

REFERENCE TITLE: lawful presence; e-verify program; penalties

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **HCR 2060**

Introduced by  
Representative Toma

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING  
TO UNAUTHORIZED ALIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,  
2 the Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,  
4 the following measure, relating to unauthorized aliens, is enacted to  
5 become valid as a law if approved by the voters and on proclamation of the  
6 Governor:

7 AN ACT

8 AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED  
9 STATUTES, BY ADDING SECTION 9-500.50; AMENDING TITLE 11,  
10 CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING  
11 SECTION 11-269.29; AMENDING TITLE 13, CHAPTER 37, ARIZONA  
12 REVISED STATUTES, BY ADDING SECTION 13-3733; AMENDING SECTIONS  
13 23-211 AND 23-214, ARIZONA REVISED STATUTES; AMENDING TITLE  
14 41, CHAPTER 6, ARTICLE 7.2, ARIZONA REVISED STATUTES, BY  
15 ADDING SECTION 41-1080.02; RELATING TO UNAUTHORIZED ALIENS.

16 Be it enacted by the Legislature of the State of Arizona:

17 Section 1. Title 9, chapter 4, article 8, Arizona  
18 Revised Statutes, is amended by adding section 9-500.50, to  
19 read:

20 9-500.50. E-verify program; public welfare monies;  
21 disbursement requirement; statewide  
22 concern

23 A. IF A CITY OR TOWN RECEIVES STATE MONIES FOR WHICH A  
24 PORTION IS USED TO FUND ANY PUBLIC WELFARE PROGRAM, THE CITY  
25 OR TOWN SHALL VERIFY THAT AN ADULT RECIPIENT IS LAWFULLY  
26 PRESENT IN THE UNITED STATES UNDER FEDERAL LAW BY USING THE  
27 E-VERIFY PROGRAM BEFORE DISBURSING PUBLIC WELFARE MONIES AND  
28 SHALL KEEP A RECORD OF THE VERIFICATION FOR AT LEAST THREE  
29 YEARS.

30 B. DUE TO THE ECONOMIC AND FISCAL IMPACT OF ILLEGAL  
31 IMMIGRATION ON THIS STATE, REGULATION OF PUBLIC WELFARE  
32 PROGRAMS THAT USE STATE MONIES IS A MATTER OF STATEWIDE  
33 CONCERN.

34 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised  
35 Statutes, is amended by adding section 11-269.29, to read:

36 11-269.29. E-verify program; public welfare monies;  
37 disbursement requirement; statewide  
38 concern

39 A. IF A COUNTY RECEIVES STATE MONIES FOR WHICH A  
40 PORTION IS USED TO FUND ANY PUBLIC WELFARE PROGRAM, THE COUNTY  
41 SHALL VERIFY THAT AN ADULT RECIPIENT IS LAWFULLY PRESENT IN  
42 THE UNITED STATES UNDER FEDERAL LAW BY USING THE E-VERIFY  
43 PROGRAM BEFORE DISBURSING PUBLIC WELFARE MONIES AND SHALL KEEP  
44 A RECORD OF THE VERIFICATION FOR AT LEAST THREE YEARS.

1 B. DUE TO THE ECONOMIC AND FISCAL IMPACT OF ILLEGAL  
2 IMMIGRATION ON THIS STATE, REGULATION OF PUBLIC WELFARE  
3 PROGRAMS THAT USE STATE MONIES IS A MATTER OF STATEWIDE  
4 CONCERN.

5 Sec. 3. Title 13, chapter 37, Arizona Revised Statutes,  
6 is amended by adding section 13-3733, to read:

7 13-3733. Obstruction of legal duty to use e-verify;  
8 unauthorized alien; classification

9 A. A PERSON COMMITS OBSTRUCTION OF THE LEGAL DUTY TO  
10 USE E-VERIFY BY COMMITTING ANY COMPLETED OR PREPARATORY  
11 OFFENSE FOR THE BENEFIT OF, AT THE DIRECTION OF OR IN  
12 ASSOCIATION WITH ANY PERSON WHO HAS THE INTENT TO OBSTRUCT,  
13 IMPAIR OR HINDER ANY PERSON FROM USING THE E-VERIFY PROGRAM AS  
14 REQUIRED BY LAW.

15 B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A  
16 CLASS 6 FELONY.

17 Sec. 4. Section 23-211, Arizona Revised Statutes, is  
18 amended to read:

19 23-211. Definitions

20 In this article, unless the context otherwise requires:

21 1. "Agency" means any agency, department, board or  
22 commission of this state or a county, city or town that issues  
23 a license for purposes of operating a business in this state.

24 2. "Employ" means hiring an employee after December 31,  
25 2007.

26 3. "Employee":

27 (a) Means any person who provides services or labor for  
28 an employer in this state for wages or other remuneration.

29 (b) Does not include an independent contractor.

30 4. "Employer" means any individual or type of  
31 organization that transacts business in this state, that has a  
32 license issued by an agency in this state and that employs one  
33 or more employees in this state. Employer includes this  
34 state, any political subdivision of this state and  
35 self-employed persons. In the case of an independent  
36 contractor, employer means the independent contractor and ~~does~~  
37 ~~not mean~~ INCLUDES the person or organization that uses the  
38 contract labor.

39 5. "E-verify program" means the employment verification  
40 program as jointly administered by the United States  
41 department of homeland security and the social security  
42 administration or any of its successor programs.

43 6. "Independent contractor" means any individual or  
44 entity that carries on an independent business, that contracts  
45 to do a piece of work according to the individual's or

1 entity's own means and methods and that is subject to control  
2 only as to results. Whether an individual or entity is an  
3 independent contractor is determined on a case-by-case basis  
4 through various factors, including whether the individual or  
5 entity:

6 (a) Supplies the tools or materials.

7 (b) Makes services available to the general public.

8 (c) Works or may work for a number of clients at the  
9 same time.

10 (d) Has an opportunity for profit or loss as a result  
11 of labor or service provided.

12 (e) Invests in the facilities for work.

13 (f) Directs the order or sequence in which the work is  
14 completed.

15 (g) Determines the hours when the work is completed.

16 7. "Intentionally" has the same meaning prescribed in  
17 section 13-105.

18 8. "Knowingly employ an unauthorized alien" means the  
19 actions described in 8 United States Code section 1324a. This  
20 term shall be interpreted consistently with 8 United States  
21 Code section 1324a and any applicable federal rules and  
22 regulations.

23 9. "License":

24 (a) Means any agency permit, certificate, approval,  
25 registration, charter or similar form of authorization that is  
26 required by law and that is issued by any agency for the  
27 purposes of operating a business in this state.

28 (b) Includes:

29 (i) Articles of incorporation under title 10.

30 (ii) A certificate of partnership, a partnership  
31 registration or articles of organization under title 29.

32 (iii) A grant of authority issued under title 10,  
33 chapter 15.

34 (iv) Any transaction privilege tax license.

35 (c) Does not include:

36 (i) Any license issued pursuant to title 45 or 49 or  
37 rules adopted pursuant to those titles.

38 (ii) Any professional license.

39 10. "Unauthorized alien" means an alien who does not  
40 have the legal right or authorization under federal law to  
41 work in the United States as described in 8 United States Code  
42 section 1324a(h)(3).

1           Sec. 5. Section 23-214, Arizona Revised Statutes, is  
2 amended to read:

3           23-214. Verification of employment eligibility;  
4           e-verify program; economic development  
5           incentives; list of registered employers

6           A. ~~After December 31, 2007,~~ Every employer, after  
7 hiring an employee, **INDEPENDENT CONTRACTOR OR SUBCONTRACTOR**  
8 shall verify the employment eligibility of the employee,  
9 **INDEPENDENT CONTRACTOR OR SUBCONTRACTOR** through the e-verify  
10 program and shall keep a record of the verification for the  
11 duration of the employee's, **INDEPENDENT CONTRACTOR'S OR**  
12 **SUBCONTRACTOR'S** employment or at least three years, whichever  
13 is longer.

14           B. In addition to any other requirement for an employer  
15 to receive an economic development incentive from a government  
16 entity, the employer shall register with and participate in  
17 the e-verify program. Before receiving the economic  
18 development incentive, the employer shall provide proof to the  
19 government entity that the employer is registered with and is  
20 participating in the e-verify program. If the government  
21 entity determines that the employer is not complying with this  
22 subsection, the government entity shall notify the employer by  
23 certified mail of the government entity's determination of  
24 noncompliance and the employer's right to appeal the  
25 determination. On a final determination of noncompliance, the  
26 employer shall repay all monies received as an economic  
27 development incentive to the government entity within thirty  
28 days ~~of~~ **AFTER** the final determination. For the purposes of  
29 this subsection:

30           1. "Economic development incentive" means any grant,  
31 loan or performance-based incentive from any government entity  
32 that is awarded after September 30, 2008. Economic  
33 development incentive does not include any tax provision under  
34 title 42 or 43.

35           2. "Government entity" means this state and any  
36 political subdivision of this state that receives and uses tax  
37 revenues.

38           C. Every three months the attorney general shall  
39 request from the United States department of homeland security  
40 a list of employers from this state that are registered with  
41 the e-verify program. On receipt of the list of employers,  
42 the attorney general shall make the list available on the  
43 attorney general's website.

1           Sec. 6. Title 41, chapter 6, article 7.2, Arizona  
2 Revised Statutes, is amended by adding section 41-1080.02, to  
3 read:

4           41-1080.02. Agencies; licenses; e-verify program;  
5                                   definitions

6           A. NOTWITHSTANDING ANY OTHER LAW, ANY AGENCY THAT  
7 ISSUES LICENSES SHALL VERIFY THAT THE APPLICANT THAT IS  
8 SEEKING A LICENSE IS LAWFULLY PRESENT IN THE UNITED STATES AS  
9 AUTHORIZED BY FEDERAL LAW BY USING THE E-VERIFY PROGRAM BEFORE  
10 ISSUING THE DOCUMENT OR LICENSE AND SHALL KEEP A RECORD OF THE  
11 VERIFICATION FOR AT LEAST THREE YEARS.

12           B. FOR THE PURPOSES OF THIS SECTION:

13           1. "AGENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION  
14 41-1080.

15           2. "LICENSE" HAS THE SAME MEANING PRESCRIBED IN SECTION  
16 41-1080.

17           Sec. 7. Short title

18           This act shall be known and may be cited as the  
19 "Protecting Arizona Against Illegal Immigration Act".

20           2. The Secretary of State shall submit this proposition to the  
21 voters at the next general election as provided by article IV, part 1,  
22 section 1, Constitution of Arizona.