

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:



64 45-35-13. (1) No person shall:

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

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

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

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

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

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

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

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

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

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



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

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

103 (4) Any person twenty-one (21) years of age or older at the  
104 time of the offense who is convicted of a violation of paragraph  
105 (f) of subsection (1) of this section is guilty of a felony and  
106 shall be punished by a fine of not less than Five Thousand Dollars  
107 (\$5,000.00), or imprisonment for not more than three (3) years, or  
108 by both such fine and imprisonment.

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

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

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



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

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

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

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

154 (b) The Commissioner of Public Safety shall request and  
155 endeavor to obtain agreement for appropriately trained persons to  
156 perform functions related to the investigation, apprehension,  
157 detention, and transportation of detained persons across state  
158 lines into federal custody authorized by Section 287(g) of the  
159 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.



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

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

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

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

208 (b) Maintaining such information.

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

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

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

