



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6937

by Rep. Randy Ramey, Jr.

SYNOPSIS AS INTRODUCED:

See Index

Creates the Immigration Law Enforcement Act. Provides that no official or agency of this State or a political subdivision of this State may limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law. Provides that for any lawful stop, detention, or arrest made by a law enforcement official or a law enforcement agency of this State or a law enforcement official or a law enforcement agency of a political subdivision of this State in the enforcement of any other law of this State or ordinance of a county or municipality where reasonable suspicion exists that the person is an alien and is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person, except if the determination may hinder or obstruct an investigation. Provides that any person who is arrested shall have the person's immigration status determined before the person is released. Provides that the person's immigration status shall be verified with the federal government. Provides that a law enforcement official or agency of this State or a political subdivision of this State may not consider race, color, or national origin in implementing the requirements of these provisions except to the extent permitted by the United States or Illinois Constitution. Amends various Acts to make conforming changes. Preempts home rule. Provides that the provisions of the Act are severable.

LRB096 22524 RLC 42006 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning aliens.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Immigration Law Enforcement Act.

6 Section 5. Intent. The General Assembly finds that there is
7 a compelling interest in the cooperative enforcement of federal
8 immigration laws throughout all of Illinois. The General
9 Assembly declares that the intent of this Act is to make
10 attrition through enforcement the public policy of all State
11 and local government agencies in Illinois. The provisions of
12 this Act are intended to work together to discourage and deter
13 the unlawful entry and presence of aliens and economic activity
14 by persons unlawfully present in the United States.

15 Section 10. Cooperation and assistance in enforcement of
16 immigration laws; indemnification.

17 (a) No official or agency of this State or a political
18 subdivision of this State may limit or restrict the enforcement
19 of federal immigration laws to less than the full extent
20 permitted by federal law.

21 (b) For any lawful stop, detention, or arrest made by a law
22 enforcement official or a law enforcement agency of this State

1 or a law enforcement official or a law enforcement agency of a
2 political subdivision of this State in the enforcement of any
3 other law of this State or ordinance of a county or
4 municipality where reasonable suspicion exists that the person
5 is an alien and is unlawfully present in the United States, a
6 reasonable attempt shall be made, when practicable, to
7 determine the immigration status of the person, except if the
8 determination may hinder or obstruct an investigation. Any
9 person who is arrested shall have the person's immigration
10 status determined before the person is released. The person's
11 immigration status shall be verified with the federal
12 government pursuant to 8 U.S.C. 1373(c). A law enforcement
13 official or agency of this State or a political subdivision of
14 this State may not consider race, color, or national origin in
15 implementing the requirements of this subsection (b) except to
16 the extent permitted by the United States or Illinois
17 Constitution. A person is presumed to not be an alien who is
18 unlawfully present in the United States if the person provides
19 to the law enforcement officer or agency any of the following:

20 (1) a valid Illinois driver's license;

21 (2) a valid Illinois Identification Card;

22 (3) if the entity requires proof of legal presence in
23 the United States before issuance, any valid United States
24 federal, State or local government issued identification.

25 (c) If an alien who is unlawfully present in the United
26 States is convicted of a violation of State or local law, on

1 discharge from imprisonment or on the assessment of any
2 monetary obligation that is imposed, the United States
3 Immigration and Customs Enforcement or the United States
4 Customs and Border Protection shall be immediately notified.

5 (d) Notwithstanding any other law, a law enforcement agency
6 may securely transport an alien whom the agency has received
7 verification is unlawfully present in the United States and who
8 is in the agency's custody to a federal facility in this State
9 or to any other point of transfer into federal custody that is
10 outside the jurisdiction of the law enforcement agency. A law
11 enforcement agency shall obtain judicial authorization before
12 securely transporting an alien who is unlawfully present in the
13 United States to a point of transfer that is outside of this
14 State.

15 (e) In the implementation of this Section, an alien's
16 immigration status may be determined by:

17 (1) a law enforcement officer who is authorized by the
18 federal government to verify or ascertain an alien's
19 immigration status;

20 (2) the United States Immigration and Customs
21 Enforcement or the United States Customs and Border
22 Protection pursuant to 8 U.S.C. 1373(c).

23 (f) Except as provided in federal law, officials or
24 agencies of this State and political subdivisions of this State
25 may not be prohibited or in any way be restricted from sending,
26 receiving, or maintaining information relating to the

1 immigration status, lawful or unlawful, of any individual or
2 exchanging that information with any other federal, State or
3 local governmental entity for the following official purposes:

4 (1) determining eligibility for any public benefit,
5 service or license provided by any federal, State, or other
6 political subdivision of this State;

7 (2) verifying any claim of residence or domicile if
8 determination of residence or domicile is required under
9 the laws of this State or a judicial order issued pursuant
10 to a civil or criminal proceeding in this State;

11 (3) if the person is an alien, determining whether the
12 person is in compliance with the federal registration laws
13 prescribed by Title II, Chapter 7 of the federal
14 Immigration and Nationality Act; and

15 (4) pursuant to 8 U.S.C. 1373 and 8 U.S.C. 1644.

16 (g) This Section does not implement, authorize, or
17 establish and shall not be construed to implement, authorize,
18 or establish the Real ID Act of 2005 (P.L. 109-13, Division B;
19 119 Stat. 302), including the use of a radio frequency
20 identification chip.

21 (h) A person who is a legal resident of this State may
22 bring an action in circuit court to challenge any official or
23 agency of this State or a political subdivision of this State
24 that adopts or implements a policy that limits or restricts the
25 enforcement of federal immigration laws, including 8 U.S.C.
26 1373 and 1644, to less than the full extent permitted by

1 federal law. If there is a judicial finding that an entity has
2 violated this Section, the court shall order that the entity
3 pay a civil penalty of not less than \$500 and not more than
4 \$5,000 for each day that the policy has remained in effect
5 after the filing of an action pursuant to this subsection.

6 (i) A court shall collect the civil penalty prescribed in
7 subsection (h) of this Section and remit the civil penalty to
8 the State treasurer for deposit in the Immigration Law
9 Enforcement Fund established by Section 25 of this Act.

10 (j) The court may award court costs and reasonable
11 attorney's fees to any person or any official or agency of this
12 State or a political subdivision of this State that prevails by
13 an adjudication on the merits in a proceeding brought pursuant
14 to this Section.

15 (k) Except in relation to matters in which the officer is
16 adjudged to have acted in bad faith, a law enforcement officer
17 is indemnified by the law enforcement officer's agency against
18 reasonable costs and expenses, including attorney fees,
19 incurred by the officer in connection with any action, suit or
20 proceeding brought pursuant to this Section in which the
21 officer may be a defendant by reason of the officer being or
22 having been a member of the law enforcement agency.

23 (l) This Section shall be implemented in a manner
24 consistent with federal laws regulating immigration,
25 protecting the civil rights of all persons, and respecting the
26 privileges and immunities of United States citizens.

1 Section 15. Willful failure to complete or carry an alien
2 registration document; assessment; exception; authenticated
3 records; classification.

4 (a) In addition to any violation of federal law, a person
5 is guilty of willful failure to complete or carry an alien
6 registration document if the person is in violation of 8 U.S.C.
7 1304(e) or 1306(a).

8 (b) In the enforcement of this Section, an alien's
9 immigration status may be determined by:

10 (1) a law enforcement officer who is authorized by the
11 federal government to verify or ascertain an alien's
12 immigration status; or

13 (2) the United States Immigration and Customs
14 Enforcement or the United States Customs and Border
15 Protection pursuant to 8 U.S.C. 1373(c).

16 (c) A law enforcement official or agency of this State or a
17 political subdivision of this State may not consider race,
18 color, or national origin in the enforcement of this Section
19 except to the extent permitted by the United States or Illinois
20 Constitution.

21 (d) A person who is sentenced pursuant to this Section is
22 not eligible for suspension of sentence, probation,
23 conditional discharge, pardon, commutation of sentence, or
24 release from confinement on any basis except for medical
25 treatment or work release as authorized by the Unified Code of

1 Corrections or the County Jail Act until the sentence imposed
2 by the court has been served or the person is eligible for
3 release pursuant to Section 3 of the County Jail Good Behavior
4 Allowance Act.

5 (e) In addition to any other penalty prescribed by law, the
6 court shall order the person to pay jail costs.

7 (f) This Section does not apply to a person who maintains
8 authorization from the federal government to remain in the
9 United States.

10 (g) Any record that relates to the immigration status of a
11 person is admissible in any court without further foundation or
12 testimony from a custodian of records if the record is
13 certified as authentic by the government agency that is
14 responsible for maintaining the record.

15 (h) A violation of this Section is a Class C misdemeanor,
16 except that the maximum fine is \$100 and for a first violation
17 of this Section, the court shall not sentence the person to
18 more than 20 days in jail and for a second or subsequent
19 violation, the court shall not sentence the person to more than
20 30 days in jail.

21 Section 20. Unlawful application, solicitation or
22 employment; classification; definitions.

23 (a) For the purposes of this Section:

24 "Solicit" means verbal or nonverbal communication by a
25 gesture or a nod that would indicate to a reasonable person

1 that a person is willing to be employed.

2 "Unauthorized alien" means an alien who does not have
3 the legal right or authorization under federal law to work
4 in the United States as described in 8 U.S.C. 1324a(h)(3).

5 (b) It is unlawful for a person who is unlawfully present
6 in the United States and who is an unauthorized alien to
7 knowingly apply for work, solicit work in a public place, or
8 perform work as an employee or independent contractor in this
9 State.

10 (c) A law enforcement official or agency of this State or a
11 political subdivision of this State may not consider race,
12 color, or national origin in the enforcement of this Section
13 except to the extent permitted by the United States or Illinois
14 Constitution.

15 (d) In the enforcement of this Section, an alien's
16 immigration status may be determined by:

17 (1) a law enforcement officer who is authorized by the
18 federal government to verify or ascertain an alien's
19 immigration status;

20 (2) the United States Immigration and Customs
21 Enforcement or the United States Customs and Border
22 Protection pursuant to 8 U.S.C. 1373(c).

23 (e) Sentence. A violation of this Section is a Class B
24 misdemeanor.

25 Section 25. Immigration Law Enforcement Fund. The

1 Immigration Law Enforcement Fund is established in the State
2 treasury consisting of moneys deposited pursuant to Section 10
3 of this Act and moneys appropriated by the General Assembly.
4 The Department of State Police shall administer the Fund.
5 Moneys in the Fund are subject to appropriation by the General
6 Assembly and shall be used for immigration enforcement and for
7 county jail reimbursement costs relating to illegal
8 immigration.

9 Section 30. Home rule preemption. This Act is a denial and
10 limitation of home rule powers and functions under subsection
11 (h) of Section 6 of Article VII of the Illinois Constitution.

12 Section 105. The State Finance Act is amended by adding
13 Section 5.755 as follows:

14 (30 ILCS 105/5.755 new)

15 Sec. 5.755. The Immigration Law Enforcement Fund.

16 Section 110. The Illinois Vehicle Code is amended by adding
17 Sections 11-1307 and 11-1308 as follows:

18 (625 ILCS 5/11-1307 new)

19 Sec. 11-1307. Unlawful stopping to hire and pick up
20 passengers for work.

21 (a) It is unlawful for an occupant of a motor vehicle that

1 is stopped on a street, roadway, or highway to attempt to hire
2 or hire and pick up passengers for work at a different location
3 if the motor vehicle blocks or impedes the normal movement of
4 traffic.

5 (b) It is unlawful for a person to enter a motor vehicle
6 that is stopped on a street, roadway, or highway in order to be
7 hired by an occupant of the motor vehicle and to be transported
8 to work at a different location if the motor vehicle blocks or
9 impedes the normal movement of traffic.

10 (c) Sentence. A violation of this Section is a Class B
11 misdemeanor.

12 (d) In the implementation of this Section, an alien's
13 immigration status may be determined by:

14 (1) a law enforcement officer who is authorized by the
15 federal government to verify or ascertain an alien's
16 immigration status;

17 (2) the United States Immigration and Customs
18 Enforcement or the United States Customs and Border
19 Protection pursuant to 8 U.S.C. 1373(c).

20 (625 ILCS 5/11-1308 new)

21 Sec. 11-1308. Unlawful transporting, moving, concealing,
22 harboring, or shielding of unlawful aliens; vehicle
23 impoundment; exception, classification.

24 (a) It is unlawful for a person who is in violation of a
25 criminal offense to:

1 (1) transport or move or attempt to transport or move
2 an alien in this State, in furtherance of the illegal
3 presence of the alien in the United States, in a means of
4 transportation if the person knows or recklessly
5 disregards the fact that the alien has come to, has entered
6 or remains in the United States in violation of law;

7 (2) conceal, harbor, or shield or attempt to conceal,
8 harbor, or shield an alien from detection in any place in
9 this State, including any building or any means of
10 transportation, if the person knows or recklessly
11 disregards the fact that the alien has come to, has entered
12 or remains in the United States in violation of law; or

13 (3) encourage or induce an alien to come to or reside
14 in this State if the person knows or recklessly disregards
15 the fact that such coming to, entering or residing in this
16 State is or will be in violation of law.

17 (b) A means of transportation that is used in the
18 commission of a violation of this Section is subject to
19 mandatory vehicle immobilization or impoundment.

20 (c) A law enforcement official or agency of this State or a
21 political subdivision of this State may not consider race,
22 color, or national origin in the enforcement of this Section
23 except to the extent permitted by the United States or Illinois
24 Constitution.

25 (d) In the enforcement of this Section, an alien's
26 immigration status may be determined by:

1 (1) a law enforcement officer who is authorized by the
2 federal government to verify or ascertain an alien's
3 immigration status; or

4 (2) the United States Immigration and Customs
5 Enforcement or the United States Customs and Border
6 Protection pursuant to 8 U.S.C. 1373(c).

7 (e) This Section does not apply to a child protective
8 services worker acting in the worker's official capacity or a
9 person who is acting in the capacity of a first responder, an
10 ambulance attendant, or an emergency medical technician and who
11 is transporting or moving an alien in this State pursuant to
12 the Emergency Medical Services (EMS) Systems Act.

13 (f) A person who violates this Section is guilty of a Class
14 B misdemeanor and is subject to a fine of at least \$1,000,
15 except that a violation of this Section that involves 10 or
16 more illegal aliens is a Class 4 felony and the person is
17 subject to a fine of at least \$1,000 for each alien who is
18 involved.

19 Section 115. The Criminal Code of 1961 is amended by
20 changing Section 36-1 as follows:

21 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

22 Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used
23 with the knowledge and consent of the owner in the commission
24 of, or in the attempt to commit as defined in Section 8-4 of

1 this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2,
2 11-6, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-4.1, 12-4.2,
3 12-4.2-5, 12-4.3, 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 16-1 if
4 the theft is of precious metal or of scrap metal, 18-2, 19-1,
5 19-2, 19-3, 20-1, 20-2, ~~29D-15.2~~, 24-1.2, 24-1.2-5, 24-1.5, ~~or~~
6 28-1, or 29D-15.2 of this Code, paragraph (a) of Section 12-4
7 of this Code, paragraph (a) of Section 12-15 or paragraphs (a),
8 (c) or (d) of Section 12-16 of this Code, or paragraph (a)(6)
9 or (a)(7) of Section 24-1 of this Code; (b) Section 21, 22, 23,
10 24 or 26 of the Cigarette Tax Act if the vessel, vehicle or
11 aircraft contains more than 10 cartons of such cigarettes; (c)
12 Section 28, 29 or 30 of the Cigarette Use Tax Act if the
13 vessel, vehicle or aircraft contains more than 10 cartons of
14 such cigarettes; (d) Section 44 of the Environmental Protection
15 Act; (e) 11-204.1 of the Illinois Vehicle Code; (f) the
16 offenses described in the following provisions of the Illinois
17 Vehicle Code: Section 11-501 subdivisions (c-1)(1), (c-1)(2),
18 (c-1)(3), (d)(1)(A), (d)(1)(D), (d)(1)(G), or (d)(1)(H); (g)
19 an offense described in subsection (g) of Section 6-303 of the
20 Illinois Vehicle Code; ~~or~~ (h) an offense described in
21 subsection (e) of Section 6-101 of the Illinois Vehicle Code;
22 or (i) an offense described in Section 11-1308 of the Illinois
23 Vehicle Code; may be seized and delivered forthwith to the
24 sheriff of the county of seizure.

25 Within 15 days after such delivery the sheriff shall give
26 notice of seizure to each person according to the following

1 method: Upon each such person whose right, title or interest is
2 of record in the office of the Secretary of State, the
3 Secretary of Transportation, the Administrator of the Federal
4 Aviation Agency, or any other Department of this State, or any
5 other state of the United States if such vessel, vehicle or
6 aircraft is required to be so registered, as the case may be,
7 by mailing a copy of the notice by certified mail to the
8 address as given upon the records of the Secretary of State,
9 the Department of Aeronautics, Department of Public Works and
10 Buildings or any other Department of this State or the United
11 States if such vessel, vehicle or aircraft is required to be so
12 registered. Within that 15 day period the sheriff shall also
13 notify the State's Attorney of the county of seizure about the
14 seizure.

15 In addition, any mobile or portable equipment used in the
16 commission of an act which is in violation of Section 7g of the
17 Metropolitan Water Reclamation District Act shall be subject to
18 seizure and forfeiture under the same procedures provided in
19 this Article for the seizure and forfeiture of vessels,
20 vehicles and aircraft, and any such equipment shall be deemed a
21 vessel, vehicle or aircraft for purposes of this Article.

22 When a person discharges a firearm at another individual
23 from a vehicle with the knowledge and consent of the owner of
24 the vehicle and with the intent to cause death or great bodily
25 harm to that individual and as a result causes death or great
26 bodily harm to that individual, the vehicle shall be subject to

1 seizure and forfeiture under the same procedures provided in
2 this Article for the seizure and forfeiture of vehicles used in
3 violations of clauses (a), (b), (c), or (d) of this Section.

4 If the spouse of the owner of a vehicle seized for an
5 offense described in subsection (g) of Section 6-303 of the
6 Illinois Vehicle Code, a violation of subdivision (c-1)(1),
7 (c-1)(2), (c-1)(3), (d)(1)(A), or (d)(1)(D) of Section 11-501
8 of the Illinois Vehicle Code, or Section 9-3 of this Code makes
9 a showing that the seized vehicle is the only source of
10 transportation and it is determined that the financial hardship
11 to the family as a result of the seizure outweighs the benefit
12 to the State from the seizure, the vehicle may be forfeited to
13 the spouse or family member and the title to the vehicle shall
14 be transferred to the spouse or family member who is properly
15 licensed and who requires the use of the vehicle for employment
16 or family transportation purposes. A written declaration of
17 forfeiture of a vehicle under this Section shall be sufficient
18 cause for the title to be transferred to the spouse or family
19 member. The provisions of this paragraph shall apply only to
20 one forfeiture per vehicle. If the vehicle is the subject of a
21 subsequent forfeiture proceeding by virtue of a subsequent
22 conviction of either spouse or the family member, the spouse or
23 family member to whom the vehicle was forfeited under the first
24 forfeiture proceeding may not utilize the provisions of this
25 paragraph in another forfeiture proceeding. If the owner of the
26 vehicle seized owns more than one vehicle, the procedure set

1 out in this paragraph may be used for only one vehicle.

2 Property declared contraband under Section 40 of the
3 Illinois Streetgang Terrorism Omnibus Prevention Act may be
4 seized and forfeited under this Article.

5 (Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10; revised
6 10-9-09.)

7 Section 120. The Code of Criminal Procedure of 1963 is
8 amended by changing Section 107-2 as follows:

9 (725 ILCS 5/107-2) (from Ch. 38, par. 107-2)

10 Sec. 107-2. (1) Arrest by Peace Officer. A peace officer
11 may arrest a person when:

12 (a) He has a warrant commanding that such person be
13 arrested; or

14 (b) He has reasonable grounds to believe that a warrant for
15 the person's arrest has been issued in this State or in another
16 jurisdiction; or

17 (c) He has reasonable grounds to believe that the person is
18 committing or has committed an offense; or -

19 (d) He or she has reasonable grounds to believe that the
20 person to be arrested has committed an offense that makes the
21 person removable from the United States.

22 (2) Whenever a peace officer arrests a person, the officer
23 shall question the arrestee as to whether he or she has any
24 children under the age of 18 living with him or her who may be

1 neglected as a result of the arrest or otherwise. The peace
2 officer shall assist the arrestee in the placement of the
3 children with a relative or other responsible person designated
4 by the arrestee. If the peace officer has reasonable cause to
5 believe that a child may be a neglected child as defined in the
6 Abused and Neglected Child Reporting Act, he shall report it
7 immediately to the Department of Children and Family Services
8 as provided in that Act.

9 (3) A peace officer who executes a warrant of arrest in
10 good faith beyond the geographical limitation of the warrant
11 shall not be liable for false arrest.

12 (Source: P.A. 86-298.)

13 Section 125. The Right to Privacy in the Workplace Act is
14 amended by changing Section 12 as follows:

15 (820 ILCS 55/12)

16 Sec. 12. Use of employment eligibility verification
17 systems; intentionally employing unauthorized aliens;
18 prohibition; false and frivolous complaints; violation;
19 affirmative defense ~~Employment Eligibility Verification~~
20 ~~Systems~~.

21 (a) On and after the effective date of this amendatory Act
22 of the 96th General Assembly, every employer, after hiring an
23 employee, shall verify the employment eligibility of the
24 employee through the E-Verify program and shall keep a record

1 of the verification.

2 (b) An employer shall not intentionally employ an
3 unauthorized alien. If, in the case when an employer uses a
4 contract, subcontract, or other independent contractor
5 agreement to obtain the labor of an alien in this State, the
6 employer intentionally contracts with an unauthorized alien or
7 with a person who employs or contracts with an unauthorized
8 alien to perform the labor, the employer violates this
9 subsection.

10 (c) The Department of Labor shall prescribe a complaint
11 form for a person to allege a violation of subsection (b) of
12 this Section. The complainant shall not be required to list the
13 complainant's social security number on the complaint form or
14 to have the complaint form notarized. On receipt of a complaint
15 on a prescribed complaint form that an employer allegedly
16 intentionally employs an unauthorized alien, the Department
17 shall investigate whether the employer has violated subsection
18 (b) of this Section. If a complaint is received but is not
19 submitted on a prescribed complaint form, the Department of
20 Labor may investigate whether the employer has violated
21 subsection (b) of this Section. This subsection shall not be
22 construed to prohibit the filing of anonymous complaints that
23 are not submitted on a prescribed complaint form. The
24 Department shall not investigate complaints that are based on
25 race, color, or national origin. The Department may take
26 evidence, administer oaths or affirmations, issue subpoenas

1 requiring attendance and testimony of witnesses and cause
2 depositions to be taken. When investigating a complaint, the
3 Department shall verify the work authorization of the alleged
4 unauthorized alien with the federal government pursuant to 8
5 U.S.C. 1373(c). A State, county, or local official shall not
6 attempt to independently make a final determination on whether
7 an alien is authorized to work in the United States. An alien's
8 immigration status or work authorization status shall be
9 verified with the federal government pursuant to 8 U.S.C.
10 1373(c). A person who knowingly files a false and frivolous
11 complaint under this subsection is guilty of a Class C
12 misdemeanor.

13 (d) It is an affirmative defense to a violation of
14 subsection (b) of this Section that the employer was entrapped.
15 To claim entrapment, the employer must admit by the employer's
16 testimony or other evidence the substantial elements of the
17 violation. An employer who asserts an entrapment defense has
18 the burden of proving the following by clear and convincing
19 evidence:

20 (1) the idea of committing the violation started with
21 law enforcement officers or their agents rather than with
22 the employer;

23 (2) the law enforcement officers or their agents urged
24 and induced the employer to commit the violation; and

25 (3) the employer was not predisposed to commit the
26 violation before the law enforcement officers or their

1 agents urged and induced the employer to commit the
2 violation.

3 (e) An employer does not establish entrapment if the
4 employer was predisposed to violate subsection (b) of this
5 Section and the law enforcement officers or their agents merely
6 provided the employer with an opportunity to commit the
7 violation. It is not entrapment for law enforcement officers or
8 their agents merely to use a ruse or to conceal their identity.
9 The conduct of law enforcement officers and their agents may be
10 considered in determining if an employer has proven entrapment.

11 ~~(a) Prior to choosing to voluntarily enroll in any~~
12 ~~Electronic Employment Verification System, including the~~
13 ~~E-Verify program and the Basic Pilot program, as authorized by~~
14 ~~8 U.S.C. 1324a, Notes, Pilot Programs for Employment~~
15 ~~Eligibility Confirmation (enacted by P.L. 104-208, div. C,~~
16 ~~title IV, subtitle A), employers are urged to consult the~~
17 ~~Illinois Department of Labor's website for current information~~
18 ~~on the accuracy of E-Verify and to review and understand an~~
19 ~~employer's legal responsibilities relating to the use of the~~
20 ~~voluntary E-Verify program.~~

21 ~~(a-1) The Illinois Department of Labor (IDOL) shall post on~~
22 ~~its website information or links to information from the United~~
23 ~~States Government Accountability Office, Westat, or a similar~~
24 ~~reliable source independent of the Department of Homeland~~
25 ~~Security regarding: (1) the accuracy of the E-Verify databases;~~
26 ~~(2) the approximate financial burden and expenditure of time~~

1 ~~that use of E-Verify requires from employers; and (3) an~~
2 ~~overview of an employer's responsibilities under federal and~~
3 ~~state law relating to the use of E-Verify.~~

4 (f) ~~(b)~~ Upon initial enrollment in an Employment
5 Eligibility Verification System or within 30 days after the
6 effective date of this amendatory Act of the 96th General
7 Assembly, an employer enrolled in E-Verify or any other
8 Employment Eligibility Verification System must attest, under
9 penalty of perjury, on a form prescribed by the IDOL available
10 on the IDOL website:

11 (1) that the employer has received the Basic Pilot or
12 E-Verify training materials from the Department of
13 Homeland Security (DHS), and that all employees who will
14 administer the program have completed the Basic Pilot or
15 E-Verify Computer Based Tutorial (CBT); and

16 (2) that the employer has posted the notice from DHS
17 indicating that the employer is enrolled in the Basic Pilot
18 or E-Verify program and the anti-discrimination notice
19 issued by the Office of Special Counsel for
20 Immigration-Related Unfair Employment Practices (OSC),
21 Civil Rights Division, U.S. Department of Justice in a
22 prominent place that is clearly visible to both prospective
23 and current employees. The employer must maintain the
24 signed original of the attestation form prescribed by the
25 IDOL, as well as all CBT certificates of completion and
26 make them available for inspection or copying by the IDOL

1 at any reasonable time.

2 (g) ~~(e)~~ It is a violation of this Act for an employer
3 enrolled in an Employment Eligibility Verification System,
4 including the E-Verify program and the Basic Pilot program:

5 (1) to fail to display the notices supplied by DHS and
6 OSC in a prominent place that is clearly visible to both
7 prospective and current employees;

8 (2) to allow any employee to use an Employment
9 Eligibility Verification System prior to having completed
10 CBT;

11 (3) to fail to take reasonable steps to prevent an
12 employee from circumventing the requirement to complete
13 the CBT by assuming another employee's E-Verify or Basic
14 Pilot user identification or password;

15 (4) to use the Employment Eligibility Verification
16 System to verify the employment eligibility of job
17 applicants prior to hiring or to otherwise use the
18 Employment Eligibility Verification System to screen
19 individuals prior to hiring and prior to the completion of
20 a Form I-9;

21 (5) to terminate an employee or take any other adverse
22 employment action against an individual prior to receiving
23 a final nonconfirmation notice from the Social Security
24 Administration or the Department of Homeland Security;

25 (6) to fail to notify an individual, in writing, of the
26 employer's receipt of a tentative nonconfirmation notice,

1 of the individual's right to contest the tentative
2 nonconfirmation notice, and of the contact information for
3 the relevant government agency or agencies that the
4 individual must contact to resolve the tentative
5 nonconfirmation notice;

6 (7) to fail to safeguard the information contained in
7 the Employment Eligibility Verification System, and the
8 means of access to the system (such as passwords and other
9 privacy protections). An employer shall ensure that the
10 System is not used for any purpose other than employment
11 verification of newly hired employees and shall ensure that
12 the information contained in the System and the means of
13 access to the System are not disseminated to any person
14 other than employees who need such information and access
15 to perform the employer's employment verification
16 responsibilities;

17 (h) ~~(e-1)~~ Any claim that an employer refused to hire,
18 segregated, or acted with respect to recruitment, hiring,
19 promotion, renewal or employment, selection for training or
20 apprenticeship, discharge, discipline, tenure or terms,
21 privileges, or conditions of employment without following the
22 procedures of the Employment Eligibility Verification System,
23 including the Basic Pilot and E-Verify programs, may be brought
24 under paragraph (G) (2) of Section 2-102 of the Illinois Human
25 Rights Act;

26 (i) ~~(e-2)~~ It is a violation of this Section for an

1 individual to falsely pose as an employer in order to enroll in
2 an Employment Eligibility Verification System or for an
3 employer to use an Employment Eligibility Verification System
4 to access information regarding an individual who is not an
5 employee of the employer.

6 ~~(d) Preemption. Neither the State nor any of its political~~
7 ~~subdivisions, nor any unit of local government, including a~~
8 ~~home rule unit, may require any employer to use an Employment~~
9 ~~Eligibility Verification System, including under the following~~
10 ~~circumstances:~~

11 ~~(1) as a condition of receiving a government contract;~~

12 ~~(2) as a condition of receiving a business license; or~~

13 ~~(3) as penalty for violating licensing or other similar~~

14 ~~laws.~~

15 (j) This Section ~~subsection (d)~~ is a denial and limitation
16 of home rule powers and functions under subsection (h) of
17 Section 6 of Article VII of the Illinois Constitution.

18 (Source: P.A. 95-138, eff. 1-1-08; 96-623, eff. 1-1-10; revised
19 11-4-09.)

20 Section 197. Severability. The provisions of this Act are
21 severable under Section 1.31 of the Statute on Statutes.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 30 ILCS 105/5.755 new

5 625 ILCS 5/11-1307 new

6 625 ILCS 5/11-1308 new

7 720 ILCS 5/36-1 from Ch. 38, par. 36-1

8 725 ILCS 5/107-2 from Ch. 38, par. 107-2

9 820 ILCS 55/12