

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE BILLS NOS. 858,  
750, 751, 927, 1186,  
1255, 1268 & 1269**

**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Pensions, Veterans' Affairs and General Laws, March 27, 2008, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 8.283, 143.191, 172.360, 174.130, 178.635, 178.780, and 544.470, RSMo, and to enact in lieu thereof eighteen new sections relating to illegal immigrants, with penalty provisions and an effective date for certain sections.

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

Section A. Sections 8.283, 143.191, 172.360, 174.130, 178.635, 178.780, 2 and 544.470, RSMo, are repealed and eighteen new sections enacted in lieu 3 thereof, to be known as sections 67.307, 143.191, 172.360, 174.130, 175.025, 4 178.635, 178.780, 178.785, 208.009, 285.525, 285.530, 285.535, 285.540, 292.675, 5 302.063, 544.470, 577.722, and 650.681, to read as follows:

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

2 **(1) "Detention facility", any municipal detention facility, county**  
3 **jail, or correctional facility operated by the department of corrections;**

4 **(2) "Domestic violence", an act or threatened act of violence upon**  
5 **a person with whom the actor is or has been involved in an intimate**  
6 **relationship. "Domestic violence" also includes any other crime against**  
7 **a person or against property, including an animal, or any municipal**  
8 **ordinance violation against a person or against property, including an**  
9 **animal, when used as a method of coercion, control, punishment,**  
10 **intimidation, or revenge directed against a person with whom the actor**  
11 **is or has been involved in an intimate relationship;**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

12           **(3) "Intimate relationship", a relationship between spouses,**  
13 **former spouses, past or present unmarried couples, or persons who are**  
14 **both the parents of the same child regardless of whether the persons**  
15 **have been married or have lived together at any time;**

16           **(4) "Law enforcement officer", a sheriff or peace officer of a**  
17 **municipality with the duty and power of arrest for violation of the**  
18 **general criminal laws of the state or for violation of ordinances of**  
19 **municipalities;**

20           **(5) "Municipality", any county, city, town, or village;**

21           **(6) "Municipality official", any elected or appointed official or**  
22 **any law enforcement officer serving the municipality;**

23           **(7) "Sanctuary policy", any municipality's order, ordinance, or**  
24 **policy enacted or followed that:**

25           **(a) Limits or prohibits any municipality official or person**  
26 **employed by the municipality from communicating or cooperating with**  
27 **federal agencies or officials with regard to the immigration status of**  
28 **any person within such municipality; or**

29           **(b) Allows illegal aliens to reside within the municipality in**  
30 **violation of federal immigration law.**

31           **2. No municipality shall enact or adopt any sanctuary**  
32 **policy. Any municipality that enacts or adopts a sanctuary policy shall**  
33 **be ineligible for any moneys provided through grants administered by**  
34 **any state agency or department until the sanctuary policy is repealed**  
35 **or is no longer in effect.**

36           **3. Any law enforcement officer who has probable cause to believe**  
37 **that any person arrested by the law enforcement officer for a criminal**  
38 **offense is not legally present in the United States shall report such**  
39 **person to the U.S. Citizenship and Immigration Services if such person**  
40 **is not held at a detention facility. If such person is held at a detention**  
41 **facility, and a law enforcement officer reasonably believes that the**  
42 **person is not legally present in the United States, the law enforcement**  
43 **officer shall report such person to the U.S. Citizenship and Immigration**  
44 **Services.**

45           **4. The governing body of each municipality shall provide each**  
46 **law enforcement officer with written notice of their duty to cooperate**  
47 **with state and federal agencies and officials on matters pertaining to**

48 **enforcement of state and federal laws governing immigration, and of**  
49 **the duty to comply with subsection 3 of this section.**

50 **5. The governing body of each municipality shall annually submit**  
51 **written confirmation to the general assembly, on or before March first,**  
52 **that the municipality has provided the notice required in subsection 4**  
53 **of this section and stating the number of reports made by the**  
54 **municipality to the U.S. Citizenship and Immigration Services under**  
55 **this section.**

56 **6. No person arrested for a suspected act of domestic violence**  
57 **shall be reported under this section until the person has plead guilty**  
58 **to or is found guilty of a domestic violence offense.**

143.191. 1. Every employer maintaining an office or transacting any  
2 business within this state and making payment of any wages taxable under  
3 sections 143.011 to 143.998 to a resident or nonresident individual shall deduct  
4 and withhold from such wages for each payroll period the amount provided in  
5 subsection 3 of this section.

6 2. The term "wages" referred to in subsection 1 of this section means  
7 wages as defined by section 3401(a) of the Internal Revenue Code of 1986, as  
8 amended. The term "employer" means any person, firm, corporation, association,  
9 fiduciary of any kind, or other type of organization for whom an individual  
10 performs service as an employee, except that if the person or organization for  
11 whom the individual performs service does not have control of the payment of  
12 compensation for such service, the term "employer" means the person having  
13 control of the payment of the compensation. The term includes the United States,  
14 this state, other states, and all agencies, instrumentalities, and subdivisions of  
15 any of them.

16 3. The method of determining the amount to be withheld shall be  
17 prescribed by regulations of the director of revenue. The prescribed table,  
18 percentages, or other method shall result, so far as practicable, in withholding  
19 from the employee's wages during each calendar year an amount substantially  
20 equivalent to the tax reasonably estimated to be due from the employee under  
21 sections 143.011 to 143.998 with respect to the amount of such wages included in  
22 his Missouri adjusted gross income during the calendar year.

23 4. For purposes of this section an employee shall be entitled to [the same  
24 number] **no more than ten** of the personal and dependency withholding  
25 exemptions [as the number of exemptions to] which he **or she** is entitled for

26 federal income tax withholding purposes. **Except as provided in this section,**  
27 an employer may rely upon the number of federal withholding exemptions  
28 claimed by the employee, except where the employee provides the employer with  
29 a form claiming a different number of withholding exemptions in this state.

30 5. The director of revenue may enter into agreements with the tax  
31 departments of other states (which require income tax to be withheld from the  
32 payment of wages) so as to govern the amounts to be withheld from the wages of  
33 residents of such states under this section. Such agreements may provide for  
34 recognition of anticipated tax credits in determining the amounts to be withheld  
35 and, under regulations prescribed by the director of revenue, may relieve  
36 employers in this state from withholding income tax on wages paid to nonresident  
37 employees. The agreements authorized by this subsection are subject to the  
38 condition that the tax department of such other states grant similar treatment  
39 to residents of this state.

40 6. The director of revenue shall enter into agreements with the Secretary  
41 of the Treasury of the United States or with the appropriate secretaries of the  
42 respective branches of the armed forces of the United States for the withholding,  
43 as required by subsections 1 and 2 of this section, of income taxes due the state  
44 of Missouri on wages or other payments for service in the armed services of the  
45 United States or on payments received as retirement or retainer pay of any  
46 member or former member of the armed forces entitled to such pay.

47 7. Subject to appropriations for the purpose of implementing this section,  
48 the director of revenue shall comply with provisions of the laws of the United  
49 States as amended and the regulations promulgated thereto in order that all  
50 residents of this state receiving monthly retirement income as a civil service  
51 annuitant from the federal government taxable by this state may have withheld  
52 monthly from any such moneys, whether pension, annuities or otherwise, an  
53 amount for payment of state income taxes as required by state law, but such  
54 withholding shall not be less than twenty-five dollars per quarter.

172.360. 1. All youths, resident of the state of Missouri, shall be admitted  
2 to all the privileges and advantages of the various classes of all the departments  
3 of the University of the State of Missouri; provided, that each applicant for  
4 admission therein shall possess such scholastic attainments and mental and  
5 moral qualifications as shall be prescribed in rules adopted and established by  
6 the board of curators; **provided that aliens unlawfully present in the**  
7 **United States shall not be eligible for enrollment in the university;** and

8 provided further, that the board of curators may charge and collect reasonable  
9 tuition and other fees necessary for the maintenance and operation of all  
10 departments of the university, as they may deem necessary.

11 **2. Prior to approval of any appropriations by the general**  
12 **assembly for the University of Missouri, the registrar for each campus**  
13 **of the University of Missouri shall annually certify to the education**  
14 **appropriations committee of the house of representatives and the**  
15 **appropriations committee of the senate that its campus has not**  
16 **knowingly enrolled any aliens unlawfully present in the United States**  
17 **in the preceding year.**

174.130. 1. Each board may make such rules and regulations for the  
2 admission of students as may be deemed proper; **provided that aliens**  
3 **unlawfully present in the United States shall not be eligible for**  
4 **enrollment in the university or college.**

5 **2. Prior to approval of any appropriations by the general**  
6 **assembly for the university or college, the registrar for each university**  
7 **or college shall annually certify to the education appropriations**  
8 **committee of the house of representatives and the appropriations**  
9 **committee of the senate that its university or college has not knowingly**  
10 **enrolled any aliens unlawfully present in the United States in the**  
11 **preceding year.**

175.025. 1. The board of curators of Lincoln University may  
2 make such rules and regulations for the admission of students as it may  
3 be deemed proper; **provided that aliens unlawfully present in the**  
4 **United States shall not be eligible for enrollment in the university.**

5 **2. Prior to approval of any appropriations by the general**  
6 **assembly for the university, the registrar shall annually certify to the**  
7 **education appropriations committee of the house of representatives**  
8 **and the appropriations committee of the senate that the university has**  
9 **not knowingly enrolled any aliens unlawfully present in the United**  
10 **States in the preceding year.**

178.635. 1. The board of regents of Linn State Technical College shall  
2 organize in the manner provided by law for the board of curators of the  
3 University of Missouri. The powers, duties, authority, responsibilities, privileges,  
4 immunities, liabilities and compensation of the board of Linn State Technical  
5 College in regard to Linn State Technical College shall be the same as those

6 prescribed by statute for the board of curators of the University of Missouri in  
7 regard to the University of Missouri, except that Linn State Technical College  
8 shall be operated only as a state technical college. Nothing in this section shall  
9 be construed to authorize Linn State Technical College to become a community  
10 college or a university offering four-year or graduate degrees.

11 2. All lawful bonded indebtedness incurred by the issuance of revenue  
12 bonds, as defined in section 176.010, RSMo, by Linn Technical College, shall be  
13 deemed to be an indebtedness of the board of regents of Linn State Technical  
14 College after the date upon which the conditions of section 178.631 are met. Such  
15 indebtedness shall be retired through tuition revenues.

16 **3. The board of regents may make such rules and regulations for**  
17 **the admission of students as it may be deemed proper; provided that**  
18 **aliens unlawfully present in the United States shall not be eligible for**  
19 **enrollment in Linn State Technical College.**

20 **4. Prior to approval of any appropriations by the general**  
21 **assembly for Linn State Technical College, the registrar shall annually**  
22 **certify to the education appropriations committee of the house of**  
23 **representatives and the appropriations committee of the senate that**  
24 **the college has not knowingly enrolled any aliens unlawfully present**  
25 **in the United States in the preceding year.**

178.780. 1. Tax supported junior colleges formed prior to October 13,  
2 1961, and those formed under the provisions of sections 178.770 to 178.890 shall  
3 be under the supervision of the coordinating board for higher education.

4 2. The coordinating board for higher education shall:

5 (1) Establish the role of the two-year college in the state;

6 (2) Set up a survey form to be used for local surveys of need and potential  
7 for two-year colleges; provide supervision in the conducting of surveys; require  
8 that the results of the studies be used in reviewing applications for approval; and  
9 establish and use the survey results to set up priorities;

10 (3) Require that the initiative to establish two-year colleges come from the  
11 area to be served;

12 (4) Administer the state financial support program;

13 (5) Supervise the junior college districts formed under the provisions of  
14 sections 178.770 to 178.890 and the junior colleges now in existence and formed  
15 prior to October 13, 1961;

16 (6) Formulate and put into effect uniform policies as to budgeting, record

17 keeping, and student accounting;

18 (7) Establish uniform minimum entrance requirements and uniform  
19 curricular offerings for all junior colleges **and ensure that aliens unlawfully**  
20 **present in the United States are not eligible for enrollment in any**  
21 **junior college;**

22 (8) Make a continuing study of junior college education in the state; and

23 (9) Be responsible for the accreditation of each junior college under its  
24 supervision. Accreditation shall be conducted annually or as often as deemed  
25 advisable and made in a manner consistent with rules and regulations  
26 established and applied uniformly to all junior colleges in the state. Standards  
27 for accreditation of junior colleges shall be formulated with due consideration  
28 given to curriculum offerings and entrance requirements of the University of  
29 Missouri.

**178.785. Prior to approval of any appropriations by the general**  
2 **assembly for a junior college, the registrar for the college shall**  
3 **annually certify to the education appropriations committee of the**  
4 **house of representatives and the appropriations committee of the**  
5 **senate that its junior college has not knowingly enrolled any aliens**  
6 **unlawfully present in the United States in the preceding year.**

**208.009. 1. No alien unlawfully present in the United States shall**  
2 **receive any state or local public benefit, except for state or local public**  
3 **benefits that are required to be offered by 8 U.S.C. 1621(b). Nothing in**  
4 **this section shall be construed to prohibit the rendering of emergency**  
5 **medical care, emergency assistance, or legal assistance to any person.**

6 **2. As used in this section "public benefit" means any grant,**  
7 **contract, loan, or license provided by an agency of state or local**  
8 **government; or any retirement, welfare, health, disability, housing, or**  
9 **food assistance benefit under which payments, assistance, credits, or**  
10 **reduced rates or fees are provided. The term "public benefit" shall not**  
11 **include unemployment benefits payable under chapter 288, RSMo.**

12 **3. In addition to providing proof of other eligibility**  
13 **requirements, at the time of application for any state or local public**  
14 **benefit, an applicant who is eighteen years of age or older shall provide**  
15 **affirmative proof that the applicant is a citizen or a permanent resident**  
16 **of the United States or is lawfully present in the United States,**  
17 **provided, however, that in the case of state grants and scholarships,**

18 such proof shall be provided before the applicant receives any state  
19 grant or scholarship. Such affirmative proof shall include documentary  
20 evidence recognized by the department of revenue when processing an  
21 application for a driver's license, as well as any document issued by the  
22 federal government that confirms an alien's lawful presence in the  
23 United States.

24 4. An applicant who cannot provide the proof required under  
25 this section at the time of application may alternatively sign an  
26 affidavit under oath, attesting to either United States citizenship or  
27 classification by the United States as an alien lawfully admitted for  
28 permanent residence, in order to receive temporary benefits or a  
29 temporary identification document as provided in this section. The  
30 affidavit shall include the applicant's Social Security number and an  
31 explanation of the penalties under state law for obtaining public  
32 assistance benefits fraudulently.

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

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

39 (2) Indefinitely if the applicant provides a copy of a completed  
40 application for a birth certificate that is pending in Missouri or some  
41 other state. An extension granted under this subsection shall terminate  
42 upon the applicant's receipt of a birth certificate or a determination  
43 that a birth certificate does not exist because the applicant is not a  
44 United States citizen.

45 6. An applicant who is an alien shall not receive any state or  
46 local public benefit unless the alien's lawful presence in the United  
47 States is first verified by the federal government, under 8 U.S.C.  
48 1373(c). State and local agencies administering public benefits in this  
49 state shall cooperate with the United States Department of Homeland  
50 Security in achieving verification of an alien's lawful presence in the  
51 United States in furtherance of this section. The system utilized may  
52 include the Systematic Alien Verification for Entitlements Program  
53 operated by the United States Department of Homeland Security.



54           **7. The provisions of this section shall not be construed to require**  
55 **any nonprofit organization organized under the Internal Revenue Code**  
56 **to enforce the provisions of this section, nor does it prohibit such an**  
57 **organization from providing aid.**

**285.525. As used in sections 285.525 to 285.540, the following**  
2 **terms shall have the following meanings:**

3           **(1) "Business entity", any person or group of persons performing**  
4 **or engaging in any activity, enterprise, profession, or occupation for**  
5 **gain, benefit, advantage, or livelihood, whether for profit or not for**  
6 **profit. The term "business entity" shall include but not be limited to**  
7 **self-employed individuals, partnerships, corporations, contractors, and**  
8 **subcontractors. The term "business entity" shall include any business**  
9 **entity that possesses a business permit, license, or tax certificate issued**  
10 **by the state, any business entity that is exempt by law from obtaining**  
11 **such a business permit, and any business entity that is operating**  
12 **unlawfully without such a business permit. The term "business entity"**  
13 **shall not include a self-employed individual with no employees;**

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

20           **(3) "Division", the division of labor standards within the**  
21 **department of labor and industrial relations;**

22           **(4) "Employee", any person performing or applying for work or**  
23 **service of any kind or character for hire within the state of Missouri;**

24           **(5) "Employer", any person or entity employing or seeking to**  
25 **employ any person for hire within the state of Missouri, including a**  
26 **public employer. Where there are two or more putative employers, any**  
27 **person or entity taking a business tax deduction for the employee in**  
28 **question shall be considered an employer of that person for purposes**  
29 **of sections 285.525 to 285.540;**

30           **(6) "Employment", the act of employing or state of being**  
31 **employed, engaged, or hired to perform work or service of any kind or**  
32 **character within the state of Missouri;**

33           **(7) "Federal Work Authorization Program", any of the electronic**  
34 **verification of work authorization programs operated by the United**  
35 **States Department of Homeland Security or an equivalent federal work**  
36 **authorization program operated by the United States Department of**  
37 **Homeland Security to verify information of newly hired employees,**  
38 **under the Immigration Reform and Control Act of 1986 (IRCA), D.L.99-**  
39 **603;**

40           **(8) "Political subdivision", any agency or unit of this state which**  
41 **now is, or hereafter shall be, authorized to levy taxes or empowered to**  
42 **cause taxes to be levied;**

43           **(9) "Public employer", every department, agency, or**  
44 **instrumentality of the state or political subdivision of the state;**

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

48           **(11) "Work", any job, task, employment, labor, personal services,**  
49 **or any other activity for which compensation is provided, expected, or**  
50 **due, including but not limited to all activities conducted by business**  
51 **entities.**

**285.530. 1. No business entity or employer shall employ, recruit,**  
2 **hire for employment, or continue to employ an unauthorized alien to**  
3 **perform work within the state of Missouri.**

4           **2. As a condition for the award of any state contract or grant to**  
5 **a business entity, or for any business entity using state resources, the**  
6 **business entity shall, by sworn affidavit and provision of**  
7 **documentation, affirm its enrollment and participation in a federal**  
8 **work authorization program. Every business entity shall also sign an**  
9 **affidavit affirming that it does not knowingly employ any person who**  
10 **is an unauthorized alien.**

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

13           **4. An employer may enroll and participate in a federal work**  
14 **authorization program and shall verify the employment eligibility of**  
15 **every employee in the employer's hire whose employment commences**  
16 **after the employer enrolls in a federal work authorization**  
17 **program. The business entity shall retain a written copy of the dated**

18 verification report received from the federal government. Any business  
19 entity that participates in such program shall have an affirmative  
20 defense that such business entity has not violated subsection 1 of this  
21 section, unless it is proven by clear and convincing evidence that the  
22 business entity had actual knowledge of the unauthorized status of the  
23 employee under the Immigration Reform and Control Act of 1986 (8  
24 U.S.C. 1324a), or its successor.

25 5. A general contractor shall not be liable under sections 285.525  
26 to 285.540 when such contractor contracts with a subcontractor who  
27 violates subsection 1 of this section, if the contract binding the  
28 contractor and subcontractor affirmatively states that the  
29 subcontractor is not knowingly in violation of subsection 1 of this  
30 section and shall not henceforth be in such violation and that the  
31 subcontractor is enrolled in a federal work authorization program.

285.535. 1. The division shall enforce the requirements of  
2 sections 285.525 to 285.540.

3 2. An enforcement action shall be initiated by means of a written,  
4 signed complaint to the division submitted by any state official,  
5 business entity, or state resident. A valid complaint shall include an  
6 allegation which describes the alleged violator as well as the actions  
7 constituting the violation, and the date and location where such actions  
8 occurred. A complaint which alleges a violation solely or primarily on  
9 the basis of national origin, ethnicity, or race shall be deemed invalid  
10 and shall not be enforced.

11 3. Upon receipt of a valid complaint, the division shall, within  
12 ten business days, request identity information from the business entity  
13 regarding any persons alleged to be unauthorized aliens. Such request  
14 shall be made by certified mail. The division shall direct the secretary  
15 of state to direct the applicable municipal or county governing body to  
16 suspend any applicable license of any business entity which fails,  
17 within ten business days after receipt of the request, to provide such  
18 information.

19 4. The division, after receiving the requested identity  
20 information from the business entity, shall submit identity data  
21 required by the federal government to verify, under 8 U.S.C. 1373, the  
22 immigration status of such persons, and shall provide the business

23 entity with written notice of the results of the verification request:

24 (1) If the federal government notifies the division that an  
25 employee is authorized to work in the United States, the division shall  
26 take no further action on the complaint;

27 (2) If the federal government notifies the division that an  
28 employee is not authorized to work in the United States, the division  
29 shall proceed on the complaint as provided in subsection 5 of this  
30 section;

31 (3) If the federal government notifies the division that it is  
32 unable to verify whether an employee is authorized to work in the  
33 United States, the division shall take no further action on the  
34 complaint until a verification from the federal government concerning  
35 the status of the individual is received. At no point shall any state  
36 official attempt to make an independent determination of any alien's  
37 legal status without verification from the federal government under 8  
38 U.S.C. 1373(c).

39 5. (1) If the federal government notifies the division that an  
40 employee is not authorized to work in the United States, and the  
41 employer of the unauthorized alien participates in a federal work  
42 authorization program, there shall be a rebuttable presumption that  
43 the employer has met the requirements for an affirmative defense  
44 under subsection 4 of section 285.530, and the employer shall comply  
45 with subsection 6 of this section.

46 (2) If the federal government notifies the division that an  
47 employee is not authorized to work in the United States, and the  
48 employer of the unauthorized alien does not participate in a federal  
49 work authorization program, the division shall, after notice and a  
50 hearing, determine whether the business entity knowingly violated  
51 subsection 1 of section 285.530 and the following actions shall occur:

52 (a) If the division finds that a business entity did not knowingly  
53 violate subsection 1 of section 285.530, the employer shall have ten  
54 business days to comply with subsection 6 of this section. If the entity  
55 fails to do so, the division shall direct the secretary of state to direct  
56 the applicable municipal or county governing body to suspend the  
57 business permit and any applicable licenses or exemptions of the entity  
58 until the entity complies with subsection 6 of this section;

59           **(b) If the division finds that a business entity knowingly violated**  
60 **subsection 1 of section 285.530, the division shall direct the secretary**  
61 **of state to direct the applicable municipal or county governing body to**  
62 **suspend the business permit and any applicable licenses or exemptions**  
63 **of such business entity for six months. Permits, licenses, and**  
64 **exemptions shall be reinstated for entities who comply with subsection**  
65 **6 of this section at the end of the six month period.**

66           **6. The correction of a violation with respect to the employment**  
67 **of an unauthorized alien shall include the following actions:**

68           **(1) (a) The business entity terminates the unauthorized alien's**  
69 **employment. If the business entity attempts to terminate the**  
70 **unauthorized alien's employment and such termination is challenged**  
71 **in a court of the state of Missouri, the ten business day period for**  
72 **providing information to the division referenced in subsection 3 of this**  
73 **section shall be tolled while the business entity pursues the**  
74 **termination of the unauthorized alien's employment in such forum; or**

75           **(b) The business entity, after acquiring additional information**  
76 **from the employee, requests a secondary or additional verification by**  
77 **the federal government of the employee's authorization, under the**  
78 **procedures of a federal work authorization program. While this**  
79 **verification is pending, the ten business day period for providing**  
80 **information to the division referenced in subsection 3 of this section**  
81 **shall be tolled; and**

82           **(2) A legal representative of the business entity submits, at an**  
83 **office designated by the division, the following:**

84           **(a) A sworn affidavit stating that the violation has ended that**  
85 **shall include a description of the specific measures and actions taken**  
86 **by the business entity to end the violation, and the name, address, and**  
87 **other adequate identifying information for any unauthorized aliens**  
88 **related to the complaint; and**

89           **(b) Documentation acceptable to the division which confirms**  
90 **that the business entity has enrolled in and is participating in a federal**  
91 **work authorization program.**

92           **7. The suspension of a business license or licenses under**  
93 **subsection 5 of this section shall terminate one business day after a**  
94 **legal representative of the business entity submits the affidavit and**

95 other documentation required under subsection 6 of this section  
96 following any period of restriction required under subsection 5 of this  
97 section.

98 8. For an entity that knowingly violates subsection 1 of section  
99 285.530 for a second or subsequent time, the division shall direct the  
100 secretary of state to direct the applicable municipal or county  
101 governing body to forever suspend the business permit and any  
102 applicable license or exemptions of the business entity. For an entity  
103 that violates subsection 1 of section 285.530 for a second or subsequent  
104 time without knowledge, the division shall direct the secretary of state  
105 to direct the applicable municipal or county governing body to suspend  
106 the business permit and any applicable license or exemptions of the  
107 business entity for a period of ten business days. The secretary of state  
108 shall reinstate the business permit and any applicable license or  
109 exemptions after the end of the suspension period, and upon receipt of  
110 the prescribed affidavit under subsection 6 and documentation which  
111 confirms that the business entity has enrolled in and is participating  
112 in a federal work authorization program. The division shall forward  
113 the affidavit, complaint, and associated documents to the Bureau of  
114 Immigration and Customs Enforcement of the United States  
115 Department of Homeland Security.

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

118 (1) Upon the first violation of subsection 1 of section 285.530 by  
119 any business entity awarded a state contract or grant or using state  
120 resources, the business entity shall be deemed in breach of contract  
121 and the state shall terminate the contract and suspend or debar the  
122 business entity from doing business with the state for a period of three  
123 years;

124 (2) Upon a second or subsequent violation of subsection 1 of  
125 section 285.530 by any business entity awarded a state contract or grant  
126 or using state resources, the business entity shall be deemed in breach  
127 of contract and the state shall terminate the contract and permanently  
128 suspend or debar the business entity from doing business with the  
129 state.

130 10. Sections 285.525 to 285.540 shall not be construed to deny any

131 **procedural mechanisms included in a federal work authorization**  
132 **program.**

133 **11. Any business entity subject to a complaint and subsequent**  
134 **enforcement under sections 285.525 to 285.540, or any employee of such**  
135 **a business entity, may challenge the enforcement of this section with**  
136 **respect to such entity or employee in the courts of the state of Missouri.**

137 **12. If the division finds that any complaint is frivolous in nature**  
138 **or finds no probable cause to believe that there has been a violation,**  
139 **the division shall dismiss the case. For purposes of this subsection,**  
140 **"frivolous" shall mean a complaint clearly lacking any basis in fact or**  
141 **law. Any person who submits a frivolous complaint shall be liable for**  
142 **actual and compensatory damages to the alleged violator for holding**  
143 **the alleged violator before the public in a false light. If the division**  
144 **finds that a complaint is frivolous or that there is not probable cause**  
145 **to believe there has been a violation, the division shall issue a public**  
146 **report to the complainant and the alleged violator stating with**  
147 **particularity its reasons for dismissal of the complaint. Upon such**  
148 **issuance, the complaint and all materials relating to the complaint shall**  
149 **be a public record as defined in chapter 610, RSMo.**

150 **13. The determination of whether a worker is an unauthorized**  
151 **alien shall be made by the federal government, under 8 U.S.C. 1373(c).**  
152 **A determination of such status of an individual by the federal**  
153 **government shall create a rebuttable presumption as to that**  
154 **individual's status in any judicial proceedings brought under sections**  
155 **285.530 and 285.535. The court may take judicial notice of any**  
156 **verification of an individual's status previously provided by the federal**  
157 **government and may request the federal government to provide**  
158 **automated or testimonial verification under 8 U.S.C. 1373(c).**

159 **14. A contractor will not be held liable under this section if:**

160 **(1) The contractor provides documented proof of enrollment in**  
161 **a federal work authorization program; and**

162 **(2) The contractor executes a sworn affidavit under penalty of**  
163 **perjury attesting that all the contractor's employees are lawfully**  
164 **present in the United States; or**

165 **(3) The contractor provides documented proof of compliance**  
166 **with the federal I-9 verification program under 8 CFR 274a, with**

167 respect to all employees working on the project.

168           15. Compensation, whether in money or in kind or in services,  
169 provided to any unauthorized alien shall not be allowed as a business  
170 expense deduction from any income or business taxes of this state.

          285.540. The division shall promulgate rules to implement the  
2 provisions of sections 285.525 to 285.540. Any rule or portion of a rule,  
3 as that term is defined in section 536.010, RSMo, that is created under  
4 the authority delegated in this section shall become effective only if it  
5 complies with and is subject to all of the provisions of chapter 536,  
6 RSMo, and, if applicable, section 536.028, RSMo. This section and  
7 chapter 536, RSMo, are nonseverable and if any of the powers vested  
8 with the general assembly under chapter 536, RSMo, to review, to delay  
9 the effective date, or to disapprove and annul a rule are subsequently  
10 held unconstitutional, then the grant of rulemaking authority and any  
11 rule proposed or adopted after August 28, 2008, shall be invalid and  
12 void.

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

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

5           (2) "Department", the department of labor and industrial  
6 relations;

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

9           (4) "Public body", the state of Missouri or any officer, official,  
10 authority, board or commission of the state, or other political  
11 subdivision thereof, or any institution supported in whole or in part by  
12 public funds;

13           (5) "Public works", all fixed works constructed for public use or  
14 benefit or paid for wholly or in part out of public funds. "Public works"  
15 includes any work done directly by any public utility company when  
16 performed by it pursuant to the order of the public service commission  
17 or other public authority whether or not it be done under public  
18 supervision or direction or paid for wholly or in part out of public  
19 funds when let to contract by said utility.

20           2. Any person signing a contract to work on the construction of



21 **public works for any public body shall provide a ten-hour Occupational**  
22 **Safety and Health Administration (OSHA) construction safety program**  
23 **for their on-site employees which includes a course in construction**  
24 **safety and health approved by OSHA or a similar program approved by**  
25 **the department which is at least as stringent as an approved OSHA**  
26 **program. All employees are required to complete the program within**  
27 **sixteen days of beginning work on such construction project.**

28 **3. Any employee found on a worksite subject to this section**  
29 **without documentation of the successful completion of the course**  
30 **required under subsection 2 of this section shall be afforded ten days**  
31 **to produce such documentation before being subject to removal from**  
32 **the project.**

33 **4. The public body shall specify in the resolution or ordinance**  
34 **and in the call for bids for the contract, the requirements of this**  
35 **section. The contractor to whom the contract is awarded and any**  
36 **subcontractor under such contractor shall require all on-site employees**  
37 **to complete the ten-hour training program required under subsection**  
38 **2 of this section. The public body awarding the contract shall include**  
39 **this requirement in the contract. The contractor shall forfeit as a**  
40 **penalty to the public body on whose behalf the contract is made or**  
41 **awarded, two thousand five hundred dollars plus one hundred dollars**  
42 **for each employee employed by the contractor or subcontractor, for**  
43 **each calendar day, or portion thereof, such employee is employed**  
44 **without the required training. The public body awarding the contract**  
45 **shall include notice of these penalties in the contract. The public body**  
46 **awarding the contract shall withhold and retain therefrom, all sums**  
47 **and amounts due and owing as a result of any violation of this section**  
48 **when making payments to the contractor under the contract. The**  
49 **contractor may withhold from any subcontractor, sufficient sums to**  
50 **cover any penalties the public body has withheld from the contractor**  
51 **resulting from the subcontractor's failure to comply with the terms of**  
52 **this section. If payment has been made to the subcontractor without**  
53 **withholding, the contractor may recover the amount of the penalty**  
54 **resulting from the fault of the subcontractor in an action maintained**  
55 **in the circuit court in the county in which the public works project is**  
56 **located from the subcontractor.**

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

65           **6. If the contractor or subcontractor fails to pay the penalty**  
66 **within forty-five days following notification by the department, the**  
67 **department shall pursue an enforcement action to enforce the monetary**  
68 **penalty provisions of subsection 4 of this section against the contractor**  
69 **or subcontractor found to be in violation of this section. If the court**  
70 **orders payment of the penalties as prescribed under subsection 4 of**  
71 **this section, the department shall be entitled to recover its actual cost**  
72 **of enforcement in addition to such penalty amount.**

73           **7. The department may establish rules and regulations for the**  
74 **purpose of implementing the provisions of this section. Any rule or**  
75 **portion of a rule, as that term is defined in section 536.010, RSMo, that**  
76 **is created under the authority delegated in this section shall become**  
77 **effective only if it complies with and is subject to all of the provisions**  
78 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This**  
79 **section and chapter 536, RSMo, are nonseverable and if any of the**  
80 **powers vested with the general assembly pursuant to chapter 536,**  
81 **RSMo, to review, to delay the effective date, or to disapprove and annul**  
82 **a rule are subsequently held unconstitutional, then the grant of**  
83 **rulemaking authority and any rule proposed or adopted after August**  
84 **28, 2008, shall be invalid and void.**

85           **8. This section shall not apply to work performed by public**  
86 **utilities which are under the jurisdiction of the public service**  
87 **commission, or their contractors, or work performed at or on facilities**  
88 **owned or operated by said public utilities.**

**302.063. The department of revenue shall not issue any driver's**  
2 **license to an illegal alien nor to any person who cannot prove his or**  
3 **her lawful presence pursuant to the provisions of this chapter and the**  
4 **regulations promulgated thereunder. A driver's license issued to an**

5 illegal alien in another state shall not be honored by the state of  
6 Missouri and the department of revenue for any purpose. The state of  
7 Missouri hereby declares that granting driver's licenses to illegal aliens  
8 is repugnant to the public policy of Missouri and therefore Missouri  
9 shall not extend full faith and credit to out-of-state driver's licenses  
10 issued to illegal aliens. As used in this section, the term "illegal alien"  
11 shall mean an alien who is not lawfully present in the United States,  
12 according to the terms of 8 U.S.C. 1101, et seq.

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

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

577.722. 1. It shall be unlawful for any person to transport, move,  
2 or attempt to transport in the state of Missouri any illegal alien who is  
3 not lawfully present in the United States, according to the terms of  
4 U.S.C 1101, et seq., knowing or in reckless disregard of the fact that the  
5 alien has come to, entered, or remained in the United States in  
6 violation of law, in furtherance of the illegal presence of the alien in  
7 the United States.

8 2. It shall be unlawful for any person to conceal, harbor, or  
9 shelter from detection any such alien in any place within the state of

10 **Missouri including any building or means of transportation, knowing**  
11 **or in reckless disregard of the fact that the alien has come to, entered,**  
12 **or remained in the United States in violation of law.**

13 **3. Any person violating the provisions of subsection 1 or 2 of this**  
14 **section shall be guilty of a felony for which the authorized term of**  
15 **imprisonment is a term of years not less than one year, or by a fine in**  
16 **an amount not less than one thousand dollars, or by both such fine and**  
17 **imprisonment.**

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

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

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

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

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

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

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

26 **4. Prior to the appropriating of funds to any government entity,**  
27 **agency, or political subdivision of this state, any member of the general**  
28 **assembly may request that the attorney general of the state of Missouri**

29 **issue an opinion stating whether the government entity, agency, or**  
30 **political subdivision has current policies, written or unwritten, in**  
31 **contravention of subsections 1 and 2 of this section.**

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

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

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

16 3. If a contractor is determined by a state agency upon  
17 reasonable evidence to have engaged a subcontractor to complete  
18 work required by the contract with knowledge that the  
19 subcontractor violated or intended to violate the Immigration  
20 Reform and Control Act of 1986, or its successor statute, in hiring  
21 or continuing to employ aliens unauthorized to work in the United  
22 States, the state agency may withhold from the contractor up to  
23 double the amount caused to be withheld from payments to the  
24 subcontractor.

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

29 5. No state agency or contractor taking any action

30 authorized by this section shall be subject to any claim arising from  
31 such action and shall be deemed in compliance with the laws of  
32 this state regarding timely payment.

33 6. The provisions of this section shall only be effective to  
34 the extent that such provisions are not preempted or prohibited by  
35 Section 1324(a) of Title 8 of the United States Code, as now or  
36 hereafter amended, and any regulations promulgated thereunder,  
37 relating to the employment of unauthorized aliens.]

Section B. The provisions of sections 285.525, 285.530, 285.535, and  
2 285.540, of this act shall become effective on January 1, 2009.

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

✓

Bill

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