

APPLICATION FOR INITIATIVE OR REFERENDUM PETITION SERIAL NUMBER

Secretary of State
1700 W. Washington Street, 7th Floor
Phoenix, AZ 85007

The undersigned intends to circulate and file an **INITIATIVE** or a **REFERENDUM** (circle the appropriate word) petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Pursuant to Arizona Revised Statutes § 19-111, attached hereto is the full text, in no less than eight point type, of the **MEASURE** or **CONSTITUTIONAL AMENDMENT** (circle appropriate word) intended to be **INITIATED** or **REFERRED** (circle appropriate word) at the next general election.

SUMMARY: A description of no more than one hundred words of the principal provisions of the proposed law, constitutional amendment or measure that will appear in no less than eight point type on the face of each petition signature sheet to be circulated.

"Stop Illegal Hiring" Act is an initiative designed to crack down on unethical businesses who hire illegal immigrants. This initiative targets employers who hire workers and pay under-the-table in cash, which fuels illegal immigration in Arizona. It revokes the business license of employers who knowingly or intentionally hire illegal immigrants. This initiative increases penalties for identity theft, as illegal immigrants often use stolen identities to conceal their undocumented status. Fines collected as a result of this initiative will be distributed to schools and hospitals to help deal with the financial burden placed on Arizona because of illegal immigration.



Signature of Applicant
Andrew Pacheco

Printed Name of Applicant
P.O. Box 3217

Address
Tempe AZ 85280

City State Zip
480-388-1642

Telephone Number

Stop Illegal Hiring

Name of Organization (if any)
P.O. Box 3217

Address
Tempe AZ 85280

City State Zip
480-388-1642

Telephone Number
Andrew Pacheco, Chairman

Name of Officer and Title
P.O. Box 3217

Address
Tempe AZ 85280

City State Zip
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Telephone Number
Chris Bussing, Treasurer

Name of Officer and Title
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Date of Application	<u>October 22, 2007</u>
Signatures Required	<u>153,365</u>
Deadline for Filing	<u>July 3, 2008</u>
Serial Number Issued	<u>I-12-2008</u>
FOR OFFICE USE ONLY	

Revised 11/92

CF# 200802920

AN INITIATIVE MEASURE

AMENDING TITLE 13, CHAPTER 20, ARIZONA REVISED STATUTES, BY AMENDING SECTIONS 13-2008, 13-2009, AND 13-2010; AND AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY AMENDING SECTIONS 23-211, 23-212, 23-213, AND 23-214, AND ADDING SECTION 23-215.

Be it enacted by the People of the State of Arizona:

Section 1. Section 13-2008, Arizona Revised Statutes, is amended to read:

13-2008. Taking AND KNOWINGLY ACCEPTING identity of another person or entity classification

A. A person commits taking the identity of another person or entity if the person knowingly takes, purchases, manufactures, records, possesses or uses any personal identifying information or entity identifying information of another person or entity, including a real or fictitious person or entity, without the consent of that other person or entity, with the intent to obtain or use the other person's or entity's identity for any unlawful purpose, or to cause loss to a person or entity whether or not the person or entity actually suffers any economic loss as a result of the offense, OR WITH THE INTENT TO OBTAIN OR CONTINUE EMPLOYMENT.

B. A PERSON COMMITS THE ACT OF KNOWINGLY ACCEPTING THE IDENTITY OF ANOTHER PERSON OR ENTITY IN HIRING AN EMPLOYEE IF THE PERSON, WITH ACTUAL KNOWLEDGE, KNOWINGLY ACCEPTS ANY PERSONAL IDENTIFYING INFORMATION OR ENTITY IDENTIFYING INFORMATION OF ANOTHER PERSON OR ENTITY WHO IS NOT ACTUALLY THE PERSON PRESENTING SUCH IDENTIFYING INFORMATION FOR THE PURPOSE OF DETERMINING WHETHER THE PERSON PRESENTING SUCH IDENTIFYING INFORMATION HAS THE LEGAL RIGHT OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS DESCRIBED AND DETERMINED UNDER THE PROCESSES AND PROCEDURES UNDER 8 UNITED STATES CODE SECTION 1324a.

BC. On the request of a person or entity, a peace officer in any jurisdiction in which an element of the offenseS SET FORTH IN THIS SECTION is committed, a result of the offenseS SET FORTH IN THIS SECTION occurs or the person or entity whose identity is taken OR ACCEPTED resides or is located shall take a report. The peace officer may provide a copy of the report to any other law enforcement agency that is located in a jurisdiction in which a violation of this section occurred.

CD. If a defendant is alleged to have committed multiple violations of this section within the same county, the prosecutor may file a complaint charging all of the violations and any related charges under other sections that have not been previously filed in any precinct in which a violation is alleged to have occurred. If a defendant is alleged to have committed multiple violations of this section within the state, the prosecutor may file a complaint charging all of the violations and any related charges under other sections that have not been previously filed in any county in which a violation is alleged to have occurred.

DE. This section does not apply to a violation of section 4-241 by a person who is under

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twenty-one years of age.

EF. Taking the identity of another person or entity OR KNOWINGLY ACCEPTING THE IDENTITY OF ANOTHER PERSON OR ENTITY is a class 4 felony.

Section 2. Section 13-2009, Arizona Revised Statutes, is amended to read:

13-2009. Aggravated taking identity of another person or entity; classification

A. A person commits aggravated taking the identity of another person or entity if the person knowingly takes, purchases, manufactures, records, possesses or uses any personal identifying information or entity identifying information of either:

1. ~~Three~~ TWO or more other persons or entities, including real or fictitious persons or entities, without the consent of the other persons or entities, with the intent to obtain or use the other persons' or entities' identities for any unlawful purpose or to cause loss to the persons or entities whether or not the persons or entities actually suffer any economic loss.

2. Another person or entity, including a real or fictitious person or entity, without the consent of that other person or entity, with the intent to obtain or use the other person's or entity's identity for any unlawful purpose and causes another person or entity to suffer an economic loss of ~~three~~ ONE thousand dollars or more.

3. Another person, including a real or fictitious person, with the intent to obtain OR CONTINUE employment.

B. In an action for aggravated taking the identity of another person or entity under subsection A, paragraph 1 of this section, proof of possession out of the regular course of business of the personal identifying information or entity identifying information of ~~three~~ TWO or more other persons or entities may give rise to an inference that the personal identifying information or entity identifying information of the ~~three~~ TWO or more other persons or entities was possessed for an unlawful purpose.

C. This section does not apply to a violation of section 4-241 by a person who is under twenty-one years of age.

D. Aggravated taking the identity of another person or entity is a class 3 felony.

Section 3. Section 13-2010, Arizona Revised Statutes, is amended to read:

13-2010. Trafficking in the identity of another person or entity; classification

A. A person commits trafficking in the identity of another person or entity if the person knowingly sells, transfers or transmits any personal identifying information or entity identifying information of another person or entity, including a real or fictitious person or entity, without the consent of the other person or entity for any unlawful purpose, ~~or~~ to cause loss to the person or entity whether or not the other person or entity actually suffers any economic loss, OR WITH THE INTENT OF ALLOWING ANOTHER PERSON TO OBTAIN OR CONTINUE EMPLOYMENT.

B. This section does not apply to a violation of section 4-241 by a person who is under twenty-one years of age.

C. Trafficking in the identity of another person or entity is a class 2 felony.

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Section 4. Title 23, Chapter 2, Article 2, Arizona Revised Statutes, is amended to read:

Article 2. Employment of unauthorized aliens

23-211. Definitions

In this article, unless the context otherwise requires:

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

2. "~~Basic~~ pilot E-VERIFY program" means the ~~basic~~ employment verification pilot program as jointly administered by the United States department of homeland security and the social security administration or ANY OF its successor programS.

3. "Employee" means any person who IS HIRED TO performs employment services IN THIS STATE for an employer pursuant to an employment relationship between the employee and employer.

4. "Employer" means any individual or type of organization that transacts business in this state, WHETHER OR NOT SUCH INDIVIDUAL OR ORGANIZATION ~~that~~ has a license issued by an agency in this state, and that employs one or more individuals who perform employment services in this state. Employer includes this state, any political subdivision of this state and self-employed persons.

5. "Intentionally" has the same meaning prescribed in section 13-105 AND DETERMINED UNDER THE PROCESSES AND PROCEDURES UNDER 8 UNITED STATES CODE SECTION 1324a.

6. "Knowingly employ an unauthorized alien" means the actions described in AND DETERMINED UNDER THE PROCESSES AND PROCEDURES AS ACTUAL KNOWLEDGE BY AN OWNER OR OFFICER OF AN EMPLOYER UNDER 8 United States Code section 1324a. This term shall be interpreted consistently with 8 United States Code section 1324a and any applicable federal rules and regulations.

7. "License":

(a) Means any agency permit, certificate, approval, registration, charter or similar form of authorization, INCLUDING BUT NOT LIMITED TO ARTICLES OF INCORPORATION UNDER TITLE 10, CERTIFICATES OF PARTNERSHIP, PARTNERSHIP REGISTRATIONS OR ARTICLES OF ORGANIZATION UNDER TITLE 29, GRANTS OF AUTHORITY ISSUED UNDER TITLE 10, CHAPTER 15, AND ANY TRANSACTION PRIVILEGE TAX LICENSES, that is required by law and that is issued by any agency for the purposes of operating a business in this state AND AS ALLOWED UNDER FEDERAL LAW.

(b) Includes:

~~(i) Articles of incorporation under title 10.~~

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

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

~~(iv) Any transaction privilege tax license.~~

(e) Does not include:

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

(ii) Any professional license.

8. "Unauthorized alien" means an alien who does not have the legal right or authorization under federal law to work in the United States as described in AND DETERMINED UNDER THE PROCESSES AND PROCEDURES UNDER 8 United States Code section 1324a(h)(3).

23-212. Employment of unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defense

A. An employer WHO IS DETERMINED TO ~~shall not~~ intentionally employ an unauthorized alien or knowingly employ an unauthorized alien IN THIS STATE SHALL BE SANCTIONED ACCORDING TO THIS SECTION.

B. On receipt of a WRITTEN AND SIGNED complaint that an employer allegedly intentionally employs an unauthorized alien or knowingly employs an unauthorized alien IN THIS STATE IN VIOLATION OF SUBSECTION A, the attorney general or county attorney shall DETERMINE WHETHER TO investigate whether IF the employer has violated subsection A. When investigating SUCH a complaint, the attorney general or county attorney shall COMPLY WITH ALL FEDERAL LAW AND verify the VIOLATION INVOLVING work authorization of the alleged unauthorized alien with the federal government pursuant to 8 United States Code section 1373(c) TO THE EXTENT PROVIDED IN OR ALLOWED UNDER FEDERAL LAW AND REGULATIONS.

A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States BUT SHALL RELY UPON, AND ONLY UPON, THE PROCESSES AND PROCEDURES SET FORTH IN 8 UNITED STATES CODE SECTION 1324a AND OTHER APPLICABLE FEDERAL LAW. An alien's immigration status or work authorization status shall, TO THE EXTENT PROVIDED OR ALLOWED BY THE FEDERAL GOVERNMENT, be verified with the federal government pursuant to 8 United States Code section 1373(c) TO THE EXTENT PROVIDED IN FEDERAL LAW AND REGULATIONS.

A person who knowingly files a false and OR frivolous complaint under this subsection is guilty of a class 3 misdemeanor.

C. If, after an investigation, the attorney general or county attorney determines that the complaint is not frivolous OR FALSE:

1. The attorney general or county attorney shall notify the United States immigration and customs enforcement of the unauthorized alien.

2. The attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.

3. The attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection D if the complaint was originally filed with the attorney general.

D. An action for a violation of subsection A shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is employed IN THIS STATE. The county attorney shall not bring an action against any employer for any violation of subsection A that occurs before January 1, 2008 2009. A second violation of this section shall be based only on an unauthorized alien who is employed by the employer IN THIS STATE after an action has been brought for a violation of subsection A.

E. For any action in superior court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.

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F. On a finding of a violation of subsection A:

1. For a first violation during a three year period that is a knowing violation of subsection A, the court:

(a) Shall CONFIRM THAT ~~order the employer to~~ HAS TERMINATED OR WILL terminate the employment of all unauthorized aliens IN THIS STATE.

(b) Shall order the employer to be subject to a three year probationary period. During the probationary period the employer shall file quarterly reports IN THE FORM PROVIDED IN A.R.S. SECTION 23-722.01 with the county attorney of each new employee who is hired by the employer at the specific location IN THIS STATE where the unauthorized alien performed work IN THIS STATE.

(c) Shall order the employer to file a signed sworn affidavit with the county attorney within three business days after the order is issued. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens IN THIS STATE and that the employer will not intentionally or knowingly employ an unauthorized alien IN THIS STATE. The court shall order the appropriate agencies to suspend all licenses subject to this subdivision that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are suspended under this subdivision shall remain suspended until the employer files a signed sworn affidavit with the county attorney. Notwithstanding any other law, on filing of the affidavit the suspended licenses shall be reinstated immediately by the appropriate agencies. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer IN THIS STATE and that are necessary to operate the employer's business at the employer's business location IN THIS STATE where the unauthorized alien performed work IN THIS STATE. If a license is not necessary to operate the employer's business at the specific location IN THIS STATE where the unauthorized alien performed work IN THIS STATE, but a license is necessary to operate the employer's business in general IN THIS STATE, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business WITHIN THIS STATE, IF ANY. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G.

(d) May order the appropriate agencies to suspend all licenses described in subdivision (c) of this paragraph that are held by the employer IN THIS STATE for not to exceed ten business days. The court shall base its decision to suspend under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:

- (i) The number of unauthorized aliens employed by the employer IN THIS STATE.
- (ii) Any prior misconduct by the employer IN THIS STATE.
- (iii) The degree of harm resulting from the violation.
- (iv) Whether the employer made good faith efforts to comply with any applicable requirements.
- (v) The duration of the violation.
- (vi) The role of the directors, officers or principals of the employer IN THIS STATE in the violation.

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(vii) Any other factors the court deems appropriate.

2. For a first violation during a five year period that is an intentional violation of subsection A, the court shall:

(a) Order CONFIRM THAT the employer to HAS TERMINATED OR WILL terminate the employment of all unauthorized aliens IN THIS STATE.

(b) Order the employer to be subject to a five year probationary period. During the probationary period the employer shall file quarterly reports IN THE FORM PROVIDED IN A.R.S. SECTION 23-722.01 with the county attorney of each new employee who is hired by the employer at the specific location IN THIS STATE where the unauthorized alien performed work IN THIS STATE.

(c) Order the appropriate agencies to suspend all licenses, described in subdivision (d) of this paragraph that are held by the employer IN THIS STATE for a minimum of ten days. The court shall base its decision on the length of the suspension under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:

(i) The number of unauthorized aliens employed by the employer IN THIS STATE.

(ii) Any prior misconduct by the employer IN THIS STATE.

(iii) The degree of harm resulting from the violation.

(iv) Whether the employer made good faith efforts to comply with any applicable requirements.

(v) The duration of the violation.

(vi) The role of the directors, officers or principals of the employer IN THIS STATE in the violation.

(vii) Any other factors the court deems appropriate.

(d) Order the employer to file a signed sworn affidavit with the county attorney. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens IN THIS STATE and that the employer will not intentionally or knowingly employ an unauthorized alien IN THIS STATE. All licenses that are suspended under this subdivision shall remain suspended until the employer files a signed sworn affidavit with the county attorney. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer IN THIS STATE and that are necessary to operate the employer's business at the employer's business location IN THIS STATE where the unauthorized alien performed work IN THIS STATE. If a license is not necessary to operate the employer's business at the specific location IN THIS STATE where the unauthorized alien performed work IN THIS STATE, but a license is necessary to operate the employer's business in general IN THIS STATE, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business WITHIN THIS STATE, IF ANY. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G.

3. For a second violation of subsection A during the period of probation, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer IN THIS STATE and that are necessary to operate the employer's business at the employer's business location IN THIS STATE where the unauthorized alien performed work IN THIS STATE. If a license is not

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necessary to operate the employer's business at the specific location where the unauthorized alien performed work IN THIS STATE, but a license is necessary to operate the employer's business in general IN THIS STATE, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business IN THIS STATE. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.

G. The attorney general shall maintain copies of court orders that are received pursuant to subsection F and shall maintain a database of the employers who have a first violation of subsection A and make the court orders available on the attorney general's website.

H. On determining whether THERE HAS BEEN A VIOLATION THAT an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to 8 United States Code section 1373(c) AND AS DETERMINED IN ACCORDANCE WITH THE PROCESSES AND PROCEDURES SET FORTH IN 8 UNITED STATES CODE SECTION 1324a AND OTHERWISE REQUIRED UNDER FEDERAL LAW. The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to 8 United States Code section 1373(c) AND AS DETERMINED IN ACCORDANCE WITH THE PROCESSES AND PROCEDURES SET FORTH IN 8 UNITED STATES CODE SECTION 1324a AND OTHERWISE REQUIRED UNDER FEDERAL LAW.

I. For the purposes of this section, proof of verifying the employment authorization of an employee through the ~~basic-pilot~~E-VERIFY program OR AS OTHERWISE PROVIDED UNDER 8 UNITED STATES CODE SECTION 1324a creates a NON-rebuttable presumption that an employer did not intentionally employ an unauthorized alien or knowingly employ an unauthorized alien.

J. For the purposes of this section, an employer who establishes that it has complied in good faith with the requirements of 8 United States Code sections 1324a OR 1324b establishes an affirmative defense that the employer did not intentionally or knowingly employ an unauthorized alien.

23-213. Employer actions; federal or state law compliance

This article shall not be construed to require an employer to take any action that WOULD, OR THAT the employer believes in good faith would, violate federal or state law.

23-214. Verification of employment eligibility; ~~basic-pilot~~E-VERIFY program

After December 31, 2007 2008, every employer, after hiring an employee, shall TO THE EXTENT PROVIDED AND ALLOWED BY THE FEDERAL GOVERNMENT, verify the employment eligibility of the employee through the ~~basic-pilot~~E-VERIFY program OR SUCH OTHER PROCEDURES AS PROVIDED UNDER 8 UNITED STATES CODE SECTION 1324a.

23-215. PUNISHMENT OF CASH-PAYING, TAX-AVOIDING ILLEGAL EMPLOYERS

A. IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, AN EMPLOYER SHALL BE SUBJECT TO THE PENALTIES PROVIDED IN PARAGRAPH B OF THIS SECTION IF THE EMPLOYER HAS MORE THAN FOUR EMPLOYEES AND PAYS HOURLY WAGES OR SALARY IN CASH AND NOT BY CHECK OR DIRECT DEPOSIT TO A

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FINANCIAL INSTITUTION AND THE EMPLOYER COMMITS ANY OF THE FOLLOWING VIOLATIONS:

1. FAILS TO MAKE WITHHOLDINGS FROM EMPLOYEE COMPENSATION AND REMIT THE WITHHOLDINGS TO THE ARIZONA DEPARTMENT OF REVENUE AS REQUIRED BY STATE LAW;

2. FAILS TO REPORT THE HIRING OF EMPLOYEES TO THE DEPARTMENT OF ECONOMIC SECURITY AS REQUIRED BY TITLE 23, CHAPTER 4, ARTICLE 5;

3. FAILS TO MAKE CONTRIBUTIONS TO THE DEPARTMENT OF ECONOMIC SECURITY FOR UNEMPLOYMENT COMPENSATION BENEFITS AS REQUIRED BY TITLE 23, CHAPTER 4, ARTICLE 5;

4. FAILS TO PROVIDE COVERAGE FOR WORKERS COMPENSATION FOR EMPLOYEES AS REQUIRED BY TITLE 23, CHAPTER 6.

B. THE ATTORNEY GENERAL MAY BRING AN ACTION IN SUPERIOR COURT AGAINST AN EMPLOYER FOR VIOLATION OF PARAGRAPH A OF THIS SECTION. IF THE COURT FINDS THE EMPLOYER TO HAVE VIOLATED THIS SECTION, THE COURT SHALL ENTER JUDGMENT AGAINST THE EMPLOYER FOR TREBLE THE AMOUNT OF ALL WITHHOLDINGS, PAYMENTS, CONTRIBUTIONS, OR PREMIUMS THAT THE EMPLOYER WAS OBLIGATED TO MAKE BUT DID NOT MAKE PURSUANT TO SUBPARAGRAPHS (1) THROUGH (4) OF PARAGRAPH (A) OF THIS SECTION, OR \$5,000 PER EMPLOYEE FOR WHICH A VIOLATION WAS COMMITTED, WHICHEVER IS GREATER.

C. THE ATTORNEY GENERAL SHALL REMIT ALL SUMS COLLECTED FROM EMPLOYERS UNDER THIS SECTION TO THE ARIZONA DEPARTMENT OF EDUCATION AND THE ARIZONA DEPARTMENT OF HEALTH SERVICES IN EQUAL AMOUNTS. THE ARIZONA DEPARTMENT OF EDUCATION AND THE ARIZONA DEPARTMENT OF HEALTH SERVICES ARE HEREBY AUTHORIZED TO DISTRIBUTE THE FUNDS RECEIVED PURSUANT TO THIS SECTION TO SCHOOL DISTRICTS AND EMERGENCY ROOM PROVIDERS AT HOSPITALS TO USE TO OFFSET THE COSTS OF THE EFFECTS OF ILLEGAL IMMIGRATION.

Section 5. Severability

If any provision of this measure or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are several.

Section 6. Short title

The measure shall be known as and may be cited as the "Stop Illegal Hiring" Act.