

REFERENCE TITLE: immigration; law enforcement; repeal.

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1423

Introduced by
Senators Quezada: Mendez; Representatives Andrade, Blanc, Salman

AN ACT

REPEALING TITLE 11, CHAPTER 7, ARTICLE 8, ARIZONA REVISED STATUTES; AMENDING SECTION 12-116.04, ARIZONA REVISED STATUTES; REPEALING SECTION 13-1509, ARIZONA REVISED STATUTES; AMENDING SECTION 13-2319, ARIZONA REVISED STATUTES; REPEALING SECTIONS 13-2928 AND 13-2929, ARIZONA REVISED STATUTES; AMENDING SECTIONS 13-3883, 23-212, 23-212.01, 23-214 AND 28-3511, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1724, ARIZONA REVISED STATUTES; RELATING TO IMMIGRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Title 11, chapter 7, article 8, Arizona Revised Statutes, is
4 repealed.

5 Sec. 2. Section 12-116.04, Arizona Revised Statutes, is amended to
6 read:

7 12-116.04. Assessment; law enforcement officer equipment

8 A. In addition to any other penalty assessment provided by law, a
9 penalty assessment shall be levied in an amount of thirteen dollars on
10 every fine, penalty and forfeiture imposed and collected by the courts for
11 criminal offenses and any civil penalty imposed and collected for a civil
12 traffic violation and fine, penalty or forfeiture for a violation of the
13 motor vehicle statutes, for any local ordinance relating to the stopping,
14 standing or operation of a vehicle or for a violation of the game and fish
15 statutes in title 17.

16 B. The court shall transmit the assessments collected pursuant to
17 this section and a remittance report of the fines, civil penalties and
18 assessments collected pursuant to this section to the county treasurer,
19 except that municipal courts shall transmit the assessments and the
20 remittance report of the fines, civil penalties and assessments to the
21 city treasurer.

22 C. The city or county treasurer shall transmit eight dollars of the
23 assessment and the remittance report to the state treasurer. ~~The state~~
24 ~~treasurer shall~~ FOR deposit ~~four dollars of the assessment~~ in the public
25 safety equipment fund established by section 41-1723 ~~and the remaining~~
26 ~~four dollars of the assessment in the gang and immigration intelligence~~
27 ~~team enforcement mission border security and law enforcement subaccount~~
28 ~~established by section 41-1724.~~

29 D. The city or county treasurer shall transmit four dollars of the
30 assessment and the remittance report to the agency that investigated the
31 offense or issued the citation to be used to supplement, not supplant,
32 monies available for officer safety equipment.

33 E. The city treasurer shall transmit one dollar of the assessment
34 and the remittance report to the county treasurer. The county treasurer
35 shall transmit one dollar of the assessment and any monies received from
36 the city treasurer pursuant to this subsection to the following entities
37 to be used to improve, maintain and enhance the ability to collect and
38 manage monies assessed or received by the courts, to improve court
39 automation and to improve case processing or the administration of
40 justice:

41 1. In a county with a population of less than two million persons,
42 to the justice courts, distributed proportionally based on the judicial
43 productivity credits calculated pursuant to section 22-125.

44 2. In a county with a population of two million persons or more, to
45 the justice court administration.

1 Sec. 3. Repeal
2 Section 13-1509, Arizona Revised Statutes, is repealed.
3 Sec. 4. Section 13-2319, Arizona Revised Statutes, is amended to
4 read:
5 13-2319. Smuggling; classification; definitions
6 A. It is unlawful for a person to intentionally engage in the
7 smuggling of human beings for profit or commercial purpose.
8 B. A violation of this section is a class 4 felony.
9 C. Notwithstanding subsection B of this section, a violation of
10 this section:
11 1. Is a class 2 felony if the human being who is smuggled is under
12 eighteen years of age and is not accompanied by a family member over
13 eighteen years of age or the offense involved the use of a deadly weapon
14 or dangerous instrument.
15 2. Is a class 3 felony if the offense involves the use or
16 threatened use of deadly physical force and the person is not eligible for
17 suspension of sentence, probation, pardon or release from confinement on
18 any other basis except pursuant to section 31-233, subsection A or B until
19 the sentence imposed by the court is served, the person is eligible for
20 release pursuant to section 41-1604.07 or the sentence is commuted.
21 D. Chapter 10 of this title does not apply to a violation of
22 subsection C, paragraph 1 of this section.
23 ~~E. Notwithstanding any other law, in the enforcement of this~~
24 ~~section a peace officer may lawfully stop any person who is operating a~~
25 ~~motor vehicle if the officer has reasonable suspicion to believe the~~
26 ~~person is in violation of any civil traffic law.~~
27 ~~F.~~ E. For the purposes of this section:
28 1. "Family member" means the person's parent, grandparent, sibling
29 or any other person who is related to the person by consanguinity or
30 affinity to the second degree.
31 2. "Procurement of transportation" means any participation in or
32 facilitation of transportation and includes:
33 (a) Providing services that facilitate transportation including
34 travel arrangement services or money transmission services.
35 (b) Providing property that facilitates transportation, including a
36 weapon, a vehicle or other means of transportation or false
37 identification, or selling, leasing, renting or otherwise making available
38 a drop house as defined in section 13-2322.
39 3. "Smuggling of human beings" means the transportation,
40 procurement of transportation or use of property or real property by a
41 person or an entity that knows or has reason to know that the person or
42 persons transported or to be transported are not United States citizens,
43 permanent resident aliens or persons otherwise lawfully in this state or
44 have attempted to enter, entered or remained in the United States in
45 violation of law.

1 Sec. 5. Repeal
2 Sections 13-2928 and 13-2929, Arizona Revised Statutes, are
3 repealed.

4 Sec. 6. Section 13-3883, Arizona Revised Statutes, is amended to
5 read:

6 13-3883. Arrest by officer without warrant

7 A. A peace officer, without a warrant, may arrest a person if the
8 officer has probable cause to believe:

9 1. A felony has been committed and probable cause to believe the
10 person to be arrested has committed the felony.

11 2. A misdemeanor has been committed in the officer's presence and
12 probable cause to believe the person to be arrested has committed the
13 offense.

14 3. The person to be arrested has been involved in a traffic
15 accident and violated any criminal section of title 28, and that such
16 violation occurred prior to or immediately following such traffic
17 accident.

18 4. A misdemeanor or a petty offense has been committed and probable
19 cause to believe the person to be arrested has committed the offense. A
20 person arrested under this paragraph is eligible for release under section
21 13-3903.

22 ~~5. The person to be arrested has committed any public offense that~~
23 ~~makes the person removable from the United States.~~

24 B. A peace officer may stop and detain a person as is reasonably
25 necessary to investigate an actual or suspected violation of any traffic
26 law committed in the officer's presence and may serve a copy of the
27 traffic complaint for any alleged civil or criminal traffic violation. A
28 peace officer who serves a copy of the traffic complaint shall do so
29 within a reasonable time of the alleged criminal or civil traffic
30 violation.

31 Sec. 7. Section 23-212, Arizona Revised Statutes, is amended to
32 read:

33 23-212. Knowingly employing unauthorized aliens; prohibition;
34 false and frivolous complaints; violation;
35 classification; license suspension and revocation

36 A. An employer shall not knowingly employ an unauthorized alien.
37 If, in the case when an employer uses a contract, subcontract or other
38 independent contractor agreement to obtain the labor of an alien in this
39 state, the employer knowingly contracts with an unauthorized alien or with
40 a person who employs or contracts with an unauthorized alien to perform
41 the labor, the employer violates this subsection.

42 B. The attorney general shall prescribe a complaint form for a
43 person to allege a violation of subsection A of this section. The
44 complainant shall not be required to list the complainant's social
45 security number on the complaint form or to have the complaint form

1 notarized. On receipt of a complaint on a prescribed complaint form that
2 an employer allegedly knowingly employs an unauthorized alien, the
3 attorney general or county attorney shall investigate whether the employer
4 has violated subsection A of this section. If a complaint is received but
5 is not submitted on a prescribed complaint form, the attorney general or
6 county attorney may investigate whether the employer has violated
7 subsection A of this section. This subsection shall not be construed to
8 prohibit the filing of anonymous complaints that are not submitted on a
9 prescribed complaint form. The attorney general or county attorney shall
10 not investigate complaints that are based solely on race, color or
11 national origin. A complaint that is submitted to a county attorney shall
12 be submitted to the county attorney in the county in which the alleged
13 unauthorized alien is or was employed by the employer. The county sheriff
14 or any other local law enforcement agency may assist in investigating a
15 complaint. When investigating a complaint, the attorney general or county
16 attorney shall verify the work authorization of the alleged unauthorized
17 alien with the federal government pursuant to 8 United States Code section
18 1373(c). A state, county or local official shall not attempt to
19 independently make a final determination on whether an alien is authorized
20 to work in the United States. An alien's immigration status or work
21 authorization status shall be verified with the federal government
22 pursuant to 8 United States Code section 1373(c). A person who knowingly
23 files a false and frivolous complaint under this subsection is guilty of a
24 class 3 misdemeanor.

25 C. If, after an investigation, the attorney general or county
26 attorney determines that the complaint is not false and frivolous:

27 1. The attorney general or county attorney shall notify the United
28 States immigration and customs enforcement of the unauthorized alien.

29 2. The attorney general or county attorney shall notify the local
30 law enforcement agency of the unauthorized alien.

31 3. The attorney general shall notify the appropriate county
32 attorney to bring an action pursuant to subsection D of this section if
33 the complaint was originally filed with the attorney general.

34 D. An action for a violation of subsection A of this section shall
35 be brought against the employer by the county attorney in the county where
36 the unauthorized alien employee is or was employed by the employer. The
37 county attorney shall not bring an action against any employer for any
38 violation of subsection A of this section that occurs before January 1,
39 2008. A second violation of this section shall be based only on an
40 unauthorized alien who is or was employed by the employer after an action
41 has been brought for a violation of subsection A of this section or
42 section 23-212.01, subsection A.

43 E. For any action in superior court under this section, the court
44 shall expedite the action, including assigning the hearing at the earliest
45 practicable date.

1 F. On a finding of a violation of subsection A of this section:

2 1. For a first violation, as described in paragraph 3 of this
3 subsection, the court:

4 (a) Shall order the employer to terminate the employment of all
5 unauthorized aliens.

6 (b) Shall order the employer to be subject to a three year
7 probationary period for the business location where the unauthorized alien
8 performed work. During the probationary period the employer shall file
9 quarterly reports in the form provided in section 23-722.01 with the
10 county attorney of each new employee who is hired by the employer at the
11 business location where the unauthorized alien performed work.

12 (c) Shall order the employer to file a signed sworn affidavit with
13 the county attorney within three business days after the order is
14 issued. The affidavit shall state that the employer has terminated the
15 employment of all unauthorized aliens in this state and that the employer
16 will not intentionally or knowingly employ an unauthorized alien in this
17 state. The court shall order the appropriate agencies to suspend all
18 licenses subject to this subdivision that are held by the employer if the
19 employer fails to file a signed sworn affidavit with the county attorney
20 within three business days after the order is issued. All licenses that
21 are suspended under this subdivision shall remain suspended until the
22 employer files a signed sworn affidavit with the county attorney.
23 Notwithstanding any other law, on filing of the affidavit the suspended
24 licenses shall be reinstated immediately by the appropriate agencies. For
25 the purposes of this subdivision, the licenses that are subject to
26 suspension under this subdivision are all licenses that are held by the
27 employer specific to the business location where the unauthorized alien
28 performed work. If the employer does not hold a license specific to the
29 business location where the unauthorized alien performed work, but a
30 license is necessary to operate the employer's business in general, the
31 licenses that are subject to suspension under this subdivision are all
32 licenses that are held by the employer at the employer's primary place of
33 business. On receipt of the court's order and notwithstanding any other
34 law, the appropriate agencies shall suspend the licenses according to the
35 court's order. The court shall send a copy of the court's order to the
36 attorney general and the attorney general shall maintain the copy pursuant
37 to subsection G of this section.

38 (d) May order the appropriate agencies to suspend all licenses
39 described in subdivision (c) of this paragraph that are held by the
40 employer for not to exceed ten business days. The court shall base its
41 decision to suspend under this subdivision on any evidence or information
42 submitted to it during the action for a violation of this subsection and
43 shall consider the following factors, if relevant:

44 (i) The number of unauthorized aliens employed by the employer.

45 (ii) Any prior misconduct by the employer.

- 1 (iii) The degree of harm resulting from the violation.
 - 2 (iv) Whether the employer made good faith efforts to comply with
 - 3 any applicable requirements.
 - 4 (v) The duration of the violation.
 - 5 (vi) The role of the directors, officers or principals of the
 - 6 employer in the violation.
 - 7 (vii) Any other factors the court deems appropriate.
- 8 2. For a second violation, as described in paragraph 3 of this
- 9 subsection, the court shall order the appropriate agencies to permanently
- 10 revoke all licenses that are held by the employer specific to the business
- 11 location where the unauthorized alien performed work. If the employer
- 12 does not hold a license specific to the business location where the
- 13 unauthorized alien performed work, but a license is necessary to operate
- 14 the employer's business in general, the court shall order the appropriate
- 15 agencies to permanently revoke all licenses that are held by the employer
- 16 at the employer's primary place of business. On receipt of the order and
- 17 notwithstanding any other law, the appropriate agencies shall immediately
- 18 revoke the licenses.
- 19 3. The violation shall be considered:
- 20 (a) A first violation by an employer at a business location if the
 - 21 violation did not occur during a probationary period ordered by the court
 - 22 under this subsection or section 23-212.01, subsection F for that
 - 23 employer's business location.
 - 24 (b) A second violation by an employer at a business location if the
 - 25 violation occurred during a probationary period ordered by the court under
 - 26 this subsection or section 23-212.01, subsection F for that employer's
 - 27 business location.
- 28 G. The attorney general shall maintain copies of court orders that
- 29 are received pursuant to subsection F of this section and shall maintain a
- 30 database of the employers and business locations that have a first
- 31 violation of subsection A of this section and make the court orders
- 32 available on the attorney general's website.
- 33 H. On determining whether an employee is an unauthorized alien, the
- 34 court shall consider only the federal government's determination pursuant
- 35 to 8 United States Code section 1373(c). The federal government's
- 36 determination creates a rebuttable presumption of the employee's lawful
- 37 status. The court may take judicial notice of the federal government's
- 38 determination and may request the federal government to provide automated
- 39 or testimonial verification pursuant to 8 United States Code section
- 40 1373(c).
- 41 I. For the purposes of this section, proof of verifying the
- 42 employment authorization of an employee through the e-verify program
- 43 creates a rebuttable presumption that an employer did not knowingly employ
- 44 an unauthorized alien.

1 J. For the purposes of this section, an employer that establishes
2 that it has complied in good faith with the requirements of 8 United
3 States Code section 1324a(b) establishes an affirmative defense that the
4 employer did not knowingly employ an unauthorized alien. An employer is
5 considered to have complied with the requirements of 8 United States Code
6 section 1324a(b), notwithstanding an isolated, sporadic or accidental
7 technical or procedural failure to meet the requirements, if there is a
8 good faith attempt to comply with the requirements.

9 ~~K. It is an affirmative defense to a violation of subsection A of
10 this section that the employer was entrapped. To claim entrapment, the
11 employer must admit by the employer's testimony or other evidence the
12 substantial elements of the violation. An employer who asserts an
13 entrapment defense has the burden of proving the following by a
14 preponderance of the evidence:~~

15 ~~1. The idea of committing the violation started with law
16 enforcement officers or their agents rather than with the employer.~~

17 ~~2. The law enforcement officers or their agents urged and induced
18 the employer to commit the violation.~~

19 ~~3. The employer was not predisposed to commit the violation before
20 the law enforcement officers or their agents urged and induced the
21 employer to commit the violation.~~

22 ~~L. An employer does not establish entrapment if the employer was
23 predisposed to violate subsection A of this section and the law
24 enforcement officers or their agents merely provided the employer with an
25 opportunity to commit the violation. It is not entrapment for law
26 enforcement officers or their agents merely to use a ruse or to conceal
27 their identity. The conduct of law enforcement officers and their agents
28 may be considered in determining if an employer has proven entrapment.~~

29 Sec. 8. Section 23-212.01, Arizona Revised Statutes, is amended to
30 read:

31 23-212.01. Intentionally employing unauthorized aliens;
32 prohibition; false and frivolous complaints;
33 violation; classification; license suspension
34 and revocation

35 A. An employer shall not intentionally employ an unauthorized
36 alien. If, in the case when an employer uses a contract, subcontract or
37 other independent contractor agreement to obtain the labor of an alien in
38 this state, the employer intentionally contracts with an unauthorized
39 alien or with a person who employs or contracts with an unauthorized alien
40 to perform the labor, the employer violates this subsection.

41 B. The attorney general shall prescribe a complaint form for a
42 person to allege a violation of subsection A of this section. The
43 complainant shall not be required to list the complainant's social
44 security number on the complaint form or to have the complaint form
45 notarized. On receipt of a complaint on a prescribed complaint form that

1 an employer allegedly intentionally employs an unauthorized alien, the
2 attorney general or county attorney shall investigate whether the employer
3 has violated subsection A of this section. If a complaint is received but
4 is not submitted on a prescribed complaint form, the attorney general or
5 county attorney may investigate whether the employer has violated
6 subsection A of this section. This subsection shall not be construed to
7 prohibit the filing of anonymous complaints that are not submitted on a
8 prescribed complaint form. The attorney general or county attorney shall
9 not investigate complaints that are based solely on race, color or
10 national origin. A complaint that is submitted to a county attorney shall
11 be submitted to the county attorney in the county in which the alleged
12 unauthorized alien is or was employed by the employer. The county sheriff
13 or any other local law enforcement agency may assist in investigating a
14 complaint. When investigating a complaint, the attorney general or county
15 attorney shall verify the work authorization of the alleged unauthorized
16 alien with the federal government pursuant to 8 United States Code section
17 1373(c). A state, county or local official shall not attempt to
18 independently make a final determination on whether an alien is authorized
19 to work in the United States. An alien's immigration status or work
20 authorization status shall be verified with the federal government
21 pursuant to 8 United States Code section 1373(c). A person who knowingly
22 files a false and frivolous complaint under this subsection is guilty of a
23 class 3 misdemeanor.

24 C. If, after an investigation, the attorney general or county
25 attorney determines that the complaint is not false and frivolous:

26 1. The attorney general or county attorney shall notify the United
27 States immigration and customs enforcement of the unauthorized alien.

28 2. The attorney general or county attorney shall notify the local
29 law enforcement agency of the unauthorized alien.

30 3. The attorney general shall notify the appropriate county
31 attorney to bring an action pursuant to subsection D of this section if
32 the complaint was originally filed with the attorney general.

33 D. An action for a violation of subsection A of this section shall
34 be brought against the employer by the county attorney in the county where
35 the unauthorized alien employee is or was employed by the employer. The
36 county attorney shall not bring an action against any employer for any
37 violation of subsection A of this section that occurs before January 1,
38 2008. A second violation of this section shall be based only on an
39 unauthorized alien who is or was employed by the employer after an action
40 has been brought for a violation of subsection A of this section or
41 section 23-212, subsection A.

42 E. For any action in superior court under this section, the court
43 shall expedite the action, including assigning the hearing at the earliest
44 practicable date.

1 F. On a finding of a violation of subsection A of this section:

2 1. For a first violation, as described in paragraph 3 of this
3 subsection, the court shall:

4 (a) Order the employer to terminate the employment of all
5 unauthorized aliens.

6 (b) Order the employer to be subject to a five year probationary
7 period for the business location where the unauthorized alien performed
8 work. During the probationary period the employer shall file quarterly
9 reports in the form provided in section 23-722.01 with the county attorney
10 of each new employee who is hired by the employer at the business location
11 where the unauthorized alien performed work.

12 (c) Order the appropriate agencies to suspend all licenses
13 described in subdivision (d) of this paragraph that are held by the
14 employer for a minimum of ten days. The court shall base its decision on
15 the length of the suspension under this subdivision on any evidence or
16 information submitted to it during the action for a violation of this
17 subsection and shall consider the following factors, if relevant:

18 (i) The number of unauthorized aliens employed by the employer.

19 (ii) Any prior misconduct by the employer.

20 (iii) The degree of harm resulting from the violation.

21 (iv) Whether the employer made good faith efforts to comply with
22 any applicable requirements.

23 (v) The duration of the violation.

24 (vi) The role of the directors, officers or principals of the
25 employer in the violation.

26 (vii) Any other factors the court deems appropriate.

27 (d) Order the employer to file a signed sworn affidavit with the
28 county attorney. The affidavit shall state that the employer has
29 terminated the employment of all unauthorized aliens in this state and
30 that the employer will not intentionally or knowingly employ an
31 unauthorized alien in this state. The court shall order the appropriate
32 agencies to suspend all licenses subject to this subdivision that are held
33 by the employer if the employer fails to file a signed sworn affidavit
34 with the county attorney within three business days after the order is
35 issued. All licenses that are suspended under this subdivision for
36 failing to file a signed sworn affidavit shall remain suspended until the
37 employer files a signed sworn affidavit with the county attorney. For the
38 purposes of this subdivision, the licenses that are subject to suspension
39 under this subdivision are all licenses that are held by the employer
40 specific to the business location where the unauthorized alien performed
41 work. If the employer does not hold a license specific to the business
42 location where the unauthorized alien performed work, but a license is
43 necessary to operate the employer's business in general, the licenses that
44 are subject to suspension under this subdivision are all licenses that are
45 held by the employer at the employer's primary place of business. On

1 receipt of the court's order and notwithstanding any other law, the
2 appropriate agencies shall suspend the licenses according to the court's
3 order. The court shall send a copy of the court's order to the attorney
4 general and the attorney general shall maintain the copy pursuant to
5 subsection G of this section.

6 2. For a second violation, as described in paragraph 3 of this
7 subsection, the court shall order the appropriate agencies to permanently
8 revoke all licenses that are held by the employer specific to the business
9 location where the unauthorized alien performed work. If the employer
10 does not hold a license specific to the business location where the
11 unauthorized alien performed work, but a license is necessary to operate
12 the employer's business in general, the court shall order the appropriate
13 agencies to permanently revoke all licenses that are held by the employer
14 at the employer's primary place of business. On receipt of the order and
15 notwithstanding any other law, the appropriate agencies shall immediately
16 revoke the licenses.

17 3. The violation shall be considered:

18 (a) A first violation by an employer at a business location if the
19 violation did not occur during a probationary period ordered by the court
20 under this subsection or section 23-212, subsection F for that employer's
21 business location.

22 (b) A second violation by an employer at a business location if the
23 violation occurred during a probationary period ordered by the court under
24 this subsection or section 23-212, subsection F for that employer's
25 business location.

26 G. The attorney general shall maintain copies of court orders that
27 are received pursuant to subsection F of this section and shall maintain a
28 database of the employers and business locations that have a first
29 violation of subsection A of this section and make the court orders
30 available on the attorney general's website.

31 H. On determining whether an employee is an unauthorized alien, the
32 court shall consider only the federal government's determination pursuant
33 to 8 United States Code section 1373(c). The federal government's
34 determination creates a rebuttable presumption of the employee's lawful
35 status. The court may take judicial notice of the federal government's
36 determination and may request the federal government to provide automated
37 or testimonial verification pursuant to 8 United States Code section
38 1373(c).

39 I. For the purposes of this section, proof of verifying the
40 employment authorization of an employee through the e-verify program
41 creates a rebuttable presumption that an employer did not intentionally
42 employ an unauthorized alien.

43 J. For the purposes of this section, an employer that establishes
44 that it has complied in good faith with the requirements of 8 United
45 States Code section 1324a(b) establishes an affirmative defense that the

1 employer did not intentionally employ an unauthorized alien. An employer
2 is considered to have complied with the requirements of 8 United States
3 Code section 1324a(b), notwithstanding an isolated, sporadic or accidental
4 technical or procedural failure to meet the requirements, if there is a
5 good faith attempt to comply with the requirements.

6 ~~K. It is an affirmative defense to a violation of subsection A of
7 this section that the employer was entrapped. To claim entrapment, the
8 employer must admit by the employer's testimony or other evidence the
9 substantial elements of the violation. An employer who asserts an
10 entrapment defense has the burden of proving the following by a
11 preponderance of the evidence:~~

12 ~~1. The idea of committing the violation started with law
13 enforcement officers or their agents rather than with the employer.~~

14 ~~2. The law enforcement officers or their agents urged and induced
15 the employer to commit the violation.~~

16 ~~3. The employer was not predisposed to commit the violation before
17 the law enforcement officers or their agents urged and induced the
18 employer to commit the violation.~~

19 ~~L. An employer does not establish entrapment if the employer was
20 predisposed to violate subsection A of this section and the law
21 enforcement officers or their agents merely provided the employer with an
22 opportunity to commit the violation. It is not entrapment for law
23 enforcement officers or their agents merely to use a ruse or to conceal
24 their identity. The conduct of law enforcement officers and their agents
25 may be considered in determining if an employer has proven entrapment.~~

26 Sec. 9. Section 23-214, Arizona Revised Statutes, is amended to
27 read:

28 23-214. Verification of employment eligibility; e-verify
29 program; economic development incentives; list of
30 registered employers

31 A. ~~After December 31, 2007,~~ Every employer, after hiring an
32 employee, shall verify the employment eligibility of the employee through
33 the e-verify program ~~and shall keep a record of the verification for the~~
34 ~~duration of the employee's employment or at least three years, whichever~~
35 ~~is longer.~~

36 B. In addition to any other requirement for an employer to receive
37 an economic development incentive from a government entity, the employer
38 shall register with and participate in the e-verify program. Before
39 receiving the economic development incentive, the employer shall provide
40 proof to the government entity that the employer is registered with and is
41 participating in the e-verify program. If the government entity
42 determines that the employer is not complying with this subsection, the
43 government entity shall notify the employer by certified mail of the
44 government entity's determination of noncompliance and the employer's
45 right to appeal the determination. On a final determination of

1 noncompliance, the employer shall repay all monies received as an economic
2 development incentive to the government entity within thirty days of the
3 final determination. For the purposes of this subsection:

4 1. "Economic development incentive" means any grant, loan or
5 performance-based incentive from any government entity that is awarded
6 after September 30, 2008. Economic development incentive does not include
7 any tax provision under title 42 or 43.

8 2. "Government entity" means this state and any political
9 subdivision of this state that receives and uses tax revenues.

10 C. Every three months the attorney general shall request from the
11 United States department of homeland security a list of employers from
12 this state that are registered with the e-verify program. On receipt of
13 the list of employers, the attorney general shall make the list available
14 on the attorney general's website.

15 Sec. 10. Section 28-3511, Arizona Revised Statutes, is amended to
16 read:

17 28-3511. Removal and immobilization or impoundment of
18 vehicle; Arizona crime information center database

19 A. A peace officer shall cause the removal and either
20 immobilization or impoundment of a vehicle if the peace officer determines
21 that:

22 1. A person is driving the vehicle while any of the following
23 applies:

24 (a) Except as otherwise provided in this subdivision, the person's
25 driving privilege is suspended or revoked for any reason. A peace officer
26 shall not cause the removal and either immobilization or impoundment of a
27 vehicle pursuant to this subdivision if the person's privilege to drive is
28 valid in this state.

29 (b) The person has not ever been issued a valid driver license or
30 permit by this state and the person does not produce evidence of ever
31 having a valid driver license or permit issued by another
32 jurisdiction. This subdivision does not apply to the operation of an
33 implement of husbandry.

34 (c) The person is subject to an ignition interlock device
35 requirement pursuant to chapter 4 of this title and the person is
36 operating a vehicle without a functioning certified ignition interlock
37 device. This subdivision does not apply to the operation of a vehicle due
38 to a substantial emergency as defined in section 28-1464.

39 ~~(d) In furtherance of the illegal presence of an alien in the~~
40 ~~United States and in violation of a criminal offense, the person is~~
41 ~~transporting or moving or attempting to transport or move an alien in this~~
42 ~~state in a vehicle if the person knows or recklessly disregards the fact~~
43 ~~that the alien has come to, has entered or remains in the United States in~~
44 ~~violation of law.~~

1 ~~(e) The person is concealing, harboring or shielding or attempting~~
2 ~~to conceal, harbor or shield from detection an alien in this state in a~~
3 ~~vehicle if the person knows or recklessly disregards the fact that the~~
4 ~~alien has come to, entered or remains in the United States in violation of~~
5 ~~law.~~

6 2. The vehicle is displayed for sale or for transfer of ownership
7 with a vehicle identification number that has been destroyed, removed,
8 covered, altered or defaced.

9 B. A peace officer shall cause the removal and impoundment of a
10 vehicle if the peace officer determines that a person is driving the
11 vehicle and if all of the following apply:

12 1. The person's driving privilege is canceled, suspended or revoked
13 for any reason or the person has not ever been issued a driver license or
14 permit by this state and the person does not produce evidence of ever
15 having a driver license or permit issued by another jurisdiction.

16 2. The person is not in compliance with the financial
17 responsibility requirements of chapter 9, article 4 of this title.

18 3. The person is driving a vehicle that is involved in an accident
19 that results in either property damage or injury to or death of another
20 person.

21 C. Except as provided in subsection D of this section, while a
22 peace officer has control of the vehicle the peace officer shall cause the
23 removal and either immobilization or impoundment of the vehicle if the
24 peace officer has probable cause to arrest the driver of the vehicle for a
25 violation of section 4-244, paragraph 34 or section 28-1382 or 28-1383.

26 D. A peace officer shall not cause the removal and either the
27 immobilization or impoundment of a vehicle pursuant to subsection C of
28 this section if all of the following apply:

29 1. The peace officer determines that the vehicle is currently
30 registered and that the driver or the vehicle is in compliance with the
31 financial responsibility requirements of chapter 9, article 4 of this
32 title.

33 2. The spouse of the driver is with the driver at the time of the
34 arrest.

35 3. The peace officer has reasonable grounds to believe that the
36 spouse of the driver:

37 (a) Has a valid driver license.

38 (b) Is not impaired by intoxicating liquor, any drug, a vapor
39 releasing substance containing a toxic substance or any combination of
40 liquor, drugs or vapor releasing substances.

41 (c) Does not have any spirituous liquor in the spouse's body if the
42 spouse is under twenty-one years of age.

43 4. The spouse notifies the peace officer that the spouse will drive
44 the vehicle from the place of arrest to the driver's home or other place
45 of safety.

1 5. The spouse drives the vehicle as prescribed by paragraph 4 of
2 this subsection.

3 E. Except as otherwise provided in this article, a vehicle that is
4 removed and either immobilized or impounded pursuant to subsection A, B or
5 C of this section shall be immobilized or impounded for thirty days. An
6 insurance company does not have a duty to pay any benefits for charges or
7 fees for immobilization or impoundment.

8 F. The owner of a vehicle that is removed and either immobilized or
9 impounded pursuant to subsection A, B or C of this section, the spouse of
10 the owner and each person who has provided the department with indicia of
11 ownership as prescribed in section 28-3514 or other interest in the
12 vehicle that exists immediately before the immobilization or impoundment
13 shall be provided with an opportunity for an immobilization or poststorage
14 hearing pursuant to section 28-3514.

15 G. A law enforcement agency that employs the peace officer who
16 removes and either immobilizes or impounds a vehicle pursuant to this
17 section shall enter information about the removal and either
18 immobilization or impoundment of the vehicle in the Arizona crime
19 information center database within three business days after the removal
20 and either immobilization or impoundment.

21 Sec. 11. Repeal

22 Section ~~41-1724~~, Arizona Revised Statutes, is repealed.