender of each
20 employee. On receipt of a failed verification result, the
21 employer shall notify the employee of the date on which the
22 employer received the failed result and instruct the
23 employee to resolve the discrepancy with the Social
24 Security Administration within 90 days after that date. The
25 employer and employee shall resolve any failed result
26 within 90 days after the date on which the employer

1 received the failed result. If the failed result is not
2 resolved within the 90-day period but the employer and
3 employee are continuing to actively and consistently work
4 toward resolving the failed result with the Social Security
5 Administration, the 90-day period does not apply as long as
6 the employer and employee have documented proof of these
7 ongoing efforts to resolve the failed result in good faith
8 and have provided the documented proof to the Department.
9 The employer shall verify the accuracy of the social
10 security numbers and resolve any failed verification
11 results in a consistent manner for all employees.

12 (iii) In response to a written request by the
13 Department or State's Attorney stating the name of an
14 employee for whom a complaint has been received under
15 Section 30 or 35 of this Act, the employer shall provide
16 the Department or State's Attorney the documents
17 indicating that the employee was verified through the
18 E-Verify program or that the accuracy of the employee's
19 wage report was verified through the social security number
20 verification service under this Section.

21 (d) An employer that is enrolled in the voluntary employer
22 enhanced compliance program shall not be in violation of
23 subsection (a) of Section 30 of this Act or subsection (a) of
24 Section 35 of this Act regarding an employee named in a
25 complaint under Section 30 or 35 of this Act if the employer
26 has completed both of the following:

1 (i) In good faith verified the employment eligibility
2 of the employee named in the complaint through the E-Verify
3 program or in good faith verified the accuracy of the
4 social security number of the employee named in the
5 complaint through the social security number verification
6 system as required by paragraphs (i) and (ii) of subsection
7 (c) of this Section.

8 (ii) Provided the Department or State's Attorney with
9 the documents, as required by paragraph (iii) of subsection
10 (c) of this Section, indicating that the employer verified
11 the employee named in the complaint.

12 (e) The Department shall maintain a list of employers
13 enrolled in the voluntary employer enhanced compliance program
14 and make the list available on the Department's website.

15 (f) The Department shall develop a form of recognition that
16 an employer may display to the general public for enrolling in
17 the voluntary employer enhanced compliance program.

18 (g) If an employer does not fully comply with this Section,
19 the Department shall terminate the employer's enrollment in the
20 voluntary employer enhanced compliance program. At any time, an
21 employer may voluntarily withdraw from the voluntary employer
22 enhanced compliance program by notifying the Department.
23 Beginning on the date of termination or withdrawal, subsection
24 (d) of this Section no longer applies to the employer and the
25 employer shall immediately remove any form of recognition from
26 public display that is authorized under this Section.

1 Section 45. Immigration Law Enforcement Fund. The
2 Immigration Law Enforcement Fund is established in the State
3 treasury consisting of moneys deposited pursuant to Section 15
4 of this Act and moneys appropriated by the General Assembly.
5 The Department of State Police shall administer the Fund.
6 Moneys in the Fund are subject to appropriation by the General
7 Assembly and shall be used for immigration enforcement and for
8 county jail reimbursement costs relating to illegal
9 immigration.

10 Section 50. Home rule preemption. This Act is a denial and
11 limitation of home rule powers and functions under subsection
12 (h) of Section 6 of Article VII of the Illinois Constitution.

13 Section 105. The State Finance Act is amended by adding
14 Section 5.786 as follows:

15 (30 ILCS 105/5.786 new)

16 Sec. 5.786. The Immigration Law Enforcement Fund.

17 Section 110. The Illinois Vehicle Code is amended by adding
18 Sections 11-1308 and 11-1309 as follows:

19 (625 ILCS 5/11-1308 new)

20 Sec. 11-1308. Unlawful stopping to hire and pick up

1 passengers for work.

2 (a) It is unlawful for an occupant of a motor vehicle that
3 is stopped on a street, roadway, or highway to attempt to hire
4 or hire and pick up passengers for work at a different location
5 if the motor vehicle blocks or impedes the normal movement of
6 traffic.

7 (b) It is unlawful for a person to enter a motor vehicle
8 that is stopped on a street, roadway, or highway in order to be
9 hired by an occupant of the motor vehicle and to be transported
10 to work at a different location if the motor vehicle blocks or
11 impedes the normal movement of traffic.

12 (c) Sentence. A violation of this Section is a Class B
13 misdemeanor.

14 (d) In the implementation of this Section, an alien's
15 immigration status may be determined by:

16 (1) a law enforcement officer who is authorized by the
17 federal government to verify or ascertain an alien's
18 immigration status;

19 (2) the United States Immigration and Customs
20 Enforcement or the United States Customs and Border
21 Protection pursuant to 8 U.S.C. 1373(c).

22 (625 ILCS 5/11-1309 new)

23 Sec. 11-1309. Unlawful transporting, moving, concealing,
24 harboring, or shielding of unlawful aliens; vehicle
25 impoundment; exception, classification.

1 (a) It is unlawful for a person who is in violation of a
2 criminal offense to:

3 (1) transport or move or attempt to transport or move
4 an alien in this State, in furtherance of the illegal
5 presence of the alien in the United States, in a means of
6 transportation if the person knows or recklessly
7 disregards the fact that the alien has come to, has entered
8 or remains in the United States in violation of law;

9 (2) conceal, harbor, or shield or attempt to conceal,
10 harbor, or shield an alien from detection in any place in
11 this State, including any building or any means of
12 transportation, if the person knows or recklessly
13 disregards the fact that the alien has come to, has entered
14 or remains in the United States in violation of law; or

15 (3) encourage or induce an alien to come to or reside
16 in this State if the person knows or recklessly disregards
17 the fact that such coming to, entering, or residing in this
18 State is or will be in violation of law.

19 (b) A means of transportation that is used in the
20 commission of a violation of this Section is subject to
21 mandatory vehicle immobilization or impoundment.

22 (c) A law enforcement official or agency of this State or a
23 political subdivision of this State may not consider race,
24 color, or national origin in the enforcement of this Section
25 except to the extent permitted by the United States or Illinois
26 Constitution.

1 (d) In the enforcement of this Section, an alien's
2 immigration status may be determined by:

3 (1) a law enforcement officer who is authorized by the
4 federal government to verify or ascertain an alien's
5 immigration status; or

6 (2) the United States Immigration and Customs
7 Enforcement or the United States Customs and Border
8 Protection pursuant to 8 U.S.C. 1373(c).

9 (e) This Section does not apply to a child protective
10 services worker acting in the worker's official capacity or a
11 person who is acting in the capacity of a first responder, an
12 ambulance attendant, or an emergency medical technician and who
13 is transporting or moving an alien in this State pursuant to
14 the Emergency Medical Services (EMS) Systems Act.

15 (f) A person who violates this Section is guilty of a Class
16 B misdemeanor and is subject to a fine of at least \$1,000,
17 except that a violation of this Section that involves 10 or
18 more illegal aliens is a Class 4 felony and the person is
19 subject to a fine of at least \$1,000 for each alien who is
20 involved.

21 Section 115. The Criminal Code of 1961 is amended by
22 changing Section 36-1 as follows:

23 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

24 Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used

1 with the knowledge and consent of the owner in the commission
2 of, or in the attempt to commit as defined in Section 8-4 of
3 this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2,
4 11-6, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-4.1, 12-4.2,
5 12-4.2-5, 12-4.3, 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 16-1 if
6 the theft is of precious metal or of scrap metal, 18-2, 19-1,
7 19-2, 19-3, 20-1, 20-2, 24-1.2, 24-1.2-5, 24-1.5, 28-1, or
8 29D-15.2 of this Code, paragraph (a) of Section 12-4 of this
9 Code, paragraph (a) of Section 12-15 or paragraphs (a), (c) or
10 (d) of Section 12-16 of this Code, or paragraph (a)(6) or
11 (a)(7) of Section 24-1 of this Code; (b) Section 21, 22, 23, 24
12 or 26 of the Cigarette Tax Act if the vessel, vehicle or
13 aircraft contains more than 10 cartons of such cigarettes; (c)
14 Section 28, 29 or 30 of the Cigarette Use Tax Act if the
15 vessel, vehicle or aircraft contains more than 10 cartons of
16 such cigarettes; (d) Section 44 of the Environmental Protection
17 Act; (e) 11-204.1 of the Illinois Vehicle Code; (f) (1) driving
18 under the influence of alcohol or other drug or drugs,
19 intoxicating compound or compounds or any combination thereof
20 under Section 11-501 of the Illinois Vehicle Code during a
21 period in which his or her driving privileges are revoked or
22 suspended where the revocation or suspension was for driving
23 under the influence of alcohol or other drug or drugs,
24 intoxicating compound or compounds or any combination thereof,
25 Section 11-501.1, paragraph (b) of Section 11-401, or for
26 reckless homicide as defined in Section 9-3 of the Criminal

1 Code of 1961; (2) driving while under the influence of alcohol,
2 other drug or drugs, intoxicating compound or compounds or any
3 combination thereof and has been previously convicted of
4 reckless homicide or a similar provision of a law of another
5 state relating to reckless homicide in which the person was
6 determined to have been under the influence of alcohol, other
7 drug or drugs, or intoxicating compound or compounds as an
8 element of the offense or the person has previously been
9 convicted of committing a violation of driving under the
10 influence of alcohol or other drug or drugs, intoxicating
11 compound or compounds or any combination thereof and was
12 involved in a motor vehicle accident that resulted in death,
13 great bodily harm, or permanent disability or disfigurement to
14 another, when the violation was a proximate cause of the death
15 or injuries; (3) the person committed a violation of driving
16 under the influence of alcohol or other drug or drugs,
17 intoxicating compound or compounds or any combination thereof
18 under Section 11-501 of the Illinois Vehicle Code or a similar
19 provision for the third or subsequent time; (4) the person
20 committed the violation while he or she did not possess a
21 driver's license or permit or a restricted driving permit or a
22 judicial driving permit or a monitoring device driving permit;
23 or (5) the person committed the violation while he or she knew
24 or should have known that the vehicle he or she was driving was
25 not covered by a liability insurance policy, ~~or (d) (1) (I)~~; (g)
26 an offense described in subsection (g) of Section 6-303 of the

1 Illinois Vehicle Code; ~~or~~ (h) an offense described in
2 subsection (e) of Section 6-101 of the Illinois Vehicle Code;
3 or (i) an offense described in Section 11-1309 of the Illinois
4 Vehicle Code; may be seized and delivered forthwith to the
5 sheriff of the county of seizure.

6 Within 15 days after such delivery the sheriff shall give
7 notice of seizure to each person according to the following
8 method: Upon each such person whose right, title or interest is
9 of record in the office of the Secretary of State, the
10 Secretary of Transportation, the Administrator of the Federal
11 Aviation Agency, or any other Department of this State, or any
12 other state of the United States if such vessel, vehicle or
13 aircraft is required to be so registered, as the case may be,
14 by mailing a copy of the notice by certified mail to the
15 address as given upon the records of the Secretary of State,
16 the Department of Aeronautics, Department of Public Works and
17 Buildings or any other Department of this State or the United
18 States if such vessel, vehicle or aircraft is required to be so
19 registered. Within that 15 day period the sheriff shall also
20 notify the State's Attorney of the county of seizure about the
21 seizure.

22 In addition, any mobile or portable equipment used in the
23 commission of an act which is in violation of Section 7g of the
24 Metropolitan Water Reclamation District Act shall be subject to
25 seizure and forfeiture under the same procedures provided in
26 this Article for the seizure and forfeiture of vessels,

1 vehicles and aircraft, and any such equipment shall be deemed a
2 vessel, vehicle or aircraft for purposes of this Article.

3 When a person discharges a firearm at another individual
4 from a vehicle with the knowledge and consent of the owner of
5 the vehicle and with the intent to cause death or great bodily
6 harm to that individual and as a result causes death or great
7 bodily harm to that individual, the vehicle shall be subject to
8 seizure and forfeiture under the same procedures provided in
9 this Article for the seizure and forfeiture of vehicles used in
10 violations of clauses (a), (b), (c), or (d) of this Section.

11 If the spouse of the owner of a vehicle seized for an
12 offense described in subsection (g) of Section 6-303 of the
13 Illinois Vehicle Code, a violation of subdivision (d)(1)(A),
14 (d)(1)(D), (d)(1)(G), (d)(1)(H), or (d)(1)(I) of Section
15 11-501 of the Illinois Vehicle Code, or Section 9-3 of this
16 Code makes a showing that the seized vehicle is the only source
17 of transportation and it is determined that the financial
18 hardship to the family as a result of the seizure outweighs the
19 benefit to the State from the seizure, the vehicle may be
20 forfeited to the spouse or family member and the title to the
21 vehicle shall be transferred to the spouse or family member who
22 is properly licensed and who requires the use of the vehicle
23 for employment or family transportation purposes. A written
24 declaration of forfeiture of a vehicle under this Section shall
25 be sufficient cause for the title to be transferred to the
26 spouse or family member. The provisions of this paragraph shall

1 apply only to one forfeiture per vehicle. If the vehicle is the
2 subject of a subsequent forfeiture proceeding by virtue of a
3 subsequent conviction of either spouse or the family member,
4 the spouse or family member to whom the vehicle was forfeited
5 under the first forfeiture proceeding may not utilize the
6 provisions of this paragraph in another forfeiture proceeding.
7 If the owner of the vehicle seized owns more than one vehicle,
8 the procedure set out in this paragraph may be used for only
9 one vehicle.

10 Property declared contraband under Section 40 of the
11 Illinois Streetgang Terrorism Omnibus Prevention Act may be
12 seized and forfeited under this Article.

13 (Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10;
14 96-1000, eff. 7-2-10; 96-1267, eff. 7-26-10; 96-1289, eff.
15 1-1-11; revised 9-16-10.)

16 Section 120. The Code of Criminal Procedure of 1963 is
17 amended by changing Section 107-2 as follows:

18 (725 ILCS 5/107-2) (from Ch. 38, par. 107-2)

19 Sec. 107-2. ~~(1)~~ Arrest by Peace Officer.

20 (1) A peace officer may arrest a person when:

21 (a) He has a warrant commanding that such person be
22 arrested; or

23 (b) He has reasonable grounds to believe that a warrant
24 for the person's arrest has been issued in this State or in

1 another jurisdiction; or

2 (c) He has reasonable grounds to believe that the
3 person is committing or has committed an offense; or ~~or~~

4 (d) He or she has reasonable grounds to believe that the
5 person to be arrested has committed an offense that makes the
6 person removable from the United States.

7 (2) Whenever a peace officer arrests a person, the officer
8 shall question the arrestee as to whether he or she has any
9 children under the age of 18 living with him or her who may be
10 neglected as a result of the arrest or otherwise. The peace
11 officer shall assist the arrestee in the placement of the
12 children with a relative or other responsible person designated
13 by the arrestee. If the peace officer has reasonable cause to
14 believe that a child may be a neglected child as defined in the
15 Abused and Neglected Child Reporting Act, he shall report it
16 immediately to the Department of Children and Family Services
17 as provided in that Act.

18 (3) A peace officer who executes a warrant of arrest in
19 good faith beyond the geographical limitation of the warrant
20 shall not be liable for false arrest.

21 (Source: P.A. 86-298; revised 9-16-10.)

22 Section 125. The Right to Privacy in the Workplace Act is
23 amended by changing Section 12 as follows:

24 (820 ILCS 55/12)

1 Sec. 12. Use of Employment Eligibility Verification
2 Systems.

3 (a) On and after the effective date of this amendatory Act
4 of the 97th General Assembly, every employer, after hiring an
5 employee, shall verify the employment eligibility of the
6 employee through the E-Verify program and shall keep a record
7 of the verification for the duration of the employee's
8 employment or at least 3 years, whichever is longer.

9 (b) In addition to any other requirement for an employer to
10 receive an economic development incentive from a government
11 entity, the employer shall register with and participate in the
12 E-Verify program. Before receiving the economic development
13 incentive, the employer shall provide proof to the government
14 entity that the employer is registered with and is
15 participating in the E-Verify program. If the government entity
16 determines that the employer is not complying with this
17 subsection, the government entity shall notify the employer by
18 certified mail of the government entity's determination of
19 noncompliance and the employer's right to appeal the
20 determination. On a final determination of noncompliance, the
21 employer shall repay all monies received as an economic
22 development incentive to the government entity within 30 days
23 of the final determination.

24 (c) For the purposes of this subsection:

25 "Economic development incentive" means any grant,
26 loan, or performance-based incentive from any government

1 entity that is awarded after September 30, 2012. Economic
2 development incentive does not include any tax provision
3 under Chapter 35.

4 "Government entity" means this State and any political
5 subdivision of this State that receives and uses tax
6 revenues.

7 (d) Every 3 months the Department of Labor shall request
8 from the United States Department of Homeland Security a list
9 of employers from this State that are registered with the
10 E-Verify program. On receipt of the list of employers, the
11 Department of Labor shall make the list available on the
12 Department's website.

13 ~~(a) Prior to choosing to voluntarily enroll in any~~
14 ~~Electronic Employment Verification System, including the~~
15 ~~E-Verify program and the Basic Pilot program, as authorized by~~
16 ~~8 U.S.C. 1324a, Notes, Pilot Programs for Employment~~
17 ~~Eligibility Confirmation (enacted by P.L. 104 208, div. C,~~
18 ~~title IV, subtitle A), employers are urged to consult the~~
19 ~~Illinois Department of Labor's website for current information~~
20 ~~on the accuracy of E-Verify and to review and understand an~~
21 ~~employer's legal responsibilities relating to the use of the~~
22 ~~voluntary E-Verify program.~~

23 ~~(a 1) The Illinois Department of Labor (IDOL) shall post on~~
24 ~~its website information or links to information from the United~~
25 ~~States Government Accountability Office, Westat, or a similar~~
26 ~~reliable source independent of the Department of Homeland~~

1 ~~Security regarding: (1) the accuracy of the E-Verify databases;~~
2 ~~(2) the approximate financial burden and expenditure of time~~
3 ~~that use of E-Verify requires from employers; and (3) an~~
4 ~~overview of an employer's responsibilities under federal and~~
5 ~~state law relating to the use of E-Verify.~~

6 (e) ~~(b)~~ Upon initial enrollment in an Employment
7 Eligibility Verification System or within 30 days after the
8 effective date of this amendatory Act of the 96th General
9 Assembly, an employer enrolled in E-Verify or any other
10 Employment Eligibility Verification System must attest, under
11 penalty of perjury, on a form prescribed by the IDOL available
12 on the IDOL website:

13 (1) that the employer has received the Basic Pilot or
14 E-Verify training materials from the Department of
15 Homeland Security (DHS), and that all employees who will
16 administer the program have completed the Basic Pilot or
17 E-Verify Computer Based Tutorial (CBT); and

18 (2) that the employer has posted the notice from DHS
19 indicating that the employer is enrolled in the Basic Pilot
20 or E-Verify program and the anti-discrimination notice
21 issued by the Office of Special Counsel for
22 Immigration-Related Unfair Employment Practices (OSC),
23 Civil Rights Division, U.S. Department of Justice in a
24 prominent place that is clearly visible to both prospective
25 and current employees. The employer must maintain the
26 signed original of the attestation form prescribed by the

1 IDOL, as well as all CBT certificates of completion and
2 make them available for inspection or copying by the IDOL
3 at any reasonable time.

4 (f) ~~(e)~~ It is a violation of this Act for an employer
5 enrolled in an Employment Eligibility Verification System,
6 including the E-Verify program and the Basic Pilot program:

7 (1) to fail to display the notices supplied by DHS and
8 OSC in a prominent place that is clearly visible to both
9 prospective and current employees;

10 (2) to allow any employee to use an Employment
11 Eligibility Verification System prior to having completed
12 CBT;

13 (3) to fail to take reasonable steps to prevent an
14 employee from circumventing the requirement to complete
15 the CBT by assuming another employee's E-Verify or Basic
16 Pilot user identification or password;

17 (4) to use the Employment Eligibility Verification
18 System to verify the employment eligibility of job
19 applicants prior to hiring or to otherwise use the
20 Employment Eligibility Verification System to screen
21 individuals prior to hiring and prior to the completion of
22 a Form I-9;

23 (5) to terminate an employee or take any other adverse
24 employment action against an individual prior to receiving
25 a final nonconfirmation notice from the Social Security
26 Administration or the Department of Homeland Security;

1 (6) to fail to notify an individual, in writing, of the
2 employer's receipt of a tentative nonconfirmation notice,
3 of the individual's right to contest the tentative
4 nonconfirmation notice, and of the contact information for
5 the relevant government agency or agencies that the
6 individual must contact to resolve the tentative
7 nonconfirmation notice;

8 (7) to fail to safeguard the information contained in
9 the Employment Eligibility Verification System, and the
10 means of access to the system (such as passwords and other
11 privacy protections). An employer shall ensure that the
12 System is not used for any purpose other than employment
13 verification of newly hired employees and shall ensure that
14 the information contained in the System and the means of
15 access to the System are not disseminated to any person
16 other than employees who need such information and access
17 to perform the employer's employment verification
18 responsibilities.

19 (g) ~~(e-1)~~ Any claim that an employer refused to hire,
20 segregated, or acted with respect to recruitment, hiring,
21 promotion, renewal or employment, selection for training or
22 apprenticeship, discharge, discipline, tenure or terms,
23 privileges, or conditions of employment without following the
24 procedures of the Employment Eligibility Verification System,
25 including the Basic Pilot and E-Verify programs, may be brought
26 under paragraph (G) (2) of Section 2-102 of the Illinois Human

1 Rights Act.

2 (h) ~~(e-2)~~ It is a violation of this Section for an
3 individual to falsely pose as an employer in order to enroll in
4 an Employment Eligibility Verification System or for an
5 employer to use an Employment Eligibility Verification System
6 to access information regarding an individual who is not an
7 employee of the employer.

8 ~~(d) Preemption. Neither the State nor any of its political~~
9 ~~subdivisions, nor any unit of local government, including a~~
10 ~~home rule unit, may require any employer to use an Employment~~
11 ~~Eligibility Verification System, including under the following~~
12 ~~circumstances:~~

13 ~~(1) as a condition of receiving a government contract;~~
14 ~~(2) as a condition of receiving a business license; or~~
15 ~~(3) as penalty for violating licensing or other similar~~
16 ~~laws.~~

17 (i) This Section ~~subsection (d)~~ is a denial and limitation
18 of home rule powers and functions under subsection (h) of
19 Section 6 of Article VII of the Illinois Constitution.

20 (Source: P.A. 95-138, eff. 1-1-08; 96-623, eff. 1-1-10;
21 96-1000, eff. 7-2-10.)

22 Section 197. Severability. The provisions of this Act are
23 severable under Section 1.31 of the Statute on Statutes.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 30 ILCS 105/5.786 new

5 625 ILCS 5/11-1308 new

6 625 ILCS 5/11-1309 new

7 720 ILCS 5/36-1 from Ch. 38, par. 36-1

8 725 ILCS 5/107-2 from Ch. 38, par. 107-2

9 820 ILCS 55/12