

1 SB226
2 99254-3
3 By Senators Orr, Beason, and Pittman
4 RFD: Governmental Affairs
5 First Read: 05-FEB-08

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to public benefits; to require any person
12 age 19 or older to provide proof of being lawfully in the
13 United States before receiving certain public benefits; to
14 provide exemptions; to specify means of verification; to
15 provide penalties for violations; to provide for the
16 verification of certain aliens through the federal Systematic
17 Alien Verification of Entitlement (SAVE) program, operated by
18 the United States Department of Homeland Security; and in
19 connection therewith would have as its purpose or effect the
20 requirement of a new or increased expenditure of local funds
21 within the meaning of Amendment 621 of the Constitution of
22 Alabama of 1901, now appearing as Section 111.05 of the
23 Official Recompilation of the Constitution of Alabama of 1901,
24 as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Any person 19 years of age or older shall
2 provide proof that he or she is lawfully present in the United
3 States before receiving certain public benefits.

4 Section 2. As used in this act, the following terms
5 have the following meanings:

6 (1) EMERGENCY MEDICAL CONDITION. The same meaning as
7 provided in 42 U.S.C. § 1396b(v) (3).

8 (2) FEDERAL PUBLIC BENEFITS. The same meaning as
9 provided in 8 U.S.C. § 1611.

10 (3) STATE OR LOCAL PUBLIC BENEFITS. The same meaning
11 as provided in 8 U.S.C. § 1621.

12 Section 3. (a) Except as otherwise provided in
13 subsection (c) or where exempted by federal law, commencing on
14 the effective date of this act, each agency or political
15 subdivision of the state shall verify the lawful presence in
16 the United States of each natural person 19 years of age or
17 older who applies for state or local public benefits or for
18 federal public benefits for the applicant.

19 (b) This act shall be enforced without regard to
20 race, religion, gender, ethnicity, or national origin.

21 (c) Verification of lawful presence in the United
22 States shall not be required for any of the following:

23 (1) For any purpose for which lawful presence in the
24 United States is not required by law, ordinance, or rule.

25 (2) For obtaining health care items and services
26 that are necessary for the treatment of an emergency medical

1 condition of the person involved and are not related to an
2 organ transplant procedure.

3 (3) For short-term, noncash, in-kind emergency
4 disaster relief.

5 (4) For public health assistance for immunizations
6 with respect to immunizable diseases, family planning
7 services, Women's, Infants and Children supplemental nutrition
8 program, and for testing and treatment of symptoms of
9 communicable diseases, whether or not such symptoms are caused
10 by a communicable disease.

11 (5) For programs, services, or assistance, such as
12 soup kitchens, crisis counseling and intervention, and
13 short-term shelter specified by federal law or regulation that
14 satisfy all of the following:

15 a. Deliver in-kind services at the community level,
16 including services through public or private nonprofit
17 agencies.

18 b. Do not condition the provision of assistance, the
19 amount of assistance provided, or the cost of assistance
20 provided on the income or resources of the individual
21 recipient.

22 c. Are necessary for the protection of life or
23 safety.

24 (6) For prenatal care.

25 Section 4. An agency or a political subdivision
26 shall verify the lawful presence in the United States of each
27 applicant 19 years of age or older for federal public benefits

1 or state or local public benefits by requiring the applicant
2 to either:

3 (1) Produce any of the following documents:

4 a. A valid Alabama driver's license or an Alabama
5 nondriver identification card;

6 b. A United States military card or a military
7 dependent's identification card;

8 c. A United States Coast Guard Merchant Mariner
9 card;

10 d. A Native American tribal document; or

11 (2) Execute an affidavit stating that he or she is
12 either of the following:

13 a. A United States citizen or legal permanent
14 resident.

15 b. Otherwise lawfully present in the United States
16 pursuant to federal law.

17 Section 5. Any person who knowingly makes a false,
18 fictitious, or fraudulent statement or representation in an
19 affidavit executed pursuant to Section 4 shall be guilty of
20 perjury in the second degree pursuant to Section 13A-10-102,
21 Code of Alabama 1975. Each time that a person receives a
22 public benefit based upon such a statement or representation
23 shall constitute a separate violation of Section 13A-10-102,
24 Code of Alabama 1975.

25 Section 6. For an applicant who has executed an
26 affidavit stating that he or she is an alien lawfully present
27 in the United States, verification of lawful presence for

1 federal public benefits or state or local public benefits
2 shall be made through the federal Systematic Alien
3 Verification of Entitlement (SAVE) program, operated by the
4 United States Department of Homeland Security, or a successor
5 program designated by the United States Department of Homeland
6 Security. Until verification of lawful presence is made, the
7 affidavit may be presumed to be proof of lawful presence for
8 purposes of this act.

9 Section 7. Agencies or political subdivisions of
10 this state may adopt variations of the requirements of
11 subdivision (2) of Section 4 to improve efficiency or reduce
12 delay in the verification process or to provide for
13 adjudication of unique individual circumstances, including,
14 but not limited to, homeless state citizens, lawfully present
15 in the United States receive authorized benefits in which the
16 verification procedures in this act would impose unusual
17 hardship on a legal resident of the state. Variations shall be
18 no less stringent than the requirements of this act.

19 Section 8. It shall be unlawful for an agency or a
20 political subdivision of this state to knowingly provide a
21 federal public benefit or a state or local public benefit in
22 violation of this act. Each state agency or department that
23 administers a program that provides state or local public
24 benefits shall provide an annual report with respect to its
25 compliance with this act to the Government Affairs Committee
26 of the Senate and the Government Operations Committee of the
27 House of Representatives, or any successor committees.

1 Section 9. Errors and significant delays by the SAVE
2 program shall be reported to the United States Department of
3 Homeland Security and to the Secretary of State, both of which
4 monitor the SAVE program and its verification application
5 errors and significant delays and report yearly on such errors
6 and delays, to ensure that the application of the SAVE program
7 is not wrongfully denying benefits to legal residents of the
8 state.

9 Section 10. (a) When a person charged with a felony
10 or with driving under the influence pursuant to Section
11 32-5A-191, Code of Alabama 1975, is confined, for any period,
12 in the jail of the county, any municipality, or a jail
13 operated by a regional jail authority, a reasonable effort
14 shall be made to determine the citizenship status of the
15 person so confined.

16 (b) If the prisoner is a foreign national, the
17 keeper of the jail or other officer shall make a reasonable
18 effort to verify that the prisoner has been lawfully admitted
19 to the United States, and if lawfully admitted, that lawful
20 status has not expired. If verification of lawful status
21 cannot be made from documents in the possession of the
22 prisoner, verification shall be made within 48 hours through a
23 query to the Law Enforcement Support Center of the United
24 States Department of Homeland Security or other office or
25 agency designated for that purpose by the United States
26 Department of Homeland Security. If the lawful immigration
27 status of the prisoner cannot be verified, the keeper of the

1 jail or other officer shall notify the United States
2 Department of Homeland Security.

3 (c) For the purpose of determining the grant of or
4 issuance of bond, it shall be a rebuttable presumption that a
5 person whose citizenship status has been verified pursuant to
6 subsection (b) to be a foreign national who has not been
7 lawfully admitted to the United States is at risk of flight.

8 Section 11. (a) When a person charged with a crime
9 for which bail is required, is confined for any period in a
10 county or municipal jail, a reasonable effort shall be made to
11 determine the citizenship status of the person.

12 (b) If the person is a foreign national, the jailor
13 or other officer having custody of the person shall make a
14 reasonable effort to verify that the person has been lawfully
15 admitted to the United States and, if lawfully admitted, that
16 the lawful status has not expired. If verification of lawful
17 status cannot be made from documents in the possession of the
18 person, verification shall be made within 14 days through a
19 query to the Law Enforcement Support Center of the United
20 States Department of Homeland Security or other office or
21 agency designated for that purpose by the United States
22 Department of Homeland Security. If the lawful immigration
23 status of the person cannot be verified, the jailor or other
24 officer having custody of the person shall notify the United
25 States Department of Homeland Security and the person shall
26 not be entitled to bond.

1 Section 12. Section 32-6-9, Code of Alabama 1975, is
2 amended to read as follows:

3 "32-6-9.

4 "(a) Every licensee shall have his or her license in
5 his or her immediate possession at all times when driving a
6 motor vehicle and shall display the same, upon demand of a
7 judge of any court, a peace officer or a state trooper.
8 However, no person charged with violating this section shall
9 be convicted if he or she produces in court or the office of
10 the arresting officer a driver's license theretofore issued to
11 him or her and valid at the time of his or her arrest.

12 "(b) Notwithstanding the provisions of Section
13 32-1-4, if a law officer arrests a person for a violation of
14 this section and the officer is unable to determine by any
15 other means that the person has a valid driver's license, the
16 officer shall transport the person to the nearest or most
17 accessible magistrate."

18 Section 13. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill prescribes the minimum compensation for public officials.

25 Section 14. This act shall become effective October
26 1, 2009, following its passage and approval by the governor,
27 or its otherwise becoming law.

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Senate

Read for the first time and referred to
the Senate committee on Governmental Affairs 05-FEB-08

Read for the second time and placed on
the calendar with 1 substitute and 25-MAR-08

Read for the third time and passed as
amended 30-APR-08

Yeas 33
Nays 0

McDowell Lee
Secretary