

FIRST REGULAR SESSION

HOUSE BILL NO. 350

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PARKINSON (Sponsor), SMITH (14), JONES (89), COX,
SCHARNHORST, NIEVES, FUNDERBURK AND ATKINS (Co-sponsors).

0718L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 208.009, 285.530, and 577.675, RSMo, and to enact in lieu thereof five new sections relating to unauthorized aliens, with a penalty provision.

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

Section A. Sections 208.009, 285.530, and 577.675, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 173.1150, 208.009, 285.530, 577.675, and 650.480, to read as follows:

173.1150. 1. An individual who is not lawfully present in the United States shall not be eligible on the basis of residence within the state for:

(1) Any postsecondary education benefit including, but not limited to, scholarships or financial aid; or

(2) Resident tuition.

2. An individual not lawfully present in the United States may be eligible for postsecondary education benefits if:

(1) The individual provides to the postsecondary educational institution a copy of a true and correct application or petition filed with the United States Citizenship and Immigration Services to legalize the individual's immigration status; or

(2) The individual files an affidavit with the postsecondary educational institution stating that the individual will file an application to legalize his or her immigration status at the earliest opportunity the student is eligible to do so, but in no case later than:

(a) One year after the date on which the student enrolls for study at the institution; or

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

16 (b) If there is no formal process to permit children of parents without lawful
17 immigration status to apply for lawful status without risk of deportation, one year after the
18 date the United States Citizenship and Immigration Services provide such a formal
19 process; and

20 (3) The individual files an affidavit under subdivision (2) of this subsection,
21 presents to the postsecondary educational institution a copy of a true and correct
22 application or petition filed with the United States Citizenship and Immigration Services
23 no later than:

24 (a) One year after the date on which the individual enrolls for study at the
25 institution; or

26 (b) If there is no formal process to permit children of parents without lawful
27 immigration status to apply for lawful status without the risk of deportation, one year after
28 the date the United States Citizenship and Immigration Services provide such a formal
29 process, which copy shall be maintained in the institution's records for that individual.

30 3. Any student who completes the required criteria provided in paragraph (a) of
31 subdivision (2) of subsection 2 of this section shall not be disqualified on the basis of the
32 individual's immigration status from any scholarships or financial aid provided by this
33 state.

34 4. The provisions of this section shall not impose any additional conditions to
35 maintain resident tuition at a postsecondary educational institution within the state of
36 Missouri on an individual who was enrolled in a degree program and first received such
37 resident tuition status at that institution during the 2008-2009 school year or any prior
38 year.

208.009. 1. No alien unlawfully present in the United States shall receive any state or
2 local public benefit, except for state or local public benefits that may be offered under 8 U.S.C.
3 1621(b). Nothing in this section shall be construed to prohibit the rendering of emergency
4 medical care, prenatal care, services offering alternatives to abortion, emergency assistance, or
5 legal assistance to any person. **Proof of lawful presence under the provisions of this section
6 shall not be required:**

7 (1) For any purpose for which lawful presence in the United States is not restricted
8 by law, ordinance, or regulation;

9 (2) For short-term, noncash, in-kind emergency disaster relief;

10 (3) For public health assistance for immunizations with respect to diseases and for
11 testing and treatment of symptoms of communicable diseases whether or not such
12 symptoms are caused by a communicable disease; or

13 **(4) For programs, services, or assistance such as soup kitchens, crisis counseling,**
14 **and intervention and short-term shelter specified by the United States Attorney General,**
15 **in the sole and unreviewable discretion of the United States Attorney General after**
16 **consultation with appropriate federal agencies and departments, which:**

17 **(a) Deliver in-kind services at the community level, including through public or**
18 **private nonprofit agencies;**

19 **(b) Do not condition the provision of assistance, the amount of assistance provided,**
20 **or the cost of assistance provided on the income or resources of the individual recipient;**
21 **and**

22 **(c) Are necessary for the protection of life or safety.**

23 2. As used in this section, "public benefit" means any grant, contract, or loan provided
24 by an agency of state or local government; or any retirement, welfare, health, postsecondary
25 education, state grants and scholarships, disability, housing, or food assistance benefit under
26 which payments, assistance, credits, or reduced rates or fees are provided. The term "public
27 benefit" shall not include unemployment benefits payable under chapter 288, RSMo. The
28 unemployment compensation program shall verify the lawful presence of an alien for the purpose
29 of determining eligibility for benefits in accordance with its own procedures.

30 3. In addition to providing proof of other eligibility requirements, at the time of
31 application for any state or local public benefit, an applicant who is [eighteen] **fourteen** years
32 of age or older shall provide affirmative proof that the applicant is a citizen or a permanent
33 resident of the United States or is lawfully present in the United States, provided, however, that
34 in the case of state grants and scholarships, such proof shall be provided before the applicant
35 receives any state grant or scholarship. Such affirmative proof shall include documentary
36 evidence recognized by the department of revenue when processing an application for a driver's
37 license, a Missouri driver's license, as well as any document issued by the federal government
38 that confirms an alien's lawful presence in the United States. In processing applications for
39 public benefits, an employee of an agency of state or local government shall not inquire about
40 the legal status of a custodial parent or guardian applying for a public benefit on behalf of his or
41 her dependent child who is a citizen or permanent resident of the United States.

42 4. An applicant who cannot provide the proof required under this section at the time of
43 application may alternatively sign an affidavit under oath, attesting to either United States
44 citizenship or classification by the United States as an alien lawfully admitted for permanent
45 residence, in order to receive temporary benefits or a temporary identification document as
46 provided in this section. The affidavit shall be on or consistent with forms prepared by the state
47 or local government agency administering the state or local public benefits and shall include the
48 applicant's Social Security number or any applicable federal identification number and an

49 explanation of the penalties under state law for obtaining public assistance benefits fraudulently.
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51 5. An applicant who has provided the sworn affidavit required under subsection 4 of this
52 section is eligible to receive temporary public benefits as follows:

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

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

59

60 **Any person who knowingly and willfully makes a false, fictitious, or fraudulent statement**
61 **of representation in an affidavit executed under subsection 4 of this section shall be subject**
62 **to criminal penalties applicable in this state for fraudulently obtaining public assistance**
63 **program benefits. If the affidavit constitutes a false claim of United States citizenship**
64 **under 18 U.S.C. Section 911, a complaint shall be filed by the agency requiring the affidavit**
65 **with the United States Attorney General for the applicable district based upon the venue**
66 **in which the affidavit was executed.**

67 6. An applicant who is an alien shall not receive any state or local public benefit unless
68 the alien's lawful presence in the United States is first verified by the federal government. State
69 and local agencies administering public benefits in this state shall cooperate with the United
70 States Department of Homeland Security in achieving verification of an alien's lawful presence
71 in the United States in furtherance of this section. The system utilized may include the
72 Systematic Alien Verification for Entitlements Program operated by the United States
73 Department of Homeland Security.

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

77 8. Any agency that administers public benefits shall provide assistance in obtaining
78 appropriate documentation to persons applying for public benefits who sign the affidavit required
79 by subsection 4 of this section stating they are eligible for such benefits but lack the documents
80 required under subsection 3 of this section.

81 **9. The provisions of this section shall be enforced without regard to race, religion,**
82 **gender, ethnicity, or national origin.**

83 **10. Each state agency or department which administers any program of state or**
84 **local public benefits shall provide an annual report to the governor, the president pro tem**

85 **of the senate, and the speaker of the house of representatives with respect to its compliance**
86 **with the provisions of this section.**

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

4 2. As a condition for the award of any contract or grant in excess of five thousand dollars
5 by the state or by any political subdivision of the state to a business entity, or for any business
6 entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the
7 state, the business entity shall, by sworn affidavit and provision of documentation, affirm its
8 enrollment and participation in a federal work authorization program with respect to the
9 employees working in connection with the contracted services. Every such business entity shall
10 also sign an affidavit affirming that it does not knowingly employ any person who is an
11 unauthorized alien in connection with the contracted services.

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

14 4. An employer may enroll and participate in a federal work authorization program and
15 shall verify the employment eligibility of every employee in the employer's hire whose
16 employment commences after the employer enrolls in a federal work authorization program. The
17 employer shall retain a copy of the dated verification report received from the federal
18 government. Any business entity that participates in such program shall have an affirmative
19 defense that such business entity has not violated subsection 1 of this section.

20 5. A general contractor or subcontractor of any tier shall not be liable under sections
21 285.525 to 285.550 when such general contractor or subcontractor contracts with its direct
22 subcontractor who violates subsection 1 of this section, if the contract binding the contractor and
23 subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of
24 subsection 1 of this section and shall not henceforth be in such violation and the contractor or
25 subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the
26 direct subcontractor's employees are lawfully present in the United States.

27 **6. (1) If an individual independent contractor, contracting for the physical**
28 **performance of services in this state, fails to provide to the contracting entity**
29 **documentation to verify the independent contractor's employment authorization, under**
30 **the prohibition against the use of unauthorized alien labor through contract set forth in**
31 **8 U.S.C. Section 1324(a)(4), the contracting entity shall be required to withhold state**
32 **income tax at the top marginal income tax rate as provided in section 143.011, RSMo, as**
33 **applied to compensation paid to such individual for the performance of such services**
34 **within this state which exceeds the minimum amount of compensation the contracting**

35 entity is required to report as income on the United States Internal Revenue Service Form
36 1099.

37 (2) Any contracting entity who fails to comply with the withholding requirements
38 of this section shall be liable for the taxes required to have been withheld unless such
39 contracting entity is exempt from federal withholding with respect to such individual under
40 a properly filed Internal Revenue Service Form 8233 or its equivalent, and has provided
41 a copy of such form to the Missouri department of revenue.

42 7. (1) It shall be a discriminatory practice for an employing entity to discharge an
43 employee working in Missouri who is a United States citizen or permanent resident alien
44 while retaining an employee who the employing entity knows, or reasonably should have
45 known, is an unauthorized alien hired after August 28, 2009, and who is working in
46 Missouri in a job category that requires equal skill, effort, and responsibility, and which
47 is performed under similar working conditions, as defined by 29 U.S.C. Section 206(d)(1),
48 as the job category held by the discharged employee.

49 (2) An employing entity which, on the date of the discharge in question, was
50 currently enrolled in and participated in a federal work authorization program to verify
51 the employment eligibility of its employees in Missouri hired after August 28, 2009, shall
52 be exempt from liability, investigation, or suit arising from any action under this section.

53 (3) No cause of action for a violation of this subsection shall arise anywhere in
54 Missouri but from the provisions of this subsection.

55 8. The provisions of this section shall be enforced without regard to race or national
56 origin.

57 9. The department of labor and industrial relations shall prescribe forms and
58 promulgate rules and regulations deemed necessary in order to administer and effectuate
59 the provisions of this section and publish such rules and regulations on the department of
60 labor and industrial relations web site.

577.675. 1. It shall be unlawful for any person to knowingly transport, move, or attempt
2 to transport in the state of Missouri any illegal alien who is not lawfully present in the United
3 States, according to the terms of 8 U.S.C. Section 1101, et seq., for the purposes of trafficking
4 in violation of sections 566.200 to 566.215, RSMo, drug trafficking in violation of sections
5 195.222 and 195.223, RSMo, prostitution in violation of chapter 567, RSMo, or employment.

6 2. It shall be unlawful for any person to conceal, harbor, or shelter from detection
7 any alien in any place within the state of Missouri including any building or means of
8 transportation, knowing or in reckless disregard of the fact that the alien has come to,
9 entered, or remained in the United States in violation of law.

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

14 [3.] **4.** Nothing in this section shall be construed to deny any victim of an offense under
15 sections 566.200 to 566.215, RSMo, of rights afforded by the federal Trafficking Victims
16 Protection Act of 2000, Public Law 106-386, as amended.

**650.480. 1. The following entities may create, publish, or otherwise manufacture
2 an identification document, identification card, or identification certificate and may possess
3 an engraved plate or other such devise for the printing of such identification; provided, the
4 name of the issuing entity shall be clearly printed upon the face of the identification:**

5 **(1) Businesses, companies, corporations, service organizations, and federal, state,
6 and local governmental agencies for employee identification which is designed to identify
7 the bearer as an employee;**

8 **(2) Businesses, companies, corporations, and service organizations for customer
9 identification which is designed to identify the bearer as a customer or member;**

10 **(3) Federal, state, and local government agencies for purposes authorized or
11 required by law or any legitimate purpose consistent with the duties of such an agency,
12 including but not limited to, voter identification cards, driver's licenses, nondriver's
13 licenses, passports, birth certificates, and Social Security cards;**

14 **(4) Any public or private elementary or secondary school, public vocational school,
15 or public or private junior college, college, or university, to identify the bearer as an
16 administrator, faculty member, student, or employee;**

17 **(5) Any professional organization or labor union to identify the bearer as a member
18 of the professional organization or labor union; and**

19 **(6) Businesses, companies, or corporations which manufacture medical-alert
20 identification for the wearer thereof.**

21 **2. All identification documents as provided for in subdivision (3) or (4) of
22 subsection 1 of this section shall be issued only to United States citizens, nationals, and legal
23 permanent resident aliens.**

24 **3. The provisions of subsection 2 of this section shall not apply when an applicant
25 presents, in person, valid documentary evidence of:**

26 **(1) A valid, unexpired immigrant or nonimmigrant visa status for admission into
27 the United States;**

28 **(2) A pending or approved application for asylum in the United States;**

29 **(3) Admission into the United States in refugee status;**

30 **(4) A pending or approved application for temporary protected status in the United**
31 **States;**

32 **(5) Approved deferred action status; or**

33 **(6) A pending application for adjustment of status to legal permanent residence**
34 **status or conditional resident status. Upon approval, the applicant may be issued an**
35 **identification document provided for in subdivision (3) or (4) of subsection 1 of this section.**
36 **Such identification document shall be valid only during the period of time of the**
37 **authorized stay of the applicant in the United States or if there is no definite end to the**
38 **period of authorized stay, a period of one year. Any identification document issued under**
39 **the provisions of this subsection shall clearly indicate that it is temporary and shall state**
40 **the date that the identification document expires. Such identification document may be**
41 **renewed only upon presentation of valid documentary evidence that the status by which**
42 **the applicant qualified for the identification document has been extended by the United**
43 **States Immigration and Naturalization Service or the Bureau of Citizenship and**
44 **Immigration Services of the United States Department of Homeland Security.**

45 **4. The provisions of subsection 2 of this section shall not apply to an identification**
46 **document described in subdivision (4) of subsection 1 of this section that is only valid for**
47 **use on the campus or facility of that educational institution and includes a statement of**
48 **such restricted validity clearly and conspicuously printed upon the face of the**
49 **identification document.**

50 **5. Any driver's license for which an application has been made for renewal,**
51 **duplication, or reissuance shall be presumed to have been issued in accordance with the**
52 **provisions of subsection 3 of this section, provided that, at the time the application is made,**
53 **the driver's license has not expired, or been cancelled, suspended, or revoked. The**
54 **requirements of subsection 3 of this section shall apply, however, to a renewal, duplication,**
55 **or reissuance if the department of revenue is notified by a local, state, or federal**
56 **government agency of information in the possession of the agency indicating a reasonable**
57 **suspicion that the individual seeking such renewal, duplication, or reissuance is present in**
58 **the United States in violation of the law.**

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