

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# HOUSE BILL 2779

## AN ACT

AMENDING SECTION 13-2009, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING TITLE 41, CHAPTER 23, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2505; AMENDING SECTION 43-1021, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; PROVIDING FOR THE DELAYED REPEAL OF TITLE 23, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES AND SECTION 41-2505, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 13-2009, Arizona Revised Statutes, is amended to  
3 read:  
4 13-2009. Aggravated taking identity of another person or  
5 entity; classification  
6 A. A person commits aggravated taking the identity of another person  
7 or entity if the person knowingly takes, purchases, manufactures, records,  
8 possesses or uses any personal identifying information or entity identifying  
9 information of either:  
10 1. Five or more other persons or entities, including real or  
11 fictitious persons or entities, without the consent of the other persons or  
12 entities, with the intent to obtain or use the other persons' or entities'  
13 identities for any unlawful purpose or to cause loss to the persons or  
14 entities whether or not the persons or entities actually suffer any economic  
15 loss.  
16 2. Another person or entity, including a real or fictitious person or  
17 entity, without the consent of that other person or entity, with the intent  
18 to obtain or use the other person's or entity's identity for any unlawful  
19 purpose and causes another person or entity to suffer an economic loss of  
20 three thousand dollars or more.  
21 3. ANOTHER PERSON, INCLUDING A REAL OR FICTITIOUS PERSON, WITH THE  
22 INTENT TO OBTAIN EMPLOYMENT.  
23 B. In an action for aggravated taking the identity of another person  
24 or entity under subsection A, paragraph 1 of this section, proof of  
25 possession out of the regular course of business of the personal identifying  
26 information or entity identifying information of five or more other persons  
27 or entities may give rise to an inference that the personal identifying  
28 information or entity identifying information of the five or more other  
29 persons or entities was possessed for an unlawful purpose.  
30 C. This section does not apply to a violation of section 4-241 by a  
31 person who is under twenty-one years of age.  
32 D. Aggravated taking the identity of another person or entity is a  
33 class 3 felony.  
34 Sec. 2. Title 23, chapter 2, Arizona Revised Statutes, is amended by  
35 adding article 2, to read:  
36 ARTICLE 2. EMPLOYMENT OF UNAUTHORIZED ALIENS  
37 23-211. Definitions  
38 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:  
39 1. "AGENCY" MEANS ANY AGENCY, DEPARTMENT, BOARD OR COMMISSION OF THIS  
40 STATE OR A COUNTY, CITY OR TOWN THAT ISSUES A LICENSE FOR PURPOSES OF  
41 OPERATING A BUSINESS IN THIS STATE.  
42 2. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT VERIFICATION PILOT  
43 PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND  
44 SECURITY AND THE SOCIAL SECURITY ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

1           3. "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS EMPLOYMENT SERVICES FOR AN  
2 EMPLOYER PURSUANT TO AN EMPLOYMENT RELATIONSHIP BETWEEN THE EMPLOYEE AND  
3 EMPLOYER.

4           4. "EMPLOYER" MEANS ANY INDIVIDUAL OR TYPE OF ORGANIZATION THAT  
5 TRANSACTS BUSINESS IN THIS STATE, THAT HAS A LICENSE ISSUED BY AN AGENCY IN  
6 THIS STATE AND THAT EMPLOYS ONE OR MORE INDIVIDUALS WHO PERFORM EMPLOYMENT  
7 SERVICES IN THIS STATE. EMPLOYER INCLUDES THIS STATE, ANY POLITICAL  
8 SUBDIVISION OF THIS STATE AND SELF-EMPLOYED PERSONS.

9           5. "KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN" MEANS THE ACTIONS  
10 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324a. THIS TERM SHALL BE  
11 INTERPRETED CONSISTENTLY WITH 8 UNITED STATES CODE SECTION 1324a AND ANY  
12 APPLICABLE FEDERAL RULES AND REGULATIONS.

13           6. "LEGAL EMPLOYMENT AFFIDAVIT" MEANS AN AFFIDAVIT THAT INDICATES THAT  
14 AN EMPLOYER DOES NOT KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN, THAT AN EMPLOYER  
15 WILL NOT DIRECT ANY OTHER PERSON TO EMPLOY AN UNAUTHORIZED ALIEN AND THAT AN  
16 EMPLOYER MAKES A GOOD FAITH EFFORT TO COMPLY WITH ALL FEDERAL AND STATE LAWS  
17 REGARDING THE AUTHORIZATION FOR EMPLOYMENT IN THE UNITED STATES OF EVERY  
18 EMPLOYEE WHO IS EMPLOYED BY THE EMPLOYER IN THIS STATE.

19           7. "LICENSE":

20           (a) MEANS ANY AGENCY PERMIT, CERTIFICATE, APPROVAL, REGISTRATION,  
21 CHARTER OR SIMILAR FORM OF AUTHORIZATION THAT IS REQUIRED BY LAW AND THAT IS  
22 ISSUED BY ANY AGENCY FOR THE PURPOSES OF OPERATING A BUSINESS IN THIS STATE.

23           (b) INCLUDES ANY TRANSACTION PRIVILEGE TAX LICENSE.

24           (c) DOES NOT INCLUDE:

25           (i) ANY LICENSE ISSUED PURSUANT TO TITLE 45 OR 49.

26           (ii) ANY PROFESSIONAL LICENSE.

27           8. "UNAUTHORIZED ALIEN" MEANS AN ALIEN WHO DOES NOT HAVE THE LEGAL  
28 RIGHT OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS  
29 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324a(h)(3).

30           23-212. Employment of unauthorized aliens; prohibition; legal  
31 employment affidavit; violation; classification

32           A. AN EMPLOYER SHALL NOT KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN.

33           B. ON OR BEFORE SEPTEMBER 1, 2007, THE ATTORNEY GENERAL SHALL  
34 PRESCRIBE THE FORM OF THE LEGAL EMPLOYMENT AFFIDAVIT THAT IS REQUIRED TO BE  
35 FILED UNDER SUBSECTION D OF THIS SECTION. THE ATTORNEY GENERAL SHALL MAKE  
36 THE PRESCRIBED LEGAL EMPLOYMENT AFFIDAVIT FORM PUBLICLY AVAILABLE ON THE  
37 ATTORNEY GENERAL'S WEBSITE AND SHALL NOTIFY EACH AGENCY AND POLITICAL  
38 SUBDIVISION OF THIS STATE OF THE AVAILABILITY OF THE PRESCRIBED AFFIDAVIT  
39 FORM. IF AN AGENCY OR POLITICAL SUBDIVISION OF THIS STATE HAS A WEBSITE, THE  
40 AGENCY AND POLITICAL SUBDIVISION OF THIS STATE SHALL PROVIDE AN ELECTRONIC  
41 LINK FROM THE AGENCY OR POLITICAL SUBDIVISION'S WEBSITE TO THE LEGAL  
42 EMPLOYMENT AFFIDAVIT FORM ON THE ATTORNEY GENERAL'S WEBSITE.

43           C. ON OR BEFORE SEPTEMBER 1, 2007, THE ATTORNEY GENERAL SHALL  
44 PRESCRIBE A NOTICE FORM THAT EXPLAINS THE REQUIREMENTS OF THIS SECTION AND  
45 HOW TO COMPLY WITH THIS SECTION.

1 D. ON OR BEFORE JANUARY 1, 2008, EVERY EMPLOYER SHALL FILE WITH THE  
2 SECRETARY OF STATE A SIGNED SWORN LEGAL EMPLOYMENT AFFIDAVIT, ON THE FORM  
3 PRESCRIBED BY THE ATTORNEY GENERAL. ANY EMPLOYER THAT BEGINS TO TRANSACT  
4 BUSINESS IN THIS STATE AFTER JANUARY 1, 2008 SHALL FILE WITH THE SECRETARY OF  
5 STATE WITHIN THIRTY DAYS OF THE INITIAL TRANSACTION OF BUSINESS IN THIS STATE  
6 A SIGNED SWORN LEGAL EMPLOYMENT AFFIDAVIT, ON THE FORM PRESCRIBED BY THE  
7 ATTORNEY GENERAL. THE SECRETARY OF STATE SHALL ACCEPT ONLY THE LEGAL  
8 EMPLOYMENT AFFIDAVIT FORMS THAT ARE PRESCRIBED BY THE ATTORNEY GENERAL.

9 E. BEGINNING SEPTEMBER 1, 2007 THROUGH OCTOBER 31, 2007, THE LEGAL  
10 EMPLOYMENT AFFIDAVIT FORM PRESCRIBED UNDER SUBSECTION B OF THIS SECTION AND  
11 THE NOTICE FORM PRESCRIBED UNDER SUBSECTION C OF THIS SECTION SHALL BE  
12 PROVIDED TO EMPLOYERS AS FOLLOWS:

13 1. THE INDUSTRIAL COMMISSION SHALL PROVIDE THE AFFIDAVIT AND NOTICE TO  
14 EVERY EMPLOYER CONTAINED IN THE INDUSTRIAL COMMISSION'S DATABASE THAT IS  
15 MAINTAINED FOR WORKERS' COMPENSATION INSURANCE PURPOSES UNDER TITLE 23.

16 2. THE DEPARTMENT OF ECONOMIC SECURITY SHALL PROVIDE THE AFFIDAVIT AND  
17 NOTICE TO EVERY EMPLOYER IN THE DATABASE THAT IS MAINTAINED PURSUANT TO  
18 SECTION 23-722.01.

19 F. AFTER JANUARY 1, 2008, THE SECRETARY OF STATE OR THE CORPORATION  
20 COMMISSION, AS APPLICABLE, SHALL PROVIDE THE LEGAL EMPLOYMENT AFFIDAVIT FORM  
21 PRESCRIBED UNDER SUBSECTION B OF THIS SECTION AND THE NOTICE FORM PRESCRIBED  
22 UNDER SUBSECTION C OF THIS SECTION TO EACH PERSON OR ENTITY, AS DEFINED IN  
23 SECTION 10-140, THAT SUBMITS A FILING UNDER TITLE 10 OR 29.

24 G. AFTER JANUARY 1, 2008, THE INDUSTRIAL COMMISSION AND THE DEPARTMENT  
25 OF ECONOMIC SECURITY, AS APPLICABLE, SHALL PROVIDE THE LEGAL EMPLOYMENT  
26 AFFIDAVIT FORM PRESCRIBED UNDER SUBSECTION B OF THIS SECTION AND THE NOTICE  
27 FORM PRESCRIBED UNDER SUBSECTION C OF THIS SECTION TO EVERY NEW EMPLOYER THAT  
28 IS ADDED TO EITHER DATABASE DESCRIBED IN SUBSECTION E OF THIS SECTION.

29 H. AFTER JANUARY 1, 2008, EVERY AGENCY SHALL PROVIDE THE LEGAL  
30 EMPLOYMENT AFFIDAVIT FORM PRESCRIBED UNDER SUBSECTION B OF THIS SECTION AND  
31 THE NOTICE FORM PRESCRIBED UNDER SUBSECTION C OF THIS SECTION TO ANY EMPLOYER  
32 THAT APPLIES FOR A NEW LICENSE THAT IS ISSUED BY THAT AGENCY.

33 I. EACH EMPLOYER IN THIS STATE IS REQUIRED TO FILE ONLY ONE LEGAL  
34 EMPLOYMENT AFFIDAVIT UNDER THIS SECTION WITH THE SECRETARY OF STATE.

35 J. ON RECEIPT OF A LEGAL EMPLOYMENT AFFIDAVIT UNDER THIS SECTION, THE  
36 SECRETARY OF STATE SHALL DISTRIBUTE TO THE EMPLOYER AN INFORMATIONAL PAMPHLET  
37 REGARDING THE BASIC PILOT PROGRAM AND FEDERAL IMMIGRATION LAWS. THE  
38 SECRETARY OF STATE SHALL MAINTAIN A DATABASE OF EMPLOYERS THAT FILE A LEGAL  
39 EMPLOYMENT AFFIDAVIT AND SHALL MAKE THE FILED LEGAL EMPLOYMENT AFFIDAVIT  
40 PUBLICLY AVAILABLE ON THE SECRETARY OF STATE'S WEBSITE.

41 K. AN EMPLOYER COMMITS FALSE SWEARING UNDER THIS SECTION BY FILING A  
42 FALSE SWORN LEGAL EMPLOYMENT AFFIDAVIT, BELIEVING IT TO BE FALSE, OR, AFTER  
43 FILING THE SWORN LEGAL EMPLOYMENT AFFIDAVIT, BY KNOWINGLY TAKING ACTION THAT  
44 VIOLATES THE SWORN AFFIDAVIT.

1 L. A CRIMINAL ACTION FOR A VIOLATION UNDER SUBSECTION K OF THIS  
2 SECTION FOR FILING A FALSE SWORN LEGAL EMPLOYMENT AFFIDAVIT SHALL BE BROUGHT  
3 AGAINST THE EMPLOYER BY THE COUNTY ATTORNEY IN THE COUNTY WHERE THE  
4 UNAUTHORIZED ALIEN EMPLOYEE IS EMPLOYED.

5 M. FOR ANY ACTION IN SUPERIOR COURT UNDER THIS SECTION, THE COURT  
6 SHALL EXPEDITE THE ACTION, INCLUDING ASSIGNING THE HEARING AT THE EARLIEST  
7 PRACTICABLE DATE.

8 N. AN EMPLOYER THAT FAILS TO FILE A SIGNED SWORN LEGAL EMPLOYMENT  
9 AFFIDAVIT UNDER SUBSECTION D OF THIS SECTION IS GUILTY OF A CLASS 1  
10 MISDEMEANOR.

11 O. IF AN EMPLOYER IS CHARGED WITH A VIOLATION OF SUBSECTION N OF THIS  
12 SECTION AND FAILS TO FILE A LEGAL EMPLOYMENT AFFIDAVIT WITHIN TEN DAYS AFTER  
13 THE DATE ON WHICH THE CRIMINAL CHARGES WERE FILED UNDER SUBSECTION N OF THIS  
14 SECTION, THE EMPLOYER IS GUILTY OF A CLASS 6 FELONY.

15 P. FALSE SWEARING UNDER SUBSECTION K OF THIS SECTION IS:

16 1. FOR A FIRST VIOLATION DURING A FIVE YEAR PERIOD, A CLASS 6 FELONY.  
17 THE EMPLOYER SHALL PAY AN ADDITIONAL PENALTY OF AT LEAST TWO THOUSAND FIVE  
18 HUNDRED DOLLARS BUT NOT MORE THAN FIFTY THOUSAND DOLLARS TO BE DEPOSITED IN  
19 THE STATE GENERAL FUND. EXCEPT FOR THE SURCHARGE PROVIDED BY SECTION 16-954,  
20 THIS PENALTY IS NOT SUBJECT TO ANY SURCHARGE. ON CONVICTION, THE COURT MAY  
21 SUSPEND ANY LICENSE THAT IS HELD BY THE EMPLOYER THAT IS NECESSARY TO OPERATE  
22 ITS BUSINESS. IF THE EMPLOYER HOLDS LICENSES AT MORE THAN ONE LOCATION, THE  
23 COURT MAY SUSPEND A LICENSE ONLY FOR THE LOCATION WHERE THE UNAUTHORIZED  
24 ALIEN PERFORMED WORK. WITHIN FIVE BUSINESS DAYS AFTER A CONVICTION, THE  
25 EMPLOYER SHALL FILE A NEW SIGNED SWORN LEGAL EMPLOYMENT AFFIDAVIT WITH THE  
26 SECRETARY OF STATE.

27 2. FOR A SECOND VIOLATION DURING A FIVE YEAR PERIOD, A CLASS 6 FELONY,  
28 AND THE COURT SHALL NOT ENTER AN ORDER DESIGNATING THE OFFENSE A MISDEMEANOR  
29 PURSUANT TO SECTION 13-702, SUBSECTION G. THE EMPLOYER SHALL PAY AN  
30 ADDITIONAL PENALTY OF AT LEAST FIVE THOUSAND DOLLARS BUT NOT MORE THAN ONE  
31 HUNDRED THOUSAND DOLLARS TO BE DEPOSITED IN THE STATE GENERAL FUND. EXCEPT  
32 FOR THE SURCHARGE PROVIDED BY SECTION 16-954, THIS PENALTY IS NOT SUBJECT TO  
33 ANY SURCHARGE. ON CONVICTION, THE COURT MAY SUSPEND ANY LICENSE THAT IS HELD  
34 BY THE EMPLOYER THAT IS NECESSARY TO OPERATE ITS BUSINESS. IF THE EMPLOYER  
35 HOLDS LICENSES AT MORE THAN ONE LOCATION, THE COURT SHALL REVOKE A LICENSE  
36 ONLY FOR THE LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK. WITHIN  
37 FIVE BUSINESS DAYS AFTER A CONVICTION, THE EMPLOYER SHALL FILE A NEW SIGNED  
38 SWORN LEGAL EMPLOYMENT AFFIDAVIT WITH THE SECRETARY OF STATE.

39 3. FOR A THIRD VIOLATION DURING A FIVE YEAR PERIOD, A CLASS 5 FELONY.  
40 THE EMPLOYER SHALL PAY AN ADDITIONAL PENALTY OF AT LEAST TEN THOUSAND DOLLARS  
41 BUT NOT MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS TO BE DEPOSITED IN THE  
42 STATE GENERAL FUND. EXCEPT FOR THE SURCHARGE PROVIDED BY SECTION 16-954,  
43 THIS PENALTY IS NOT SUBJECT TO ANY SURCHARGE. ON CONVICTION, THE COURT SHALL  
44 REVOKE ANY LICENSE THAT IS HELD BY THE EMPLOYER THAT IS NECESSARY TO OPERATE  
45 ITS BUSINESS. IF THE EMPLOYER HOLDS LICENSES AT MORE THAN ONE LOCATION, THE

1 COURT SHALL REVOKE A LICENSE ONLY FOR THE LOCATION WHERE THE UNAUTHORIZED  
2 ALIEN PERFORMED WORK. WITHIN FIVE BUSINESS DAYS AFTER A CONVICTION, THE  
3 EMPLOYER SHALL FILE A NEW SIGNED SWORN LEGAL EMPLOYMENT AFFIDAVIT WITH THE  
4 SECRETARY OF STATE.

5 Q. FOR THE PURPOSES OF THIS SECTION, PROOF OF VERIFYING THE EMPLOYMENT  
6 AUTHORIZATION OF AN EMPLOYEE THROUGH THE BASIC PILOT PROGRAM CREATES A  
7 REBUTTABLE PRESUMPTION THAT AN EMPLOYER DID NOT KNOWINGLY EMPLOY AN  
8 UNAUTHORIZED ALIEN.

9 R. A PERSON WHO HAS BEEN CONVICTED OF FALSE SWEARING PURSUANT TO  
10 SUBSECTION K OF THIS SECTION SHALL NOT BE SUBJECT TO A SEPARATE SUBSEQUENT  
11 PROSECUTION RELATING TO THE EMPLOYMENT OF OTHER UNAUTHORIZED ALIENS AT THE  
12 SAME TIME AND PLACE INVOLVED IN THE PREVIOUS CONVICTION.

13 S. A PERSON WHO FILES A FALSE AND FRIVOLOUS COMPLAINT AGAINST AN  
14 EMPLOYER UNDER THIS SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

15 T. A PERSON WHO HAS BEEN PREVIOUSLY CONVICTED OF FILING A FALSE AND  
16 FRIVOLOUS COMPLAINT UNDER SUBSECTION S OF THIS SECTION AND WHO FILES A  
17 SUBSEQUENT FALSE AND FRIVOLOUS COMPLAINT AGAINST AN EMPLOYER UNDER THIS  
18 SECTION IS GUILTY OF A CLASS 6 FELONY.

19 23-213. Employer actions; federal law compliance

20 THIS ARTICLE SHALL NOT BE CONSTRUED TO REQUIRE AN EMPLOYER TO TAKE ANY  
21 ACTION THAT THE EMPLOYER BELIEVES IN GOOD FAITH WOULD VIOLATE FEDERAL OR  
22 STATE LAW.

23 23-214. Verification of employment eligibility; public  
24 employers; basic pilot program; auditor general

25 A. AFTER HIRING AN EMPLOYEE, THIS STATE SHALL VERIFY THE EMPLOYMENT  
26 ELIGIBILITY OF THE EMPLOYEE THROUGH THE BASIC PILOT PROGRAM.

27 B. THE AUDITOR GENERAL SHALL CONDUCT A PERFORMANCE AUDIT THAT  
28 EVALUATES THE USE OF THE BASIC PILOT PROGRAM BY THIS STATE UNDER SUBSECTION A  
29 AND SHALL REPORT THESE FINDINGS AND ANY RECOMMENDATIONS TO THE SPEAKER OF THE  
30 HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE. THE PERFORMANCE  
31 AUDIT SHALL INCLUDE THE FOLLOWING:

32 1. THE COSTS INCURRED BY THIS STATE TO VERIFY THE EMPLOYMENT  
33 ELIGIBILITY OF EMPLOYEES THROUGH THE BASIC PILOT PROGRAM.

34 2. THE NUMBER OF ADDITIONAL EMPLOYEES REQUIRED BY THIS STATE TO VERIFY  
35 THE EMPLOYMENT ELIGIBILITY OF EMPLOYEES THROUGH THE BASIC PILOT PROGRAM.

36 3. A SUMMARY OF RESULTS AND ANY ERROR RATES THAT OCCURRED WHEN THE  
37 BASIC PILOT PROGRAM IS USED BY THIS STATE.

38 C. AFTER SEPTEMBER 1, 2008, EVERY POLITICAL SUBDIVISION OF THIS STATE,  
39 AFTER HIRING AN EMPLOYEE, SHALL VERIFY THE EMPLOYMENT ELIGIBILITY OF THE  
40 EMPLOYEE THROUGH THE BASIC PILOT PROGRAM.

41 Sec. 3. Title 41, chapter 23, article 1, Arizona Revised Statutes, is  
42 amended by adding section 41-2505, to read:

43 41-2505. Awarded contracts; employee verification; definitions

44 A. A PROCUREMENT OFFICER OF THIS STATE SHALL NOT AWARD A CONTRACT  
45 UNDER THIS CHAPTER TO ANY CONTRACTOR OR SUBCONTRACTOR THAT PROVIDES SERVICES

1 IN THIS STATE UNLESS THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYEES OF THE  
2 CONTRACTOR OR SUBCONTRACTOR WHO PERFORM THE SERVICES IN THIS STATE WILL BE  
3 VERIFIED BY THE CONTRACTOR OR SUBCONTRACTOR THROUGH THE BASIC PILOT PROGRAM.  
4 THIS SUBSECTION ONLY APPLIES TO CONTRACTS THAT ARE AWARDED AFTER THE  
5 EFFECTIVE DATE OF THIS SECTION.

6 B. AFTER SEPTEMBER 1, 2008, A POLITICAL SUBDIVISION OF THIS STATE  
7 SHALL NOT AWARD A CONTRACT TO ANY CONTRACTOR OR SUBCONTRACTOR THAT PROVIDE  
8 SERVICES IN THIS STATE UNLESS THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYEES OF  
9 THE CONTRACTOR OR SUBCONTRACTOR WHO PERFORM THE SERVICES IN THIS STATE WILL  
10 BE VERIFIED BY THE CONTRACTOR OR SUBCONTRACTOR THROUGH THE BASIC PILOT  
11 PROGRAM.

12 C. BEFORE A CONTRACT IS AWARDED PURSUANT TO THIS SECTION, THE  
13 CONTRACTOR AND SUBCONTRACTOR SHALL PROVIDE TO THE PROCUREMENT OFFICER THE  
14 BASIC PILOT PROGRAM VERIFICATION DOCUMENTS FOR ALL EMPLOYEES WHO WILL PERFORM  
15 SERVICES UNDER THE CONTRACT.

16 D. FOR THE PURPOSES OF THIS SECTION:

17 1. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT VERIFICATION PILOT  
18 PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND  
19 SECURITY AND THE SOCIAL SECURITY ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

20 2. "SERVICES" MEANS THE FURNISHING OF LABOR, TIME OR EFFORT IN THIS  
21 STATE BY A CONTRACTOR OR SUBCONTRACTOR. SERVICES INCLUDE CONSTRUCTION OR  
22 MAINTENANCE OF ANY STRUCTURE, BUILDING OR TRANSPORTATION FACILITY OR  
23 IMPROVEMENT OF REAL PROPERTY.

24 Sec. 4. Section 43-1021, Arizona Revised Statutes, is amended to read:  
25 43-1021. Additions to Arizona gross income

26 In computing Arizona adjusted gross income, the following amounts shall  
27 be added to Arizona gross income:

28 1. A beneficiary's share of the fiduciary adjustment to the extent  
29 that the amount determined by section 43-1333 increases the beneficiary's  
30 Arizona gross income.

31 2. An amount equal to the "ordinary income portion" of a lump sum  
32 distribution that was excluded from federal adjusted gross income pursuant to  
33 section 402(d) of the internal revenue code.

34 3. The amount of interest income received on obligations of any state,  
35 territory or possession of the United States, or any political subdivision  
36 thereof, located outside the state of Arizona, reduced, for tax years  
37 beginning from and after December 31, 1996, by the amount of any interest on  
38 indebtedness and other related expenses that were incurred or continued to  
39 purchase or carry those obligations and that are not otherwise deducted or  
40 subtracted in arriving at Arizona gross income.

41 4. Annuity income received during the taxable year to the extent that  
42 the sum of the proceeds received from such annuity in all taxable years prior  
43 to and including the current taxable year exceeds the total consideration and  
44 premiums paid by the taxpayer. This paragraph applies only to those

1 annuities with respect to which the first payment was received prior to  
2 December 31, 1978.

3 5. The excess of a partner's share of partnership taxable income  
4 required to be included under chapter 14, article 2 of this title over the  
5 income required to be reported under section 702(a)(8) of the internal  
6 revenue code.

7 6. The excess of a partner's share of partnership losses determined  
8 pursuant to section 702(a)(8) of the internal revenue code over the losses  
9 allowable under chapter 14, article 2 of this title.

10 7. The amount by which the adjusted basis of property described in  
11 this paragraph and computed pursuant to the internal revenue code exceeds the  
12 adjusted basis of such property computed pursuant to this title and the  
13 income tax act of 1954, as amended. This paragraph shall apply to all  
14 property which is held for the production of income and which is sold or  
15 otherwise disposed of during the taxable year, except depreciable property  
16 used in a trade or business.

17 8. The amount of depreciation or amortization of costs of any capital  
18 investment that is deducted pursuant to section 167 or 179 of the internal  
19 revenue code by a qualified defense contractor with respect to which an  
20 election is made to amortize pursuant to section 43-1024.

21 9. The amount of gain from the sale or other disposition of a capital  
22 investment which a qualified defense contractor has elected to amortize  
23 pursuant to section 43-1024.

24 10. Amounts withdrawn from the Arizona state retirement system, the  
25 corrections officer retirement plan, the public safety personnel retirement  
26 system, the elected officials' retirement plan or a county or city retirement  
27 plan by an employee upon termination of employment before retirement to the  
28 extent they were deducted in arriving at Arizona taxable income in any year.

29 11. That portion of the net operating loss included in federal adjusted  
30 gross income which has already been taken as a net operating loss for Arizona  
31 purposes or which is separately taken as a subtraction under the special net  
32 operating loss transition rule.

33 12. Any nonitemized amount deducted pursuant to section 170 of the  
34 internal revenue code representing contributions to an educational  
35 institution which denies admission, enrollment or board and room  
36 accommodations on the basis of race, color or ethnic background except those  
37 institutions primarily established for the education of American Indians.

38 13. The amount paid as taxes on property in this state with respect to  
39 which a credit is claimed under section 43-1078.

40 14. Amounts withdrawn from a medical savings account by the individual  
41 during the taxable year computed pursuant to section 220(f) of the internal  
42 revenue code and not included in federal adjusted gross income.

43 15. Any amount of agricultural water conservation expenses that were  
44 deducted pursuant to the internal revenue code for which a credit is claimed  
45 under section 43-1084.



1           16. The amount by which the depreciation or amortization computed under  
2 the internal revenue code with respect to property for which a credit was  
3 taken under section 43-1080 exceeds the amount of depreciation or  
4 amortization computed pursuant to the internal revenue code on the Arizona  
5 adjusted basis of the property.

6           17. The amount by which the adjusted basis computed under the internal  
7 revenue code with respect to property for which a credit was claimed under  
8 section 43-1080 and which is sold or otherwise disposed of during the taxable  
9 year exceeds the adjusted basis of the property computed under section  
10 43-1080.

11           18. The amount by which the depreciation or amortization computed under  
12 the internal revenue code with respect to property for which a credit was  
13 taken under either section 43-1081 or 43-1081.01 exceeds the amount of  
14 depreciation or amortization computed pursuant to the internal revenue code  
15 on the Arizona adjusted basis of the property.

16           19. The amount by which the adjusted basis computed under the internal  
17 revenue code with respect to property for which a credit was claimed under  
18 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise  
19 disposed of during the taxable year exceeds the adjusted basis of the  
20 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as  
21 applicable.

22           20. The deduction referred to in section 1341(a)(4) of the internal  
23 revenue code for restoration of a substantial amount held under a claim of  
24 right.

25           21. The amount by which a net operating loss carryover or capital loss  
26 carryover allowable pursuant to section 1341(b)(5) of the internal revenue  
27 code exceeds the net operating loss carryover or capital loss carryover  
28 allowable pursuant to section 43-1029, subsection F.

29           22. Any amount deducted pursuant to section 170 of the internal revenue  
30 code representing contributions to a school tuition organization or a public  
31 school for which a credit is claimed under section 43-1089 or 43-1089.01.

32           23. Any amount deducted in computing Arizona gross income as expenses  
33 for installing solar stub outs or electric vehicle recharge outlets in this  
34 state with respect to which a credit is claimed pursuant to section 43-1090.

35           24. Any wage expenses deducted pursuant to the internal revenue code  
36 for which a credit is claimed under section 43-1087 and representing net  
37 increases in qualified employment positions for employment of temporary  
38 assistance for needy families recipients.

39           25. Any amount deducted for conveying ownership or development rights  
40 of property to an agricultural preservation district under section 48-5702  
41 for which a credit is claimed under section 43-1081.02.

42           26. The amount of any depreciation allowance allowed pursuant to  
43 section 167(a) of the internal revenue code to the extent not previously  
44 added.

1           27. With respect to property for which an expense deduction was taken  
2 pursuant to section 179 of the internal revenue code, the amount in excess of  
3 twenty-five thousand dollars.

4           28. The amount of any deductions that are claimed in computing federal  
5 adjusted gross income representing expenses for which a credit is claimed  
6 under section 43-1075.

7           29. The amount by which the depreciation or amortization computed under  
8 the internal revenue code with respect to property for which a credit was  
9 taken under section 43-1090.01 exceeds the amount of depreciation or  
10 amortization computed pursuant to the internal revenue code on the Arizona  
11 adjusted basis of the property.

12           30. The amount by which the adjusted basis computed under the internal  
13 revenue code with respect to property for which a credit was claimed under  
14 section 43-1090.01 and which is sold or otherwise disposed of during the  
15 taxable year exceeds the adjusted basis of the property computed under  
16 section 43-1090.01.

17           31. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2007  
18 THROUGH DECEMBER 31, 2012, THE AMOUNT OF SALARY OR OTHER COMPENSATION THAT IS  
19 PAID TO AN UNAUTHORIZED ALIEN AND THAT IS DEDUCTED AS A BUSINESS EXPENSE  
20 UNDER SECTION 162 OF THE INTERNAL REVENUE CODE. THIS PARAGRAPH APPLIES ONLY  
21 TO A TAXPAYER THAT KNOWINGLY EMPLOYS AN UNAUTHORIZED ALIEN. FOR THE PURPOSES  
22 OF THIS PARAGRAPH:

23           (a) "KNOWINGLY EMPLOYS AN UNAUTHORIZED ALIEN" MEANS THE ACTIONS  
24 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324a. THIS TERM SHALL BE  
25 INTERPRETED CONSISTENTLY WITH 8 UNITED STATES CODE SECTION 1324a AND ANY  
26 APPLICABLE FEDERAL RULES AND REGULATIONS.

27           (b) "UNAUTHORIZED ALIEN" MEANS AN ALIEN WHO DOES NOT HAVE THE LEGAL  
28 RIGHT OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS  
29 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324a(h)(3).

30           Sec. 5. Intent

31           It is the intent of the legislature that, on receipt of a complaint  
32 that an employer has allegedly violated section 23-212, Arizona Revised  
33 Statutes, as added by this act, the attorney general or county attorney  
34 investigate the alleged violation.

35           Sec. 6. Severability

36           If any provision of this act or its application to any person or  
37 circumstance is held invalid, the invalidity does not affect other provisions  
38 or applications of this act that can be given effect without the invalid  
39 provision or application, and to this end the provisions of this act are  
40 severable.

41           Sec. 7. Legislative findings

42           The Legislature finds that this act complies with the requirements of 8  
43 United States Code section 1324a(h)(2) by addressing employer sanctions  
44 through licensure and similar means. Criminal penalties contained in this  
45 act are associated exclusively with the state crimes of failing to file an

1 affidavit and false swearing on an affidavit filed with the secretary of  
2 state, not the act of employing unauthorized persons.

3 Sec. 8. Short title

4 This act shall be known as and may be cited as the "Arizona Fair and  
5 Legal Employment Act."

6 Sec. 9. Appropriation; attorney general enforcement; exemption

7 A. The sum of \$500,000 is appropriated from the state general fund in  
8 fiscal year 2007-2008 to the attorney general for the purpose of enforcing  
9 any immigration related matters and section 23-212, Arizona Revised Statutes,  
10 as added by this act.

11 B. The appropriation made in subsection A of this section is exempt  
12 from the provisions of section 35-190, Arizona Revised Statutes, relating to  
13 lapsing of appropriations.

14 Sec. 10. Appropriation; county attorney enforcement; exemption

15 A. The sum of \$2,500,000 is appropriated from the state general fund  
16 in fiscal year 2007-2008 to the department of administration to be  
17 distributed to the county attorneys in this state for the purpose of  
18 enforcing any immigration related matters and section 23-212, Arizona Revised  
19 Statutes, as added by this act. The department of administration shall  
20 distribute these monies to each county attorney as follows:

21 1. \$1,500,000 to each county attorney of a county in this state having  
22 a population of one million five hundred thousand or more persons as  
23 determined by the most recent United States decennial census.

24 2. \$500,000 to each county attorney of a county in this state having a  
25 population of eight hundred thousand or more persons but less than one  
26 million five hundred thousand persons as determined by the most recent United  
27 States decennial census.

28 3. The remainder of monies to be distributed as equally as possible to  
29 each county attorney of counties in this state having a population of less  
30 than five hundred thousand persons as determined by the most recent United  
31 States decennial census.

32 B. The appropriation made in subsection A of this section is exempt  
33 from the provisions of section 35-190, Arizona Revised Statutes, relating to  
34 lapsing of appropriations.

35 Sec. 11. Appropriation; secretary of state administration;  
36 exemption

37 A. The sum of \$200,000 is appropriated from the state general fund in  
38 fiscal year 2007-2008 to the secretary of state for the purpose of  
39 administering section 23-212, Arizona Revised Statutes, as added by this act.

40 B. The appropriation made in subsection A of this section is exempt  
41 from the provisions of section 35-190, Arizona Revised Statutes, relating to  
42 lapsing of appropriations.

1           Sec. 12. Delayed repeal

2           A. Title 23, chapter 2, article 2, Arizona Revised Statutes, as added  
3 by this act, is repealed from and after December 31, 2012.

4           B. Section 41-2505, Arizona Revised Statutes, as added by this act, is  
5 repealed from and after December 31, 2012.