

House Bill 87 (AS PASSED HOUSE AND SENATE)

By: Representatives Ramsey of the 72nd, Golick of the 34th, Dempsey of the 13th, Austin of the 10th, Allison of the 8th, and others

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Illegal Immigration Reform and Enforcement Act of 2011"; to amend Article
2 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to security
3 and immigration compliance, so as to provide penalties for the failure of a public employer
4 to utilize the federal work authorization program; to require certain private employers to
5 utilize the federal work authorization program; to provide for review by the state auditor and
6 the Department of Labor; to provide for definitions; to amend Title 16 of the Official Code
7 of Georgia Annotated, relating to crimes and offenses, so as to provide for offenses involving
8 illegal aliens; to provide for the offense of aggravated identity fraud; to provide for penalties;
9 to amend Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
10 searches and seizures, so as to provide for the investigation of illegal alien status; to amend
11 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
12 agencies, so as to provide authority for law enforcement officers to enforce federal
13 immigration laws under certain circumstances and to provide immunity for such officers
14 subject to limitations; to provide for civil and criminal penalties; to modify provisions
15 relating to training peace officers for enforcement of immigration and custom laws; to
16 establish grant funding for local law enforcement agencies to enter into agreements with
17 federal agencies for the enforcement of immigration law; to amend Chapter 60 of Title 36
18 of the Official Code of Georgia Annotated, relating to general provisions applicable to local
19 governments, so as to require proof that private businesses are participating in the
20 employment eligibility verification system prior to the issuance of a business license or other
21 documents; to amend Title 42 of the Official Code of Georgia Annotated, relating to penal
22 institutions, so as to provide for the verification of the immigration status of foreign nationals
23 arrested and held in a county or municipal jail; to provide that local governing authorities that
24 have entered or attempted to enter into certain memorandums of agreement with the federal
25 government shall receive additional funding for confinement of state inmates; to provide for
26 a funding contingency; to amend Title 45 of the Official Code of Georgia Annotated, relating
27 to public officers and employees, so as to provide for penalties for failure of agency heads
28 to abide by certain state immigration laws; to amend Chapter 36 of Title 50 of the Official

29 Code of Georgia Annotated, relating to verification of lawful presence within the United
 30 States, so as to provide for identification documents by applicants for public benefits; to
 31 enact the "Secure and Verifiable Identity Document Act"; to provide penalties for the failure
 32 of an agency head to verify the lawful immigration status of certain applicants for public
 33 benefits; to establish the Immigration Enforcement Review Board; to establish a study on the
 34 impact of immigration reform on Georgia's agricultural industry within the Department of
 35 Agriculture; to provide for related matters; to provide for an effective date and applicability;
 36 to repeal conflicting laws; and for other purposes.

37 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

38 **SECTION 1.**

39 This Act shall be known and may be cited as the "Illegal Immigration Reform and
 40 Enforcement Act of 2011."

41 **SECTION 2.**

42 Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to
 43 security and immigration compliance, is amended by revising Code Section 13-10-90,
 44 relating to definitions, as follows:

45 "13-10-90.

46 As used in this article, the term:

47 (1) 'Commissioner' means the Commissioner of ~~the Georgia Department of~~ Labor.

48 (2) 'Contractor' means a person or entity that enters into a contract for the physical
 49 performance of services with a public employer.

50 ~~(2)(3)~~ (3) 'Federal work authorization program' means any of the electronic verification of
 51 work authorization programs operated by the United States Department of Homeland
 52 Security or any equivalent federal work authorization program operated by the United
 53 States Department of Homeland Security to verify employment eligibility information of
 54 newly hired employees, ~~pursuant to the Immigration Reform and Control Act of 1986~~
 55 ~~(IRCA), D.L. 99-603~~ commonly known as E-Verify, or any subsequent replacement
 56 program.

57 ~~(2.1)(4)~~ (4) 'Physical performance of services' means the building, altering, repairing,
 58 improving, or demolishing of any public structure or building or other public
 59 improvements of any kind to public real property within this state, including the
 60 construction, reconstruction, or maintenance of all or part of a public road; or any other
 61 performance of labor for a public employer within this state under a contract or other
 62 bidding process.

63 ~~(3)~~(5) 'Public employer' means every department, agency, or instrumentality of the state
64 or a political subdivision of the state with more than one employee.

65 ~~(4)~~(6) 'Subcontractor' means a person or entity having privity of contract with a
66 contractor and includes a ~~subcontractor~~, contract employee; or staffing agency; ~~or any~~
67 ~~contractor regardless of its tier.~~

68 (7) 'Sub-subcontractor' means a person or entity having privity of contract with a
69 subcontractor or privity of contract with another person or entity contracting with a
70 subcontractor or sub-subcontractor."

71 **SECTION 3.**

72 Said article is further amended by revising subsections (a) and (b) of Code Section 13-10-91,
73 relating to the verification of new employee eligibility, applicability, and rules and
74 regulations, as follows:

75 "(a) Every public employer, including, but not limited to, every municipality and county,
76 shall register and participate in the federal work authorization program to verify
77 employment eligibility of all newly hired employees. Upon federal authorization, a public
78 employer shall permanently post the employer's federally issued user identification number
79 and date of authorization, as established by the agreement for authorization, on the
80 employer's website; provided, however, that if a local public employer does not maintain
81 a website, ~~the identification number and date of authorization shall be published annually~~
82 ~~in the official legal organ for the county.~~ then the local government shall submit such
83 information to the Carl Vinson Institute of Government of the University of Georgia to be
84 posted by the institute on the website created for local government audit and budget
85 reporting. The Carl Vinson Institute of Government of the University of Georgia shall
86 maintain the information submitted and provide instructions and submission guidelines for
87 local governments. State departments, agencies, or instrumentalities may satisfy the
88 requirement of this Code section by posting information required by this Code section on
89 one website maintained and operated by the state.

90 (b)(1) ~~No~~ A public employer shall not enter into a contract pursuant to this chapter for
91 the physical performance of services ~~within this state~~ unless the contractor registers and
92 participates in the federal work authorization program ~~to verify information of all newly~~
93 ~~hired employees or subcontractors.~~ Before a bid for any such service is considered by a
94 public employer, the bid shall include a signed, notarized affidavit from the contractor
95 attesting to the following:

96 (A) The affiant has registered with ~~and~~, is authorized to use, and uses the federal work
97 authorization program;

98 (B) The user identification number and date of authorization for the affiant; ~~and~~

99 (C) The affiant ~~is using and~~ will continue to use the federal work authorization
100 program throughout the contract period; and

101 (D) The affiant will contract for the physical performance of services in satisfaction of
102 such contract only with subcontractors who present an affidavit to the contractor with
103 the same information required by subparagraphs (A), (B), and (C) of this paragraph.

104 An affidavit required by this subsection shall be considered an open public record once
105 a public employer has entered into a contract for physical performance of services;
106 provided, however, that any information protected from public disclosure by federal law
107 or by Article 4 of Chapter 18 of Title 50 shall be redacted. Affidavits shall be maintained
108 by the public employer for five years from the date of receipt.

109 ~~(2) A contractor shall not enter into any contract with a public employer for No~~
110 ~~contractor or subcontractor who enters a contract pursuant to this chapter with a public~~
111 ~~employer or a contractor of a public employer shall enter into such a contract or~~
112 ~~subcontract in connection with the physical performance of services within this state~~
113 ~~unless the contractor or subcontractor registers and participates in the federal work~~
114 ~~authorization program to verify information of all newly hired employees. Any~~
115 ~~employee, contractor, or subcontractor of such contractor or subcontractor shall also be~~
116 ~~required to satisfy the requirements of this paragraph.~~

117 ~~(3) Upon contracting with a new subcontractor, a contractor or subcontractor shall, as a~~
118 ~~condition of any contract or subcontract entered into pursuant to this chapter, provide a~~
119 ~~public employer with notice of the identity of any and all subsequent subcontractors hired~~
120 ~~or contracted by that contractor or subcontractor. Such notice shall be provided within~~
121 ~~five business days of entering into a contract or agreement for hire with any~~
122 ~~subcontractor. Such notice shall include an affidavit from each subsequent contractor~~
123 ~~attesting to the subcontractor's name, address, user identification number, and date of~~
124 ~~authorization to use the federal work authorization program.~~

125 (3) A subcontractor shall not enter into any contract with a contractor unless such
126 subcontractor registers and participates in the federal work authorization program. A
127 subcontractor shall submit, at the time of such contract, an affidavit to the contractor in
128 the same manner and with the same information required in paragraph (1) of this
129 subsection. It shall be the duty of any subcontractor receiving an affidavit from a
130 sub-subcontractor to forward notice to the contractor of the receipt, within five business
131 days of receipt, of such affidavit. It shall be the duty of a subcontractor receiving notice
132 of receipt of an affidavit from any sub-subcontractor that has contracted with a
133 sub-subcontractor to forward, within five business days of receipt, a copy of such notice
134 to the contractor.

135 (4) A sub-subcontractor shall not enter into any contract with a subcontractor or
136 sub-subcontractor unless such sub-subcontractor registers and participates in the federal
137 work authorization program. A sub-subcontractor shall submit, at the time of such
138 contract, an affidavit to the subcontractor or sub-subcontractor with whom such
139 sub-subcontractor has privity of contract, in the same manner and with the same
140 information required in paragraph (1) of this subsection. It shall be the duty of any
141 sub-subcontractor to forward notice of receipt of any affidavit from a sub-subcontractor
142 to the subcontractor or sub-subcontractor with whom such receiving sub-subcontractor
143 has privity of contract.

144 (5) In lieu of the affidavit required by this subsection, a contractor, subcontractor, or
145 sub-subcontractor who has no employees and does not hire or intend to hire employees
146 for purposes of satisfying or completing the terms and conditions of any part or all of the
147 original contract with the public employer shall instead provide a copy of the state issued
148 driver's license or state issued identification card of such contracting party and a copy of
149 the state issued driver's license or identification card of each independent contractor
150 utilized in the satisfaction of part or all of the original contract with a public employer.
151 A driver's license or identification card shall only be accepted in lieu of an affidavit if it
152 is issued by a state within the United States and such state verifies lawful immigration
153 status prior to issuing a driver's license or identification card. For purposes of satisfying
154 the requirements of this subsection, copies of such driver's license or identification card
155 shall be forwarded to the public employer, contractor, subcontractor, or sub-subcontractor
156 in the same manner as an affidavit and notice of receipt of an affidavit as required by
157 paragraphs (1), (3), and (4) of this subsection. Not later than July 1, 2011, the Attorney
158 General shall provide a list of the states that verify immigration status prior to the
159 issuance of a driver's license or identification card and that only issue licenses or
160 identification cards to persons lawfully present in the United States. The list of verified
161 state drivers' licenses and identification cards shall be posted on the website of the State
162 Law Department and updated annually thereafter. In the event that a contractor,
163 subcontractor, or sub-subcontractor later determines that he or she will need to hire
164 employees to satisfy or complete the physical performance of services under an
165 applicable contract, then he or she shall first be required to comply with the affidavit
166 requirements of this subsection.

167 (6) It shall be the duty of the contractor to submit copies of all affidavits, drivers'
168 licenses, and identification cards required pursuant to this subsection to the public
169 employer within five business days of receipt. No later than August 1, 2011, the
170 Departments of Audits and Accounts shall create and post on its website form affidavits
171 for the federal work authorization program. The affidavits shall require fields for the

172 following information: the name of the project, the name of the contractor, subcontractor,
173 or sub-subcontractor, the name of the public employer, and the employment eligibility
174 information required pursuant to this subsection.

175 (7)(A) Not later than December 31 of each year, a public employer shall submit a
176 compliance report to the state auditor certifying compliance with the provisions of this
177 subsection. Such compliance report shall contain the public employer's federal work
178 authorization program verification user number and date of authorization and the legal
179 name, address, and federal work authorization program user number of the contractor
180 and the date of the contract between the contractor and public employer. Subject to
181 available funding, the state auditor shall conduct annual compliance audits on a
182 minimum of at least one-half of the reporting agencies and publish the results of such
183 audits annually on the department's website on or before September 30.

184 (B) If the state auditor finds a political subdivision to be in violation of this subsection,
185 such political subdivision shall be provided 30 days to demonstrate to the state auditor
186 that such political subdivision has corrected all deficiencies and is in compliance with
187 this subsection. If, after 30 days, the political subdivision has failed to correct all
188 deficiencies, such political subdivision shall be excluded from the list of qualified local
189 governments under Chapter 8 of Title 50 until such time as the political subdivision
190 demonstrates to the state auditor that such political subdivision has corrected all
191 deficiencies and is in compliance with this subsection.

192 (C)(i) At any time after the state auditor finds a political subdivision to be in violation
193 of this subsection, such political subdivision may seek administrative relief through
194 the Office of State Administrative Hearings. If a political subdivision seeks
195 administrative relief, the time for correcting deficiencies shall be tolled, and any
196 action to exclude the political subdivision from the list of qualified governments
197 under Chapter 8 of Title 50 shall be suspended until such time as a final ruling
198 upholding the findings of the state auditor is issued.

199 (ii) A new compliance report submitted to the state auditor by the political
200 subdivision shall be deemed satisfactory and shall correct the prior deficient
201 compliance report so long as the new report fully complies with this subsection.

202 (iii) No political subdivision of this state shall be found to be in violation of this
203 subsection by the state auditor as a result of any actions of a county constitutional
204 officer.

205 (D) If the state auditor finds any political subdivision which is a state department or
206 agency to be in violation of the provisions of this subsection twice in a five-year period,
207 the funds appropriated to such state department or agency for the fiscal year following
208 the year in which the agency was found to be in violation for the second time shall be

209 not greater than 90 percent of the amount so appropriated in the second year of such
210 noncompliance. Any political subdivision found to be in violation of the provisions of
211 this subsection shall be listed on www.open.georgia.gov or another official state
212 website with an indication and explanation of each violation.

213 ~~(4)~~(8) Contingent upon appropriation or approval of necessary funding and in order to
214 verify compliance with the provisions of this subsection, each year the Commissioner
215 shall conduct no fewer than 100 random audits of public employers and contractors or
216 may conduct such an audit upon reasonable grounds to suspect a violation of this
217 subsection. The results of the audits shall be published on the www.open.georgia.gov
218 website and on the Georgia Department of Labor's website no later than December 31 of
219 each year. The Georgia Department of Labor shall seek funding from the United States
220 Secretary of Labor to the extent such funding is available.

221 ~~(5)~~(9) Any person who knowingly and willfully makes a false, fictitious, or fraudulent
222 statement in an affidavit submitted pursuant to this subsection shall be guilty of a
223 violation of Code Section 16-10-20 and, upon conviction, shall be punished as provided
224 in such Code section. Contractors and, subcontractors, sub-subcontractors, and any
225 person convicted for false statements based on a violation of this subsection shall be
226 prohibited from bidding on or entering into any public contract for 12 months following
227 such conviction. A contractor, subcontractor, or sub-subcontractor that has been found
228 by the Commissioner to have violated this subsection shall be listed by the Department
229 of Labor on www.open.georgia.gov or other official website of the state with public
230 information regarding such violation, including the identity of the violator, the nature of
231 the contract, and the date of conviction. A public employee, contractor, subcontractor,
232 or sub-subcontractor shall not be held civilly liable or criminally responsible for
233 unknowingly or unintentionally accepting a bid from or contracting with a contractor,
234 subcontractor, or sub-subcontractor acting in violation of this subsection. Any contractor,
235 subcontractor, or sub-subcontractor found by the Commissioner to have violated this
236 subsection shall, on a second or subsequent violations, be prohibited from bidding on or
237 entering into any public contract for 12 months following the date of such finding.

238 (10) There shall be a rebuttable presumption that a public employer, contractor,
239 subcontractor, or sub-subcontractor receiving and acting upon an affidavit conforming
240 to the content requirements of this subsection does so in good faith, and such public
241 employer, contractor, subcontractor, or sub-subcontractor may rely upon such affidavit
242 as being true and correct. The affidavit shall be admissible in any court of law for the
243 purpose of establishing such presumption.

244 (11) Documents required by this Code section may be submitted electronically, provided
245 the submission complies with Chapter 12 of Title 10."

246

SECTION 4.

247 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 248 amended in Article 8 of Chapter 9, relating to identity fraud, by adding a new Code section
 249 to read as follows:

250 "16-9-121.1.

251 (a) A person commits the offense of aggravated identity fraud when he or she willfully and
 252 fraudulently uses any counterfeit or fictitious identifying information concerning a real,
 253 fictitious, or deceased person with intent to use such counterfeit or fictitious identifying
 254 information for the purpose of obtaining employment.

255 (b) The offense created by this Code section shall not merge with any other offense."

256

SECTION 5.

257 Said article of said title is further amended by revising Code Section 16-9-126, relating to
 258 penalties for violations, as follows:

259 "16-9-126.

260 (a) A violation of this article, other than a violation of Code Section 16-9-121.1 or
 261 16-9-122, shall be punishable by imprisonment for not less than one nor more than ten
 262 years or a fine not to exceed \$100,000.00, or both. Any person who commits such a
 263 violation for the second or any subsequent offense shall be punished by imprisonment for
 264 not less than three nor more than 15 years, a fine not to exceed \$250,000.00, or both.

265 (a.1) A violation of Code Section 16-9-121.1 shall be punishable by imprisonment for not
 266 less than one nor more than 15 years, a fine not to exceed \$250,000.00, or both, and such
 267 sentence shall run consecutively to any other sentence which the person has received.

268 (b) A violation of this article which does not involve the intent to commit theft or
 269 appropriation of any property, resource, or other thing of value that is committed by a
 270 person who is less than 21 years of age shall be punishable by imprisonment for not less
 271 than one nor more than three years or a fine not to exceed \$5,000.00, or both.

272 (c) Any person found guilty of a violation of this article may be ordered by the court to
 273 make restitution to any consumer victim or any business victim of such fraud.

274 (d) Each violation of this article shall constitute a separate offense.

275 (e) Upon a conviction of a violation of this article, the court may issue any order necessary
 276 to correct a public record that contains false information resulting from the actions which
 277 resulted in the conviction."

278

SECTION 6.

279 Said article of said title is further amended by revising Code Section 16-9-128, relating to
 280 exemptions, as follows:

281 "16-9-128.

282 (a) The prohibitions set forth in Code Sections 16-9-121, 16-9-121.1, and 16-9-122 shall
 283 not apply to nor shall any cause of action arise under Code Sections 16-9-129 and 16-9-131
 284 for:

285 (1) The lawful obtaining of credit information in the course of a bona fide consumer or
 286 commercial transaction;

287 (2) The lawful, good faith exercise of a security interest or a right to offset by a creditor
 288 or a financial institution;

289 (3) The lawful, good faith compliance by any party when required by any warrant, levy,
 290 garnishment, attachment, court order, or other judicial or administrative order, decree, or
 291 directive; or

292 (4) The good faith use of identifying information with the permission of the affected
 293 person.

294 (b) The exemptions provided in subsection (a) of this Code section ~~will~~ shall not apply to
 295 a person intending to further a scheme to violate Code Section 16-9-121, 16-9-121.1, or
 296 16-9-122.

297 (c) It is shall not be necessary for the state to negate any exemption or exception in this
 298 article in any complaint, accusation, indictment, or other pleading or in any trial, hearing,
 299 or other proceeding under this article involving a business victim. In such cases, the
 300 burden of proof of any exemption or exception is upon the business victim claiming it."

301 **SECTION 7.**

302 Said title is further amended in Chapter 11, relating to offenses against public order and
 303 safety, by adding a new article to read as follows:

304 "ARTICLE 5

305 16-11-200.

306 (a) As used in this Code section, the term:

307 (1) 'Illegal alien' means a person who is verified by the federal government to be present
 308 in the United States in violation of federal immigration law.

309 (2) 'Motor vehicle' shall have the same meaning as provided in Code Section 40-1-1.

310 (b) A person who, while committing another criminal offense, knowingly and intentionally
 311 transports or moves an illegal alien in a motor vehicle for the purpose of furthering the
 312 illegal presence of the alien in the United States shall be guilty of the offense of
 313 transporting or moving an illegal alien.

314 (c) Except as provided in this subsection, a person convicted for a first offense of
 315 transporting or moving an illegal alien who moves seven or fewer illegal aliens at the same
 316 time shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by
 317 imprisonment not to exceed 12 months, a fine not to exceed \$1,000.00, or both. A person
 318 convicted for a second or subsequent offense of transporting or moving an illegal alien, and
 319 a person convicted on a first offense of transporting or moving an illegal alien who moves
 320 eight or more illegal aliens at the same time, shall be guilty of a felony and, upon
 321 conviction thereof, shall be punished by imprisonment of not less than one or more than
 322 five years, a fine of not less than \$5,000.00 or more than \$20,000.00, or both. A person
 323 who commits the offense of transporting or moving an illegal alien who does so with the
 324 intent of making a profit or receiving anything of value shall be guilty of a felony and,
 325 upon conviction thereof, shall be punished by imprisonment of not less than one or more
 326 than five years, a fine of not less than \$5,000.00 or more than \$20,000.00, or both.

327 (d) This Code section shall not apply to:

328 (1) A government employee transporting or moving an illegal alien as a part of his or her
 329 official duties or to any person acting at the direction of such employee;

330 (2) A person who transports an illegal alien to or from a judicial or administrative
 331 proceeding when such illegal alien is required to appear pursuant to a summons,
 332 subpoena, court order, or other legal process;

333 (3) A person who transports an illegal alien to a law enforcement agency or a judicial
 334 officer for official government purposes;

335 (4) An employer transporting an employee who was lawfully hired; or

336 (5) A person providing privately funded social services.

337 16-11-201.

338 (a) As used in this Code section, the term:

339 (1) 'Harboring' or 'harbors' means any conduct that tends to substantially help an illegal
 340 alien to remain in the United States in violation of federal law but shall not include a
 341 person providing services to infants, children, or victims of a crime; a person providing
 342 privately funded social services; a person providing emergency medical service; or an
 343 attorney or his or her employees for the purpose of representing a criminal defendant.

344 (2) 'Illegal alien' means a person who is verified by the federal government to be present
 345 in the United States in violation of federal immigration law.

346 (b) A person who is acting in violation of another criminal offense and who knowingly
 347 conceals, harbors, or shields an illegal alien from detection in any place in this state,
 348 including any building or means of transportation, when such person knows that the person

349 being concealed, harbored, or shielded is an illegal alien, shall be guilty of the offense of
350 concealing or harboring an illegal alien.

351 (c) Except as provided in this subsection, a person convicted of concealing or harboring
352 an illegal alien who conceals or harbors seven or fewer illegal aliens at the same time in
353 the same location shall be guilty of a misdemeanor and, upon conviction thereof, shall be
354 punished by imprisonment not to exceed 12 months, a fine not to exceed \$1,000.00, or
355 both. A person convicted of concealing or harboring an illegal alien who conceals or
356 harbors eight or more illegal aliens at the same time in the same location, or who conceals
357 or harbors an illegal alien with the intent of making a profit or receiving anything of value,
358 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment
359 of not less than one or more than five years, a fine of not less than \$5,000.00 or more than
360 \$20,000.00, or both.

361 (d) This Code section shall not apply to a government employee or any person acting at
362 the express direction of a government employee who conceals, harbors, or shelters an
363 illegal alien when such illegal alien is or has been the victim of a criminal offense or is a
364 witness in any civil or criminal proceeding or who holds an illegal alien in a jail, prison,
365 or other detention facility.

366 16-11-202.

367 (a) As used in this Code section, the term 'illegal alien' means a person who is verified by
368 the federal government to be present in the United States in violation of federal
369 immigration law.

370 (b) A person who is acting in violation of another criminal offense and who knowingly
371 induces, entices, or assists an illegal alien to enter into this state, when such person knows
372 that the person being induced, enticed, or assisted to enter into this state is an illegal alien,
373 shall be guilty of the offense of inducing an illegal alien to enter into this state.

374 (c) Except as provided in subsection (d) of this Code section, for a first offense, a person
375 convicted of inducing an illegal alien to enter into this state shall be guilty of a
376 misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to
377 exceed 12 months, a fine not to exceed \$1,000.00, or both. For a second or subsequent
378 conviction of inducing an illegal alien to enter into this state, a person shall be guilty of a
379 felony and, upon conviction thereof, shall be punished by imprisonment of not less than
380 one or more than five years, a fine of not less than \$5,000.00 or more than \$20,000.00, or
381 both.

382 (d) A person who commits the offense of inducing an illegal alien to enter into this state
383 who does so with the intent of making a profit or receiving any thing of value shall be
384 guilty of a felony and, upon conviction thereof, shall be punished by imprisonment of not

385 less than one or more than five years, a fine of not less than \$5,000.00 or more than
 386 \$20,000.00, or both.

387 16-11-203.

388 The testimony of any officer, employee, or agent of the federal government having
 389 confirmed that a person is an illegal alien shall be admissible to prove that the federal
 390 government has verified such person to be present in the United States in violation of
 391 federal immigration law. Verification that a person is present in the United States in
 392 violation of federal immigration law may also be established by any document authorized
 393 by law to be recorded or filed and in fact recorded or filed in a public office where items
 394 of this nature are kept."

395 **SECTION 8.**

396 Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to searches and
 397 seizures, is amended by adding a new article to read as follows:

398 "ARTICLE 5

399 17-5-100.

400 (a) As used in this Code section, the term:

401 (1) 'Criminal violation' means a violation of state or federal criminal law but shall not
 402 include a violation of a county or municipal law, regulation, or ordinance.

403 (2) 'Illegal alien' means a person who is verified by the federal government to be present
 404 in the United States in violation of federal immigration law.

405 (b) Except as provided in subsection (f) of this Code section, during any investigation of
 406 a criminal suspect by a peace officer, when such officer has probable cause to believe that
 407 a suspect has committed a criminal violation, the officer shall be authorized to seek to
 408 verify such suspect's immigration status when the suspect is unable to provide one of the
 409 following:

410 (1) A secure and verifiable document as defined in Code Section 50-36-2;

411 (2) A valid Georgia driver's license;

412 (3) A valid Georgia identification card issued by the Department of Driver Services;

413 (4) If the entity requires proof of legal presence in the United States before issuance, any
 414 valid driver's license from a state or district of the United States or any valid
 415 identification document issued by the United States federal government;

416 (5) A document used in compliance with paragraph (2) of subsection (a) of Code Section
 417 40-5-21; or

418 (6) Other information as to the suspect's identity that is sufficient to allow the peace
 419 officer to independently identify the suspect.

420 (c) When attempting to determine the immigration status of a suspect pursuant to
 421 subsection (b) of this Code section, a peace officer shall be authorized to use any
 422 reasonable means available to determine the immigration status of the suspect, including:

423 (1) Use of any authorized federal identification data base;

424 (2) Identification methods authorized by federal law, including those authorized by 8
 425 USCA 1373(c), 8 USCA 1644;

426 (3) Use of electronic fingerprint readers or similar devices; or

427 (4) Contacting an appropriate federal agency.

428 (d) A peace officer shall not consider race, color, or national origin in implementing the
 429 requirements of this Code section except to the extent permitted by the Constitutions of
 430 Georgia and of the United States.

431 (e) If during the course of the investigation into such suspect's identity, a peace officer
 432 receives verification that such suspect is an illegal alien, then such peace officer may take
 433 any action authorized by state and federal law, including, but not limited to, detaining such
 434 suspected illegal alien, securely transporting such suspect to any authorized federal or state
 435 detention facility, or notifying the United States Department of Homeland Security or
 436 successor agency. Nothing in this Code section shall be construed to hinder or prevent a
 437 peace officer or law enforcement agency from arresting or detaining any criminal suspect
 438 on other criminal charges.

439 (f) No person who in good faith contacts or has contact with a state or local peace officer
 440 or prosecuting attorney or member of the staff of a prosecuting attorney for the purpose of
 441 acting as a witness to a crime, to report criminal activity, or to seek assistance as a victim
 442 to a crime shall have his or her immigration status investigated based on such contact or
 443 based on information arising from such contact.

444 (g) A peace officer, prosecuting attorney, or government official or employee, acting in
 445 good faith to carry out any provision of this Code section, shall have immunity from
 446 damages or liability from such actions."

447 **SECTION 9.**

448 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
 449 agencies, is amended by adding a new Code section to read as follows:

450 "35-1-16.

451 (a) It is the intent of the General Assembly to encourage Georgia law enforcement officials
 452 to work in conjunction with federal immigration authorities and to utilize all resources

453 made available by the federal government to assist state and local law enforcement officers
454 in the enforcement of the immigration laws of this state and of the United States.

455 **(b) Cooperation with federal authorities.**

456 (1) To the extent authorized by federal law, state and local government employees,
457 including law enforcement officers and prosecuting attorneys, shall be authorized to send,
458 receive, and maintain information relating to the immigration status of any individual as
459 reasonably needed for public safety purposes. Except as provided by federal law, such
460 employees shall not be prohibited from receiving or maintaining information relating to
461 the immigration status of any individual or sending or exchanging such information with
462 other federal, state, or local governmental entities or employees for official public safety
463 purposes.

464 (2) State and local agencies shall be authorized to enter into memorandum of
465 understandings and agreements with the United States Department of Justice, the
466 Department of Homeland Security, or any other federal agency for the purpose of
467 enforcing federal immigration and customs laws and the detention, removal, and
468 investigation of illegal aliens and the immigration status of any person in this state. A
469 peace officer acting within the scope of his or her authority under any such memorandum
470 of understanding, agreement, or other authorization from the federal government shall
471 have the power to arrest, with probable cause, any person suspected of being an illegal
472 alien.

473 (3) Except as provided by federal law, no state or local agency or department shall be
474 prohibited from utilizing available federal resources, including data bases, equipment,
475 grant funds, training, or participation in incentive programs for any public safety purpose
476 related to the enforcement of state and federal immigration laws.

477 (4) When reasonably possible, applicable state agencies shall consider incentive
478 programs and grant funding for the purpose of assisting and encouraging state and local
479 agencies and departments to enter into agreements with federal entities and to utilize
480 federal resources consistent with the provisions of this Code section.

481 **(c) Authority to transport illegal aliens.** If a state or local law enforcement officer has
482 verification that a person is an illegal alien, then such officer shall be authorized to securely
483 transport such illegal alien to a federal facility in this state or to any other temporary point
484 of detention and to reasonably detain such illegal alien when authorized by federal law.
485 Nothing in this Code section shall be construed to hinder or prevent a peace officer or law
486 enforcement agency from arresting or detaining any criminal suspect on other criminal
487 charges.

488 (d) Authority to arrest illegal aliens. When authorized by federal law, a state or local
 489 law enforcement officer shall be authorized to arrest any person based on such person's
 490 status as an illegal alien or for a violation of any federal immigration law.

491 (e) Immunity. A law enforcement officer or government official or employee, acting in
 492 good faith to enforce immigration laws pursuant to an agreement with federal authorities
 493 to collect or share immigration status information, or to carry out any provision of this
 494 Code section, shall have immunity from damages or liability from such actions."

495 **SECTION 10.**

496 Said title is further amended in Code Section 35-2-14, relating to defining peace officer and
 497 the enforcement of immigration and custom laws, by revising subsection (d) as follows:

498 "(d) The commissioner shall annually designate ~~appropriate~~ no fewer than ten peace
 499 officers to apply to be trained pursuant to the memorandum of understanding provided for
 500 in subsections (b) and (c) of this Code section. Such training shall be funded pursuant to
 501 ~~the any~~ federal Homeland Security Appropriation Act of 2006, ~~Public Law 109-90~~, or any
 502 subsequent source of federal funding. The provisions of this subsection shall become
 503 effective upon such funding."

504 **SECTION 11.**

505 Said title is further amended by adding a new Code section to read as follows:

506 "35-6A-10.

507 (a) Subject to available funding, the council shall establish a grant or incentive program
 508 for the provision of funds to local law enforcement agencies as incentive to such agencies
 509 to use the federal Department of Homeland Security's Secure Communities initiative or any
 510 successor or similar program and shall establish an incentive program and a grant program
 511 to offset the costs for local law enforcement agencies to enter into and implement
 512 memorandums of agreement with federal agencies under Section 287(g) of the federal
 513 Immigration and Nationality Act. In awarding such grants or incentives, the council shall
 514 be authorized to consider and give priority to local areas with the highest crime rates for
 515 crimes committed by illegal aliens.

516 (b) The council shall:

517 (1) Subject to available funding, provide incentive programs and grants to local law
 518 enforcement agencies for utilizing federal resources and for entering into agreements with
 519 federal agencies for the enforcement of immigration law;

520 (2) Provide technical assistance to local governments and agencies for obtaining and
 521 qualifying for incentive programs and grant funds to utilize available federal resources

522 and to enter into and implement such agreements provided for in subsection (a) of this
 523 Code section;

524 (3) Communicate information regarding the availability of federal resources and
 525 agreements provided for in subsection (a) of this Code section and the availability of
 526 related incentive programs and grant funds and post such information on the agency's
 527 official Internet website;

528 (4) Provide technical assistance and information regarding the process for contacting
 529 federal agencies, utilizing federal resources, and entering into agreements provided for
 530 in subsection (a) of this Code section and post such information on the agency's official
 531 Internet website; and

532 (5) Support state-wide campaigns and information programs in an effort to encourage
 533 every local law enforcement agency in this state to utilize federal resources and enter into
 534 agreements for the enforcement of state and federal immigration law."

535 **SECTION 12.**

536 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general
 537 provisions applicable to local governments, is amended by revising Code Section 36-60-6,
 538 relating to issuance of local business licenses and evidence of state licensure, as follows:

539 "36-60-6.

540 (a) Every private employer with more than ten employees shall register with and utilize
 541 the federal work authorization program, as defined by Code Section 13-10-90. The
 542 requirements of this subsection shall be effective on January 1, 2012, as to employers with
 543 500 or more employees, on July 1, 2012, as to employers with 100 or more employees but
 544 fewer than 500 employees, and on July 1, 2013, as to employers with more than ten
 545 employees but fewer than 100 employees.

546 (b) For purposes of this Code section, the term 'employee' shall have the same meaning as
 547 set forth in subparagraph (A) of paragraph (1.1) of Code Section 48-13-5, provided that
 548 such person is also employed to work not less than 35 hours per week.

549 (a)(c) Before any county or municipal corporation issues a business license, occupational
 550 tax certificate, or other document required to operate a business to any person engaged in
 551 a profession or business required to be licensed by the state under Title 43, the person must
 552 shall provide evidence of such licensure to the appropriate agency of the county or
 553 municipal corporation that issues business licenses. No business license, occupational tax
 554 certificate, or other document required to operate a business shall be issued to any person
 555 subject to licensure under Title 43 without evidence of such licensure being presented.

556 (d) Before any county or municipal corporation issues or renews a business license,
 557 occupational tax certificate, or other document required to operate a business to any person,

558 the person shall provide evidence that he or she is authorized to use the federal work
559 authorization program or evidence that the provisions of this Code section do not apply.
560 Evidence of such use shall be in the form of an affidavit as provided by the Attorney
561 General in subsection (f) of this Code section attesting that he or she utilizes the federal
562 work authorization program in accordance with federal regulations or that he or she
563 employs fewer than 11 employees or otherwise does not fall within the requirements of this
564 Code section. Whether an employer is exempt from using the federal work authorization
565 program as required by this Code section shall be determined by the number of employees
566 employed by such employer on January 1 of the year during which the affidavit is
567 submitted. The affidavit shall include the employer's federally assigned employment
568 eligibility verification system user number and the date of authority for use. The
569 requirements of this subsection shall be effective on January 1, 2012, as to employers with
570 500 or more employees, on July 1, 2012, as to employers with 100 or more employees but
571 fewer than 500 employees, and on July 1, 2013, as to employers with more than ten
572 employees but fewer than 100 employees.

573 (e) Beginning December 31, 2012, and annually thereafter, any county or municipal
574 corporation issuing or renewing a business license, occupational tax certificate, or other
575 document required to operate a business shall provide to the Department of Audits and
576 Accounts a report demonstrating that such county or municipality is acting in compliance
577 with the provisions of this Code section. This annual report shall identify each license or
578 certificate issued by the agency in the preceding 12 months and include the name of the
579 person and business issued a license or other document and his or her federally assigned
580 employment eligibility verification system user number as provided in the affidavit
581 submitted at the time of application. Subject to funding, the Department of Audits and
582 Accounts shall annually conduct an audit of no fewer than 20 percent of such reporting
583 agencies.

584 (f) In order to assist private businesses and counties and municipal corporations in
585 complying with the provisions of this Code section, the Attorney General shall provide a
586 standardized form affidavit which may be used as acceptable evidence demonstrating use
587 of the federal employment eligibility verification system or that the provisions of
588 subsection (b) of this Code section do not apply to the applicant. The form affidavit shall
589 be posted by the Attorney General on the Department of Law's official website no later
590 than January 1, 2012.

591 (g) Once an applicant for a business license, occupational tax certificate, or other
592 document required to operate a business has submitted an affidavit with a federally
593 assigned employment eligibility verification system user number, he or she shall not be
594 authorized to submit a renewal application using a new or different federally assigned

595 employment eligibility verification system user number, unless accompanied by a sworn
 596 document explaining the reason such applicant obtained a new or different federally
 597 assigned employment eligibility verification system user number.

598 ~~(b)~~(h) Any person presenting false or misleading evidence of ~~such~~ state licensure shall be
 599 guilty of a misdemeanor. Any government official or employee knowingly acting in
 600 violation of this Code section shall be guilty of a misdemeanor; provided, however, that
 601 any person who knowingly submits a false or misleading affidavit pursuant to this Code
 602 section shall be guilty of submitting a false document in violation of Code Section
 603 16-10-20. It shall be a defense to a violation of this Code section that such person acted
 604 in good faith and made a reasonable attempt to comply with the requirements of this Code
 605 section.

606 (i) Documents required by this Code section may be submitted electronically, provided the
 607 submission complies with Chapter 12 of Title 10.

608 (j) The Attorney General shall be authorized to conduct an investigation and bring any
 609 criminal or civil action he or she deems necessary to ensure compliance with the provisions
 610 of this Code section. The Attorney General shall provide an employer who is found to
 611 have committed a good faith violation of this Code section 30 days to demonstrate to the
 612 Attorney General that such employer has come into compliance with this Code section.
 613 During the course of any investigation of violations of this Code section, the Attorney
 614 General shall also investigate potential violations of Code Section 16-9-121.1 by
 615 employees that may have led to violations of this Code section."

616 **SECTION 13.**

617 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
 618 by revising Code Section 42-4-14, relating to determination of nationality of a person
 619 charged with felony and confined in a jail facility, as follows:

620 "42-4-14.

621 (a) As used in this Code section, the term 'illegal alien' means a person who is verified by
 622 the federal government to be present in the United States in violation of federal
 623 immigration law.

624 ~~(a)~~(b) When any person is confined, for any period, in the jail of a county or municipality
 625 or a jail operated by a regional jail authority in compliance with Article 36 of the Vienna
 626 Convention on Consular Relations, a reasonable effort shall be made to determine the
 627 nationality of the person so confined.

628 ~~(c)~~(b) ~~If the prisoner is a foreign national charged with a felony, driving under the~~
 629 ~~influence pursuant to Code Section 40-6-391, driving without being licensed pursuant to~~
 630 ~~subsection (a) of Code Section 40-5-20, or with a misdemeanor of a high and aggravated~~

631 ~~nature, the keeper of the jail or other officer shall make~~ When any foreign national is
 632 confined, for any period, in a county or municipal jail, a reasonable effort shall be made
 633 to verify that ~~the prisoner~~ such foreign national has been lawfully admitted to the United
 634 States and if lawfully admitted, that such lawful status has not expired. If verification of
 635 lawful status ~~can not~~ cannot be made from documents in the possession of the ~~prisoner~~
 636 foreign national, verification shall be made within 48 hours through a query to the Law
 637 Enforcement Support Center (LESC) of the United States Department of Homeland
 638 Security or other office or agency designated ~~for that purpose by the United States~~
 639 ~~Department of Homeland Security~~ by the federal government. If the ~~prisoner~~ foreign
 640 national is determined ~~not to be lawfully admitted to the United States~~ to be an illegal alien,
 641 the keeper of the jail or other officer shall notify the United States Department of
 642 Homeland Security, or other office or agency designated for notification by the federal
 643 government.

644 ~~(c)~~(d) Nothing in this Code section shall be construed to deny a person bond or from being
 645 released from confinement when such person is otherwise eligible for release; provided,
 646 however, that upon verification that any person confined in a jail is an illegal alien, such
 647 person may be detained, arrested, and transported as authorized by state and federal law.

648 ~~(d)~~(e) The Georgia Sheriffs Association shall prepare and issue guidelines and procedures
 649 used to comply with the provisions of this Code section."

650

SECTION 14.

651 Said title is further amended by revising subsection (c) of Code Section 42-5-51, relating to
 652 reimbursement of counties for housing certain inmates, as follows:

653 "(c) After proper documentation is received from the clerk of the court, the department
 654 shall have 15 days to transfer an inmate under sentence to the place of confinement. If the
 655 inmate is not transferred within the 15 days, the department ~~will~~ shall reimburse the county,
 656 in a sum not less than \$7.50 per day per inmate and in such an amount as may be
 657 appropriated for this purpose by the General Assembly, for the cost of the incarceration,
 658 commencing 15 days after proper documentation is received by the department from the
 659 clerk of the court; provided, however, that, subject to an appropriation of funds, local
 660 governing authorities that have entered into memorandums of understanding or agreement
 661 or that demonstrate continuous attempts to enter into memorandums of understanding or
 662 agreement with the federal government under Section 287(g) of the federal Immigration
 663 and Nationality Act shall receive an additional payment in the amount of 10 percent of the
 664 established rate paid for reimbursement for the confinement of state inmates in local
 665 confinement facilities. The reimbursement provisions of this Code section shall only apply
 666 to payment for the incarceration of felony inmates available for transfer to the department,

667 except inmates under death sentence awaiting transfer after their initial trial, and shall not
 668 apply to inmates who were incarcerated under the custody of the commissioner at the time
 669 they were returned to the county jail for trial on additional charges or returned to the county
 670 jail for any other purposes, including for the purpose of a new trial."

671 **SECTION 15.**

672 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 673 is amended by revising Code Section 45-10-28, relating to penalties for a violation of Part 1
 674 of Article 2 of Chapter 10 of Title 45 and civil actions by the Attorney General to collect
 675 penalties, as follows:

676 "45-10-28.

677 (a)(1) Any appointed public official or employee who violates Code Section 45-10-22,
 678 45-10-23, 45-10-24, or 45-10-26 shall be subject to:

679 (A) Removal from office or employment;

680 (B) A civil fine not to exceed \$10,000.00; and

681 (C) Restitution to the state of any pecuniary benefit received as a result of such
 682 violation.

683 (2) Any elected public official who violates Code Section 45-10-22, 45-10-23, 45-10-24,
 684 or 45-10-26 shall be subject to:

685 (A) A civil fine not to exceed \$10,000.00; and

686 (B) Restitution to the state of any pecuniary benefit received as a result of such
 687 violation.

688 (3) Any business which violates Code Section 45-10-22, 45-10-23, 45-10-24, or
 689 45-10-26 shall be subject to:

690 (A) A civil fine not to exceed \$10,000.00; and

691 (B) Restitution to the state of any pecuniary benefit received as a result of such
 692 violation.

693 (b) The penalties provided for in subsection (a) of this Code section may be imposed in
 694 any civil action brought for that purpose, and such actions shall be brought by the Attorney
 695 General.

696 (c) As used in this subsection, the term 'agency head' shall have the same meaning as set
 697 forth in Code Section 50-36-1. Any public official, agency head, or employee who violates
 698 Code Section 13-10-91 or 50-36-1 shall be subject to:

699 (A) A civil fine not to exceed \$10,000.00;

700 (B) Restitution to the state or local government, whichever is applicable, of any
 701 pecuniary benefit received as a result of such violation; and

702 (C) Where such violation is committed knowingly and intentionally, removal from
 703 office or employment."

704 **SECTION 16.**

705 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of
 706 lawful presence within the United States, is amended by revising subsection (a) of Code
 707 Section 50-36-1, relating to verification of lawful presence within the United States for
 708 receipt of certain government benefits, by renumbering paragraphs (1) through (3) as
 709 paragraphs (2) through (4), respectively, and by adding a new paragraph (1) to read as
 710 follows:

711 "(1) 'Agency head' means a director, commissioner, chairperson, mayor, councilmember,
 712 board member, sheriff, or other executive official, whether appointed or elected,
 713 responsible for establishing policy for a public employer."

714 **SECTION 17.**

715 Said Code section of said chapter is further amended by revising subsection (e) as follows:

716 "(e) An agency or political subdivision providing or administering a public benefit shall
 717 require every applicant for such benefit to:

718 (1) Provide at least one secure and verifiable document, as defined in Code Section
 719 50-36-2;

720 (2) Execute ~~execute~~ a signed and sworn affidavit verifying the applicant's lawful
 721 presence in the United States, which affidavit shall state:

722 ~~(A)~~(A) The applicant is a United States citizen or legal permanent resident 18 years of
 723 age or older; or

724 ~~(B)~~(B) The applicant is a qualified alien or nonimmigrant under the federal
 725 Immigration and Nationality Act, Title 8 U.S.C., ~~as amended~~, 18 years of age or older
 726 lawfully present in the United States and provide the applicant's alien number issued
 727 by the Department of Homeland Security or other federal immigration agency; and

728 (3) The state auditor shall create affidavits for use under this Code section and shall keep
 729 a current version of such affidavits on the Department of Audits and Account's official
 730 website.

731 (4) Documents required by this Code section may be submitted electronically, provided
 732 the submission complies with Chapter 12 of Title 10."

733 **SECTION 18.**

734 Said Code section of said chapter is further amended by revising subsection (o) as follows:

735 "(o) No employer, agency, or political subdivision shall be subject to lawsuit or liability
 736 arising from any act to comply with the requirements of this chapter; provided, however,
 737 that the intentional and knowing failure of any agency head to abide by the provisions of
 738 this chapter shall:

739 (1) Be a violation of the code of ethics for government service established in Code
 740 Section 45-10-1 and subject such agency head to the penalties provided for in Code
 741 Section 45-10-28, including removal from office and a fine not to exceed \$10,000.00; and

742 (2) Be a high and aggravated misdemeanor offense where such agency head acts to
 743 willfully violate the provisions of this Code section or acts so as to intentionally and
 744 deliberately interfere with the implementation of the requirements of this Code section.

745 The Attorney General shall have the authority to conduct a criminal and civil investigation
 746 of an alleged violation of this chapter by an agency or agency head and to bring a
 747 prosecution or civil action against an agency or agency head for all cases of violations
 748 under this chapter. In the event that an order is entered against an employer, the state shall
 749 be awarded attorney's fees and expenses of litigation incurred in bringing such an action
 750 and investigating such violation."

751 **SECTION 19.**

752 Said chapter is further amended by adding a new Code section to read as follows:

753 "50-36-2.

754 (a) This Code section shall be known and may be cited as the 'Secure and Verifiable
 755 Identity Document Act.'

756 (b) As used in this Code section, the term:

757 (1) 'Agency or political subdivision' means any department, agency, authority,
 758 commission, or government entity of this state or any subdivision of this state.

759 (2) 'Public official' means an elected or appointed official or an employee or an agent of
 760 an agency or political subdivision.

761 (3) 'Secure and verifiable document' means a document issued by a state or federal
 762 jurisdiction or recognized by the United States government and that is verifiable by
 763 federal or state law enforcement, intelligence, or homeland security agencies. Secure and
 764 verifiable document shall not mean a Matricula Consular de Alta Seguridad, matricula
 765 consular card, consular matriculation card, consular identification card, or similar
 766 identification card issued by a foreign government regardless of the holder's immigration
 767 status. Only those documents approved and posted by the Attorney General pursuant to
 768 subsection (f) of this Code section shall be considered secure and verifiable documents.

769 (c) Unless required by federal law, on or after January 1, 2012, no agency or political
 770 subdivision shall accept, rely upon, or utilize an identification document for any official

771 purpose that requires the presentation of identification by such agency or political
 772 subdivision or by federal or state law unless it is a secure and verifiable document.
 773 (d) Any person acting in willful violation of this Code section by knowingly accepting
 774 identification documents that are not secure and verifiable documents shall be guilty of a
 775 misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to
 776 exceed 12 months, a fine not to exceed \$1,000.00, or both.
 777 (e) This Code section shall not apply to:
 778 (1) A person reporting a crime;
 779 (2) An agency official accepting a crime report, conducting a criminal investigation, or
 780 assisting a foreign national to obtain a temporary protective order;
 781 (3) A person providing services to infants, children, or victims of a crime;
 782 (4) A person providing emergency medical service;
 783 (5) A peace officer in the performance of the officer's official duties and within the scope
 784 of his or her employment;
 785 (6) Instances when a federal law mandates acceptance of a document;
 786 (7) A court, court official, or traffic violation bureau for the purpose of enforcing a
 787 citation, accusation, or indictment;
 788 (8) Paragraph (2) of subsection (a) of Code Section 40-5-21 or paragraph (2) of
 789 subsection (a) of Code Section 40-5-21.1; or
 790 (9) An attorney or his or her employees for the purpose of representing a criminal
 791 defendant.
 792 (f) Not later than August 1, 2011, the Attorney General shall provide and make public on
 793 the Department of Law's website a list of acceptable secure and verifiable documents. The
 794 list shall be reviewed and updated annually by the Attorney General."

795 **SECTION 20.**

796 Said chapter is further amended by adding a new Code section to read as follows:

797 "50-36-3.

798 (a) As used in this Code section, the term:

799 (1) 'Board' means the Immigration Enforcement Review Board.

800 (2) 'Public agency or employee' means any government, department, commission,
 801 committee, authority, board, or bureau of this state or any political subdivision of this
 802 state and any employee or official, whether appointed, elected, or otherwise employed
 803 by such a governmental entity.

804 (3) 'Served' or 'service' means delivery by certified mail or statutory overnight delivery,
 805 return receipt requested.

806 (b) The Immigration Enforcement Review Board is established and shall consist of seven
807 members. Three members shall be appointed by the Governor, two members shall be
808 appointed by the Lieutenant Governor, and two members shall be appointed by the Speaker
809 of the House of Representatives. A chairperson shall be selected by a majority vote of the
810 members. All matters before the board shall be determined by a majority vote of qualified
811 board members. Members shall be appointed for terms of two years and shall continue to
812 hold such position until their successors are duly appointed and qualified. A member may
813 be reappointed to an additional term. If a vacancy occurs in the membership of the board,
814 the appropriate appointing party shall appoint a successor for the remainder of the
815 unexpired term and until a successor is appointed and qualified.

816 (c) The board shall be attached to the Department of Audits and Accounting for
817 administrative purposes. The members of the board shall receive no compensation for their
818 services but shall be reimbursed for any expenses incurred in connection with the
819 investigation and review of complaints from funds of the board appropriated to the
820 Department of Audits and Accounting for such purposes.

821 (d) The Immigration Enforcement Review Board shall have the following duties:

822 (1) To conduct a review or investigation of any complaint properly filed with the board;

823 (2) To take such remedial action deemed appropriate in response to complaints filed with
824 the board, including holding hearings and considering evidence;

825 (3) To make and adopt rules and regulations consistent with the provisions of this Code
826 section; and

827 (4) To subpoena relevant documents and witnesses and to place witnesses under oath for
828 the provision of testimony in matters before the board.

829 (e) The board shall have the authority to investigate and review any complaint with respect
830 to all actions of a public agency or employee alleged to have violated or failed to properly
831 enforce the provisions of Code Section 13-10-91, 36-80-23, or 50-36-1 with which such
832 public agency or employee was required to comply. Complaints may be received from any
833 legal resident of this state as defined by Code Section 40-2-1 who is also a legally
834 registered voter. The method and grounds for filing a complaint shall be posted on the
835 Department of Audits and Accounting's website.

836 (f) The board shall meet at a minimum of once every three months and shall send a notice
837 to all interested parties of the places and times of its meetings. The board shall issue a
838 written report of its findings in all complaints which shall include such evaluations,
839 judgments, and recommendations as it deems appropriate.

840 (g) The initial review or hearing may, as determined by the board, be conducted by the full
841 board or by one or more board members. Such review panel or members shall make
842 findings and issue an initial decision. The initial decision shall be served upon the

843 complaining party and the applicable public agency or employee that is the subject of a
 844 complaint within 60 calendar days. If the findings are adverse to the public agency or
 845 employee, or both, such party shall have 30 days to take the necessary remedial action, if
 846 any, and show cause why sanctions should not be imposed.

847 (h) In the event that the remedial action does not occur to the satisfaction of the review
 848 panel or members, the reviewing panel or members shall make a recommendation
 849 specifying an appropriate sanction. Sanctions may include revocation of qualified local
 850 government status, loss of state appropriated funds, and a monetary fine of not less than
 851 \$1,000.00 or more than \$5,000.00. Sanctions shall only be imposed against an individual
 852 employee or official where there is a finding supported by a preponderance of the evidence
 853 that such individual knowingly and willfully violated or failed to abide by the provisions
 854 of Code Section 13-10-91, 36-80-23, or 50-36-1.

855 (i) The initial decision or recommendation for sanctions, or both, shall be served upon the
 856 complaining party and the applicable public agency or employee that is the subject of a
 857 complaint. Where an initial decision is made by fewer than the entire board, the decision
 858 may be appealed to the full board. Appeals shall be filed with the board not later than 30
 859 days following the recommendation for sanctions, or 30 days following the initial decision,
 860 if no adverse findings were made. Appeals may be made by the complainant or sanctioned
 861 public agency or employee. The full board shall by majority vote affirm, overturn, or
 862 modify the initial decision. The board may conduct a further hearing on the matter, or make
 863 a final decision based on the record from any previously held hearing by the original
 864 reviewing panel or members, or determine that no action is necessary based on the
 865 information before the board. Where the initial decision or recommendation is made by
 866 the full board, such decision shall be the final decision of the board following 30 days after
 867 service on the public agency or employee, unless further action is taken by the board prior
 868 to the expiration of the 30 day period.

869 (j) When a public agency or employee fails to take the specified remedial action, the
 870 Attorney General shall be authorized to bring a civil mandamus action against such public
 871 agency or employee to enforce compliance with applicable law and the sanctions
 872 recommended by the board. Nothing contained in this Code section shall prohibit the
 873 Attorney General from seeking any other remedy available by law."

874 **SECTION 20.1.**

875 WHEREAS, Georgia's agricultural industry is a vital pillar for this state's economy and
 876 essential to the quality of life enjoyed by all Georgians; and

877 WHEREAS, understanding the impact of immigration reform measures on Georgia's
878 important agricultural industry is a fundamental key to the implementation of immigration
879 reform in a manner that is in the best interests of this state; and

880 WHEREAS, the General Assembly recognizes that the federal guest worker program,
881 designated the H-2A visa program, for temporary and seasonal agriculture immigrant
882 workers is administratively cumbersome and flawed; and

883 WHEREAS, both Georgia and federal law fail to address many of the legal, economic, and
884 security aspects of immigration issues facing our state and especially our agricultural
885 industry; and

886 WHEREAS, these issues of great importance to the economy and of this state have not
887 before received extensive study by the Georgia General Assembly and merit such detailed
888 and specialized consideration at this time.

889 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF
890 GEORGIA that the Department of Agriculture is directed to conduct a study of the
891 conditions, needs, issues, and problems mentioned above or related thereto and recommend
892 any actions or legislation that the department deems necessary or appropriate. The
893 Department of Agriculture shall consider the current and future impact of immigration on the
894 state agricultural industry. The department shall work in conjunction with and collect expert
895 testimony and information from the United States Department of Agriculture, the Department
896 of Justice, and other state governments. The department shall specifically address the need
897 for reform of the federal H-2A program and provide recommendations for such federal
898 reform. In addition, the department shall recommend changes needed in Georgia to provide
899 for improvements in the H-2A process, identify where such action may be taken by the state,
900 and provide a report evaluating the legal and economic feasibility of implementing a state
901 guest worker program. The department may conduct such meetings at such places and at
902 such times as it may deem necessary or convenient to enable it to exercise fully and
903 effectively its powers, perform its duties, and accomplish the objectives and purposes of this
904 resolution. The Department of Agriculture shall make a final written report to the Governor,
905 the President of the Senate, and the Speaker of the House of Representatives not later than
906 January 1, 2012. Provided that the provisions of this Act have been complied with, the
907 department shall not have any further obligation to continue such study on or after January
908 1, 2012.

909

SECTION 21.

910 (a) If any provision or part of any provision of this Act or the application of the same is held
911 invalid or unconstitutional, the invalidity shall not affect the other provisions or applications
912 of this Act or any other part of this Act than can be given effect without the invalid provision
913 or application, and to this end, the provisions of this Act are severable.

914 (b) The terms of this Act regarding immigration shall be construed to have the meanings
915 consistent with such terms under federal immigration law.

916 (c) The provisions of this Act shall be implemented in a manner consistent with federal laws
917 governing immigration and civil rights.

918

SECTION 22.

919 Section 17 of this Act shall become effective on January 1, 2012. The remaining sections
920 of this Act shall become effective on July 1, 2011. Except as otherwise expressly provided,
921 the sections of this Act shall apply to offenses and violations occurring on or after their
922 respective effective dates.

923

SECTION 23.

924 All laws and parts of laws in conflict with this Act are repealed.