

SENATE BILL No. 1388

June 15, 2010, Introduced by Senators McMANUS, CROPSEY, ALLEN and BROWN and referred to the Committee on Judiciary.

A bill to provide for the determination of the immigration status of persons present in this state under certain circumstances; to allow for the enforcement of immigration laws in this state and the detaining and transportation of persons unlawfully present in the United States; to allow for certain civil actions; and to provide for certain civil fines and criminal penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "immigration law enforcement act".

3 Sec. 2. (1) An officer or agency of this state or a political
4 subdivision of this state shall not limit or restrict the
5 enforcement of federal immigration laws to less than the full
6 extent permitted by federal law.

1 (2) For any lawful stop, detention, or arrest made by a law
2 enforcement officer or law enforcement agency of this state or a
3 law enforcement officer or law enforcement agency of a political
4 subdivision of this state in the enforcement of any other state law
5 or local ordinance, where reasonable suspicion exists that the
6 person is an alien and is unlawfully present in the United States,
7 the law enforcement officer or agency shall make a reasonable
8 attempt, when practicable, to determine the immigration status of
9 the person unless the determination may hinder or obstruct an
10 investigation. Any person who is arrested shall have his or her
11 immigration status determined before the person is released. The
12 person's immigration status shall be verified with the federal
13 government pursuant to 8 USC 1373(c). A law enforcement officer or
14 law enforcement agency of this state or a law enforcement officer
15 or law enforcement agency of a political subdivision of this state
16 may not solely consider race, color, or national origin in
17 implementing the requirements of this subsection except to the
18 extent permitted by the constitution of the United States or the
19 state constitution of 1963. A person is presumed to not be an alien
20 who is unlawfully present in the United States if the person
21 provides to the law enforcement officer or agency any of the
22 following:

23 (a) A valid Michigan operator's or chauffeur's license.

24 (b) A valid Michigan state personal identification card.

25 (c) A valid tribal enrollment card or other form of tribal
26 identification.

27 (d) Any other valid United States, state, or local government

1 issued identification if the issuing entity requires proof of legal
2 presence in the United States before issuance.

3 (3) If an alien who is unlawfully present in the United States
4 is convicted of a violation of state or local law, the United
5 States immigration and customs enforcement or the United States
6 customs and border protection shall be immediately notified when
7 the alien is discharged from imprisonment or is assessed a fine for
8 the violation.

9 (4) A law enforcement agency may securely transport an alien
10 who the agency has received verification is unlawfully present in
11 the United States and who is in the agency's custody to a federal
12 facility in this state or to any other point of transfer into
13 federal custody that is outside the jurisdiction of the law
14 enforcement agency. A law enforcement agency shall obtain judicial
15 authorization before securely transporting an alien who is
16 unlawfully present in the United States to a point of transfer that
17 is outside of this state.

18 (5) In the implementation of this section, an alien's
19 immigration status may be determined by either of the following:

20 (a) A law enforcement officer who is authorized by the federal
21 government to verify or ascertain an alien's immigration status.

22 (b) The United States immigration and customs enforcement or
23 the United States customs and border protection pursuant to 8 USC
24 1373(c).

25 (6) Except as provided in federal law, officials or agencies
26 of this state or political subdivisions of this state shall not be
27 prohibited or in any way be restricted from sending, receiving, or

1 maintaining information relating to the immigration status of any
2 individual or exchanging that information with any other federal,
3 state, or local governmental entity for the following official
4 purposes:

5 (a) Determining eligibility for any public benefit, service,
6 or license provided by any federal, state, local, or other
7 political subdivision of this state.

8 (b) Verifying any claim of residence or domicile if
9 determination of residence or domicile is required under the laws
10 of this state or a judicial order issued pursuant to a civil or
11 criminal proceeding in this state.

12 (c) If the person is an alien, determining whether the person
13 is in compliance with the federal registration laws prescribed by
14 title II, chapter 7 of the federal immigration and nationality act.

15 (d) Pursuant to 8 USC section 1373 and 8 USC section 1644.

16 (7) A person who is a legal resident of this state may bring
17 an action in circuit court to challenge any official or agency of
18 this state or a political subdivision of this state that adopts or
19 implements a policy that limits or restricts the enforcement of
20 federal immigration laws, including 8 USC 1373 and 1644, to less
21 than the full extent permitted by federal law. If there is a
22 judicial finding that an entity has violated this section, the
23 court shall order that the entity pay a civil penalty of not less
24 than \$500.00 and not more than \$5,000.00 for each day that the
25 policy has remained in effect after the filing of an action
26 pursuant to this subsection.

27 (8) The court may award court costs and reasonable attorney

1 fees to any person or any official or agency of this state or a
2 political subdivision of this state that prevails by an
3 adjudication on the merits in a proceeding brought pursuant to this
4 section.

5 (9) Except in relation to matters in which the officer is
6 adjudged to have acted in bad faith, a law enforcement officer is
7 indemnified by the law enforcement officer's agency against
8 reasonable costs and expenses, including attorney fees, incurred by
9 the officer in connection with any action, suit, or proceeding
10 brought pursuant to this section in which the officer may be a
11 defendant by reason of the officer being or having been a member of
12 the law enforcement agency.

13 (10) This section shall be implemented in a manner consistent
14 with federal laws regulating immigration, protecting the civil
15 rights of all persons, and respecting the privileges and immunities
16 of United States citizens.

17 Sec. 3. (1) In addition to any violation of federal law, a
18 person is guilty of willful failure to complete or carry an alien
19 registration document if the person is in violation of 8 USC
20 1304(e) or 1306(a).

21 (2) In the enforcement of this section, the final
22 determination of an alien's immigration status shall be determined
23 by 1 of the following:

24 (a) A law enforcement officer who is authorized by the federal
25 government to verify or ascertain an alien's immigration status.

26 (b) A law enforcement officer or agency communicating with the
27 United States immigration and customs enforcement or the United

1 States border protection pursuant to 8 USC 1373(c).

2 (3) A law enforcement officer or agency of this state or a
3 political subdivision of this state may not consider race, color,
4 or national origin in the enforcement of this section except to the
5 extent permitted by the constitution of the United States or the
6 state constitution of 1963.

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

10 (5) 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 certified as
13 authentic by the government agency that is responsible for
14 maintaining the record.

15 (6) A violation of this section is a misdemeanor punishable as
16 follows:

17 (a) Except as provided in subdivision (b), by imprisonment for
18 not more than 20 days or a fine of not more than \$100.00, or both.

19 (b) For a second or subsequent violation, by imprisonment for
20 not more than 30 days or a fine of not more than \$100.00, or both.