

By: Senator(s) Watson, McDaniel, Yancey

To: Judiciary, Division A

## SENATE BILL NO. 2032

1 AN ACT TO CREATE THE IMMIGRATION REFORM ACT OF 2010; TO AMEND  
2 SECTIONS 63-1-60 AND 45-35-13, MISSISSIPPI CODE OF 1972, TO  
3 ENHANCE THE PENALTY FOR CREATION OR USE OF FALSE IDENTIFICATION IF  
4 THE OFFENDER IS AN ILLEGAL ALIEN; TO CREATE A NEW CRIME OF  
5 TRANSPORTING AN ILLEGAL ALIEN; TO PROVIDE FOR COOPERATIVE LAW  
6 ENFORCEMENT BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES ON  
7 IMMIGRATION MATTERS; TO REQUIRE VERIFICATION OF CITIZENSHIP OR  
8 IMMIGRATION STATUS OF PERSONS WHO ARE ARRESTED; TO PROHIBIT  
9 OFFICIAL RESISTANCE OR NONCOOPERATION OF SHARING INFORMATION  
10 REGARDING IMMIGRATION STATUS; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** Section 63-1-60, Mississippi Code of 1972, is  
13 amended as follows:

14 63-1-60. (1) It shall be unlawful for any person:

15 (a) To display, cause or permit to be displayed, or  
16 have in his possession, any fictitious, fraudulently altered or  
17 fraudulently obtained driver's license;

18 (b) To display or represent any driver's license not  
19 issued to him as being his own driver's license;

20 (c) To photograph, photostat, duplicate or in any way  
21 reproduce, manufacture, sell or distribute or alter any driver's  
22 license, or facsimile thereof, in such a manner that it could be  
23 mistaken for a valid driver's license;

24 (d) To display or have in his possession any  
25 photograph, photostat, duplicate, reproduction or facsimile of a  
26 driver's license unless authorized by law; or

27 (e) To take a driver's license examination for another  
28 or to use any other name, other than his own, on the driver's  
29 license application in an attempt to take the driver's license  
30 examination for another.



31           (2) Any person convicted of a violation of paragraph (a),  
32       (b), (d) or (e) of subsection (1) of this section shall be guilty  
33       of a misdemeanor and shall be punished by a fine of not more than  
34       Five Hundred Dollars (\$500.00), or by imprisonment for not more  
35       than thirty (30) days, or by both such fine and imprisonment.

36           (3) Any person under twenty-one (21) years of age at the  
37       time of the offense who is convicted of a violation of paragraph  
38       (c) of subsection (1) of this section shall be punished as  
39       follows:

40                 (a) A first offense shall be a misdemeanor punishable  
41       by a fine of not more than Five Hundred Dollars (\$500.00), or by  
42       imprisonment for not more than six (6) months, or by both such  
43       fine and imprisonment.

44                 (b) A second or subsequent offense, the offenses being  
45       committed within a period of five (5) years, shall be a  
46       misdemeanor punishable by a fine of not more than Five Thousand  
47       Dollars (\$5,000.00), or by imprisonment for not more than one (1)  
48       year, or by both such fine and imprisonment.

49           (4) Any person twenty-one (21) years of age or older at the  
50       time of the offense who is convicted of a violation of paragraph  
51       (c) of subsection (1) of this section is guilty of a felony and  
52       shall be punished by a fine of not less than Five Thousand Dollars  
53       (\$5,000.00), or imprisonment for not more than three (3) years, or  
54       by both such fine and imprisonment.

55           (5) Any person twenty-one (21) years of age or older at the  
56       time of the offense and who was not lawfully in the United States  
57       at the time of the offense who is convicted of a violation of  
58       this section is guilty of a felony and shall be punished by a fine  
59       of not less than Ten Thousand Dollars (\$10,000.00), or  
60       imprisonment for not more than ten (10) years, or by both such  
61       fine and imprisonment.

62           **SECTION 2.** Section 45-35-13, Mississippi Code of 1972, is  
63       amended as follows:



45-35-13. (1) No person shall:

(a) Display, or cause or permit to be displayed, or have in his possession, any cancelled, fictitious, fraudulently altered or fraudulently obtained identification cards;

(b) Lend an identification card to any person or knowingly permit the use thereof by another;

(c) Display or represent any identification card not issued to him as being his card;

(d) Permit any unlawful use of an identification card issued to him;

(e) Do any act forbidden or fail to perform any act required by this chapter;

(f) Photograph, photostat, duplicate or in any way reproduce, manufacture, sell or distribute any identification card or facsimile thereof so that it could be mistaken for a valid identification card; or

(g) Display or have in his possession any photograph, photostat, duplicate, reproduction or facsimile of an identification card unless authorized by the provisions of this chapter.

(2) Any person convicted of a violation of any provision of paragraph (a), (b), (c), (d), (e) or (g) of subsection (1) of this section is guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

(3) Any person under twenty-one (21) years of age at the time of the offense who is convicted of a violation of paragraph (f) of subsection (1) of this section shall be punished as follows:

(a) A first offense shall be a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00), or by



imprisonment for not more than six (6) months, or by both such fine and imprisonment.

(b) A second or subsequent offense, the offenses being committed within a period of five (5) years, shall be a misdemeanor punishable by a fine of not more than Five Thousand Dollars (\$5,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

(4) Any person twenty-one (21) years of age or older at the time of the offense who is convicted of a violation of paragraph (f) of subsection (1) of this section is guilty of a felony and shall be punished by a fine of not less than Five Thousand Dollars (\$5,000.00), or imprisonment for not more than three (3) years, or by both such fine and imprisonment.

(5) Any person twenty-one (21) years of age or older at the time of the offense and who was not lawfully in the United States at the time of the offense who is convicted of a violation of this section is guilty of a felony and shall be punished by a fine of not less than Ten Thousand Dollars (\$10,000.00), or imprisonment for not more than ten (10) years, or by both such fine and imprisonment.

**SECTION 3.** (1) It shall be unlawful for any person to transport, move, or attempt to transport any alien knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law, in furtherance of the illegal presence of the alien in the United States.

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



(3) Nothing in this section shall be construed so as to prohibit or restrict the provision of any state or local public benefit described in 8 USC, Section 1621(b), or regulated public health services provided by a private charity using private funds.

(4) The following activities shall not constitute unlawful harboring of illegal aliens under this section: providing medical, legal or other professional services to illegal aliens; or providing health care, food, shelter or other material goods to illegal aliens. These activities shall not constitute unlawful transporting of illegal aliens under this section.

(5) Any person violating the provisions of subsection (1) or (2) of this section, upon conviction, shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than one (1) year, or by a fine of not less than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

**SECTION 4.** (1) (a) The Commissioner of Public Safety is authorized and directed to enter into a written agreement between this state and the United States Department of Justice or Department of Homeland Security, pursuant to Section 287(g) of the United States Immigration and Nationality Act, providing for the performance of certain immigration officer functions by designated officers and employees of the State of Mississippi or its political subdivisions and concerning the enforcement of federal immigration and custom laws, detention and removals, and investigations in the State of Mississippi.

(b) The Commissioner of Public Safety shall request and endeavor to obtain agreement for appropriately trained persons to perform functions related to the investigation, apprehension, detention, and transportation of detained persons across state lines into federal custody authorized by Section 287(g) of the United States Immigration and Nationality Act.



160 (c) No agency or political subdivision of this state,  
161 whether acting through its governing body or by an initiative,  
162 referendum, or any other process, shall enact any ordinance or  
163 policy that limits or prohibits a law enforcement officer, local  
164 official, or local government employee from performing any  
165 functions pursuant to a written agreement authorized by this  
166 section.

167 (2) (a) When a person charged with a crime or other  
168 violation of law is arrested or otherwise confined for any period  
169 by a law enforcement agency, a reasonable effort shall be made to  
170 verify the citizenship or immigration status of the person so  
171 confined.

172 (b) If the prisoner is a foreign national, the law  
173 enforcement agency shall make a reasonable effort to verify that  
174 the prisoner has been lawfully admitted to the United States, and,  
175 if lawfully admitted, that such lawful status has not expired. If  
176 verification of lawful status cannot be made from documents in the  
177 possession of the prisoner, verification shall be made within  
178 forty-eight (48) hours through a query to the Law Enforcement  
179 Support Center (LESC) of the United States Department of Homeland  
180 Security or other office or agency designated for that purpose by  
181 the United States Department of Homeland Security. If the  
182 prisoner is determined not to be lawfully admitted to the United  
183 States, the keeper of the jail or other officer shall notify the  
184 United States Department of Homeland Security and shall collect  
185 the fingerprints of the illegal alien to be stored digitally.

186 (c) For the purpose of determining the grant of or  
187 issuance of bond, a person whose citizenship status has been  
188 verified pursuant to subsection (2) (b) to be a foreign national  
189 who has not been lawfully admitted to the United States, shall be  
190 deemed to be at risk of flight.



(d) The Department of Public Safety shall prepare and issue guidelines and procedures used to comply with the provisions of this section.

**SECTION 5.** (1) Notwithstanding any other provision of law, no government entity or official within the State of Mississippi may prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, an agency of the federal government, information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(2) Notwithstanding any other provision of law, no person or agency within the State of Mississippi may prohibit, or in any way restrict, a public employee from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(a) Sending such information to, or requesting or receiving such information from, an agency of the federal government.

(b) Maintaining such information.

(c) Exchanging such information with any other federal, state, or local government entity.

(3) This section shall allow for a private right of action by any natural or legal person lawfully domiciled in this state to file for a writ of mandamus to compel any noncooperating agency of the State of Mississippi or any political subdivision thereof to comply with such reporting laws.

**SECTION 6.** This act shall take effect and be in force from and after July 1, 2010.

