AN ACT

AMENDING SECTION 13-2009, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING TITLE 41, CHAPTER 23, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2505; AMENDING SECTION 43-1021, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; PROVIDING FOR THE DELAYED REPEAL OF TITLE 23, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES AND SECTION 41-2505, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)
H.B. 2779

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

Section 1. 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. Five 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. A 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 thousand dollars or more.

3. ANOTHER PERSON, INCLUDING A REAL OR FICTITIOUS PERSON, WITH THE INTENT TO OBTAIN 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 five or more other persons or entities may give rise to an inference that the personal identifying information or entity identifying information of the five 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.

Sec. 2. Title 23, chapter 2, Arizona Revised Statutes, is amended by adding article 2, 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 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 ITS SUCCESSOR PROGRAM.
3. "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS EMPLOYMENT SERVICES 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, 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. "KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN" MEANS THE ACTIONS DESCRIBED IN 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.

6. "LEGAL EMPLOYMENT AFFIDAVIT" MEANS AN AFFIDAVIT THAT INDICATES THAT AN EMPLOYER DOES NOT KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN, THAT AN EMPLOYER WILL NOT DIRECT ANY OTHER PERSON TO EMPLOY AN UNAUTHORIZED ALIEN AND THAT AN EMPLOYER MAKES A GOOD FAITH EFFORT TO COMPLY WITH ALL FEDERAL AND STATE LAWS REGARDING THE AUTHORIZATION FOR EMPLOYMENT IN THE UNITED STATES OF EVERY EMPLOYEE WHO IS EMPLOYED BY THE EMPLOYER IN THIS STATE.

7. "LICENSE":
   (a) MEANS ANY AGENCY PERMIT, CERTIFICATE, APPROVAL, REGISTRATION, CHARTER OR SIMILAR FORM OF AUTHORIZATION THAT IS REQUIRED BY LAW AND THAT IS ISSUED BY ANY AGENCY FOR THE PURPOSES OF OPERATING A BUSINESS IN THIS STATE.
   (b) INCLUDES ANY TRANSACTION PRIVILEGE TAX LICENSE.
   (c) DOES NOT INCLUDE:
       (i) ANY LICENSE ISSUED PURSUANT TO TITLE 45 OR 49.
       (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 8 UNITED STATES CODE SECTION 1324a(h)(3).

23-212. Employment of unauthorized aliens; prohibition; legal employment affidavit; violation; classification

A. AN EMPLOYER SHALL NOT KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN.

B. ON OR BEFORE SEPTEMBER 1, 2007, THE ATTORNEY GENERAL SHALL PRESCRIBE THE FORM OF THE LEGAL EMPLOYMENT AFFIDAVIT THAT IS REQUIRED TO BE FILED UNDER SUBSECTION D OF THIS SECTION. THE ATTORNEY GENERAL SHALL MAKE THE PRESCRIBED LEGAL EMPLOYMENT AFFIDAVIT FORM PUBLICLY AVAILABLE ON THE ATTORNEY GENERAL'S WEBSITE AND SHALL NOTIFY EACH AGENCY AND POLITICAL SUBDIVISION OF THIS STATE OF THE AVAILABILITY OF THE PRESCRIBED AFFIDAVIT FORM. IF AN AGENCY OR POLITICAL SUBDIVISION OF THIS STATE HAS A WEBSITE, THE AGENCY AND POLITICAL SUBDIVISION OF THIS STATE SHALL PROVIDE AN ELECTRONIC LINK FROM THE AGENCY OR POLITICAL SUBDIVISION'S WEBSITE TO THE LEGAL EMPLOYMENT AFFIDAVIT FORM ON THE ATTORNEY GENERAL'S WEBSITE.

C. ON OR BEFORE SEPTEMBER 1, 2007, THE ATTORNEY GENERAL SHALL PRESCRIBE A NOTICE FORM THAT EXPLAINS THE REQUIREMENTS OF THIS SECTION AND HOW TO COMPLY WITH THIS SECTION.
D. On or before January 1, 2008, every employer shall file with the Secretary of State a signed sworn legal employment affidavit, on the form prescribed by the Attorney General. Any employer that begins to transact business in this state after January 1, 2008 shall file with the Secretary of State within thirty days of the initial transaction of business in this state a signed sworn legal employment affidavit, on the form prescribed by the Attorney General. The Secretary of State shall accept only the legal employment affidavit forms that are prescribed by the Attorney General.

E. Beginning September 1, 2007 through October 31, 2007, the legal employment affidavit form prescribed under subsection B of this section and the notice form prescribed under subsection C of this section shall be provided to employers as follows:

1. The Industrial Commission shall provide the affidavit and notice to every employer contained in the Industrial Commission's database that is maintained for workers' compensation insurance purposes under Title 23.

2. The Department of Economic Security shall provide the affidavit and notice to every employer in the database that is maintained pursuant to Section 23-722.01.

F. After January 1, 2008, the Secretary of State or the Corporation Commission, as applicable, shall provide the legal employment affidavit form prescribed under subsection B of this section and the notice form prescribed under subsection C of this section to each person or entity, as defined in Section 10-140, that submits a filing under Title 10 or 29.

G. After January 1, 2008, the Industrial Commission and the Department of Economic Security, as applicable, shall provide the legal employment affidavit form prescribed under subsection B of this section and the notice form prescribed under subsection C of this section to every new employer that is added to either database described in subsection E of this section.

H. After January 1, 2008, every agency shall provide the legal employment affidavit form prescribed under subsection B of this section and the notice form prescribed under subsection C of this section to any employer that applies for a new license that is issued by that agency.

I. Each employer in this state is required to file only one legal employment affidavit under this section with the Secretary of State.

J. On receipt of a legal employment affidavit under this section, the Secretary of State shall distribute to the employer an informational pamphlet regarding the basic pilot program and federal immigration laws. The Secretary of State shall maintain a database of employers that file a legal employment affidavit and shall make the filed legal employment affidavit publicly available on the Secretary of State's website.

K. An employer commits false swearing under this section by filing a false sworn legal employment affidavit, believing it to be false, or, after filing the sworn legal employment affidavit, by knowingly taking action that violates the sworn affidavit.
L. A CRIMINAL ACTION FOR A VIOLATION UNDER SUBSECTION K OF THIS SECTION FOR FILING A FALSE SWORN LEGAL EMPLOYMENT AFFIDAVIT SHALL BE BROUGHT AGAINST THE EMPLOYER BY THE COUNTY ATTORNEY IN THE COUNTY WHERE THE UNAUTHORIZED ALIEN EMPLOYEE IS EMPLOYED.

M. FOR ANY ACTION IN SUPERIOR COURT UNDER THIS SECTION, THE COURT SHALL EXPEDITE THE ACTION, INCLUDING ASSIGNING THE HEARING AT THE Earliest Practicable Date.

N. AN EMPLOYER THAT FAILS TO FILE A SIGNED SWORN LEGAL EMPLOYMENT AFFIDAVIT UNDER SUBSECTION D OF THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR.

O. IF AN EMPLOYER IS CHARGED WITH A VIOLATION OF SUBSECTION N OF THIS SECTION AND FAILS TO FILE A LEGAL EMPLOYMENT AFFIDAVIT WITHIN TEN DAYS AFTER THE DATE ON WHICH THE CRIMINAL CHARGES WERE FILED UNDER SUBSECTION N OF THIS SECTION, THE EMPLOYER IS GUILTY OF A CLASS 6 FELONY.

P. FALSE SWEARING UNDER SUBSECTION K OF THIS SECTION IS:
1. FOR A FIRST VIOLATION DURING A FIVE YEAR PERIOD, A CLASS 6 FELONY. THE EMPLOYER SHALL PAY AN ADDITIONAL PENALTY OF AT LEAST TWO THOUSAND FIVE HUNDRED DOLLARS BUT NOT MORE THAN FIFTY THOUSAND DOLLARS TO BE DEPOSITED IN THE STATE GENERAL FUND. EXCEPT FOR THE SURCHARGE PROVIDED BY SECTION 16-954, THIS PENALTY IS NOT SUBJECT TO ANY SURCHARGE. ON CONVICTION, THE COURT MAY SUSPEND ANY LICENSE THAT IS HELD BY THE EMPLOYER THAT IS NECESSARY TO OPERATE ITS BUSINESS. IF THE EMPLOYER HOLDS LICENSES AT MORE THAN ONE LOCATION, THE COURT MAY SUSPEND A LICENSE ONLY FOR THE LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK. WITHIN FIVE BUSINESS DAYS AFTER A CONVICTION, THE EMPLOYER SHALL FILE A NEW SIGNED SWORN LEGAL EMPLOYMENT AFFIDAVIT WITH THE SECRETARY OF STATE.
2. FOR A SECOND VIOLATION DURING A FIVE YEAR PERIOD, A CLASS 6 FELONY, AND THE COURT SHALL NOT ENTER AN ORDER DESIGNATING THE OFFENSE A MISDEMEANOR PURSUANT TO SECTION 13-702, SUBSECTION G. THE EMPLOYER SHALL PAY AN ADDITIONAL PENALTY OF AT LEAST FIVE THOUSAND DOLLARS BUT NOT MORE THAN ONE HUNDRED THOUSAND DOLLARS TO BE DEPOSITED IN THE STATE GENERAL FUND. EXCEPT FOR THE SURCHARGE PROVIDED BY SECTION 16-954, THIS PENALTY IS NOT SUBJECT TO ANY SURCHARGE. ON CONVICTION, THE COURT MAY SUSPEND ANY LICENSE THAT IS HELD BY THE EMPLOYER THAT IS NECESSARY TO OPERATE ITS BUSINESS. IF THE EMPLOYER HOLDS LICENSES AT MORE THAN ONE LOCATION, THE COURT SHALL REVOKE A LICENSE ONLY FOR THE LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK. WITHIN FIVE BUSINESS DAYS AFTER A CONVICTION, THE EMPLOYER SHALL FILE A NEW SIGNED SWORN LEGAL EMPLOYMENT AFFIDAVIT WITH THE SECRETARY OF STATE.
3. FOR A THIRD VIOLATION DURING A FIVE YEAR PERIOD, A CLASS 5 FELONY. THE EMPLOYER SHALL PAY AN ADDITIONAL PENALTY OF AT LEAST TEN THOUSAND DOLLARS BUT NOT MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS TO BE DEPOSITED IN THE STATE GENERAL FUND. EXCEPT FOR THE SURCHARGE PROVIDED BY SECTION 16-954, THIS PENALTY IS NOT SUBJECT TO ANY SURCHARGE. ON CONVICTION, THE COURT SHALL REVOKE ANY LICENSE THAT IS HELD BY THE EMPLOYER THAT IS NECESSARY TO OPERATE ITS BUSINESS. IF THE EMPLOYER HOLDS LICENSES AT MORE THAN ONE LOCATION, THE
COURT SHALL REVOKE A LICENSE ONLY FOR THE LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK. WITHIN FIVE BUSINESS DAYS AFTER A CONVICTION, THE EMPLOYER SHALL FILE A NEW SIGNED SWORN LEGAL EMPLOYMENT AFFIDAVIT WITH THE SECRETARY OF STATE.

Q. FOR THE PURPOSES OF THIS SECTION, PROOF OF VERIFYING THE EMPLOYMENT AUTHORIZATION OF AN EMPLOYEE THROUGH THE BASIC PILOT PROGRAM CREATES A REBUTTABLE PRESUMPTION THAT AN EMPLOYER DID NOT KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN.

R. A PERSON WHO HAS BEEN CONVICTED OF FALSE SWEARING PURSUANT TO SUBSECTION K OF THIS SECTION SHALL NOT BE SUBJECT TO A SEPARATE SUBSEQUENT PROSECUTION RELATING TO THE EMPLOYMENT OF OTHER UNAUTHORIZED ALIENS AT THE SAME TIME AND PLACE INVOLVED IN THE PREVIOUS CONVICTION.

S. A PERSON WHO FILES A FALSE AND FRIVOLOUS COMPLAINT AGAINST AN EMPLOYER UNDER THIS SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

T. A PERSON WHO HAS BEEN PREVIOUSLY CONVICTED OF FILING A FALSE AND FRIVOLOUS COMPLAINT UNDER SUBSECTION S OF THIS SECTION AND WHO FILES A SUBSEQUENT FALSE AND FRIVOLOUS COMPLAINT AGAINST AN EMPLOYER UNDER THIS SECTION IS GUILTY OF A CLASS 6 FELONY.

23-213. Employer actions; federal law compliance

THIS ARTICLE SHALL NOT BE CONSTRUED TO REQUIRE AN EMPLOYER TO TAKE ANY ACTION THAT THE EMPLOYER BELIEVES IN GOOD FAITH WOULD VIOLATE FEDERAL OR STATE LAW.

23-214. Verification of employment eligibility; public employers; basic pilot program; auditor general

A. AFTER HIRING AN EMPLOYEE, THIS STATE SHALL VERIFY THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYEE THROUGH THE BASIC PILOT PROGRAM.

B. THE AUDITOR GENERAL SHALL CONDUCT A PERFORMANCE AUDIT THAT EVALUATES THE USE OF THE BASIC PILOT PROGRAM BY THIS STATE UNDER SUBSECTION A AND SHALL REPORT THESE FINDINGS AND ANY RECOMMENDATIONS TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE. THE PERFORMANCE AUDIT SHALL INCLUDE THE FOLLOWING:

1. THE COSTS INCURRED BY THIS STATE TO VERIFY THE EMPLOYMENT ELIGIBILITY OF EMPLOYEES THROUGH THE BASIC PILOT PROGRAM.

2. THE NUMBER OF ADDITIONAL EMPLOYEES REQUIRED BY THIS STATE TO VERIFY THE EMPLOYMENT ELIGIBILITY OF EMPLOYEES THROUGH THE BASIC PILOT PROGRAM.

3. A SUMMARY OF RESULTS AND ANY ERROR RATES THAT OCCURRED WHEN THE BASIC PILOT PROGRAM IS USED BY THIS STATE.

C. AFTER SEPTEMBER 1, 2008, EVERY POLITICAL SUBDIVISION OF THIS STATE, AFTER HIRING AN EMPLOYEE, SHALL VERIFY THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYEE THROUGH THE BASIC PILOT PROGRAM.

Sec. 3. Title 41, chapter 23, article 1, Arizona Revised Statutes, is amended by adding section 41-2505, to read:

41-2505. Awarded contracts; employee verification; definitions

A. A PROCUREMENT OFFICER OF THIS STATE SHALL NOT AWARD A CONTRACT UNDER THIS CHAPTER TO ANY CONTRACTOR OR SUBCONTRACTOR THAT PROVIDES SERVICES
IN THIS STATE UNLESS THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYEES OF THE CONTRACTOR OR SUBCONTRACTOR WHO PERFORM THE SERVICES IN THIS STATE WILL BE VERIFIED BY THE CONTRACTOR OR SUBCONTRACTOR THROUGH THE BASIC PILOT PROGRAM. THIS SUBSECTION ONLY APPLIES TO CONTRACTS THAT ARE AWARDED AFTER THE EFFECTIVE DATE OF THIS SECTION.

B. AFTER SEPTEMBER 1, 2008, A POLITICAL SUBDIVISION OF THIS STATE SHALL NOT AWARD A CONTRACT TO ANY CONTRACTOR OR SUBCONTRACTOR THAT PROVIDE SERVICES IN THIS STATE UNLESS THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYEES OF THE CONTRACTOR OR SUBCONTRACTOR WHO PERFORM THE SERVICES IN THIS STATE WILL BE VERIFIED BY THE CONTRACTOR OR SUBCONTRACTOR THROUGH THE BASIC PILOT PROGRAM.

C. BEFORE A CONTRACT IS AWARDED PURSUANT TO THIS SECTION, THE CONTRACTOR AND SUBCONTRACTOR SHALL PROVIDE TO THE PROCUREMENT OFFICER THE BASIC PILOT PROGRAM VERIFICATION DOCUMENTS FOR ALL EMPLOYEES WHO WILL PERFORM SERVICES UNDER THE CONTRACT.

D. FOR THE PURPOSES OF THIS SECTION:
1. "BASIC PILOT 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 ITS SUCCESSOR PROGRAM.
2. "SERVICES" MEANS THE FURNISHING OF LABOR, TIME OR EFFORT IN THIS STATE BY A CONTRACTOR OR SUBCONTRACTOR. SERVICES INCLUDE CONSTRUCTION OR MAINTENANCE OF ANY STRUCTURE, BUILDING OR TRANSPORTATION FACILITY OR IMPROVEMENT OF REAL PROPERTY.

Sec. 4. Section 43-1021, Arizona Revised Statutes, is amended to read:

43-1021. Additions to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.

2. An amount equal to the "ordinary income portion" of a lump sum distribution that was excluded from federal adjusted gross income pursuant to section 402(d) of the internal revenue code.

3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for tax years beginning from and after December 31, 1996, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.

4. Annuity income received during the taxable year to the extent that the sum of the proceeds received from such annuity in all taxable years prior to and including the current taxable year exceeds the total consideration and premiums paid by the taxpayer. This paragraph applies only to those
annuities with respect to which the first payment was received prior to December 31, 1978.

5. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the income required to be reported under section 702(a)(8) of the internal revenue code.

6. The excess of a partner's share of partnership losses determined pursuant to section 702(a)(8) of the internal revenue code over the losses allowable under chapter 14, article 2 of this title.

7. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to the internal revenue code exceeds the adjusted basis of such property computed pursuant to this title and the income tax act of 1954, as amended. This paragraph shall apply to all property which is held for the production of income and which is sold or otherwise disposed of during the taxable year, except depreciable property used in a trade or business.

8. The amount of depreciation or amortization of costs of any capital investment that is deducted pursuant to section 167 or 179 of the internal revenue code by a qualified defense contractor with respect to which an election is made to amortize pursuant to section 43-1024.

9. The amount of gain from the sale or other disposition of a capital investment which a qualified defense contractor has elected to amortize pursuant to section 43-1024.

10. Amounts withdrawn from the Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan or a county or city retirement plan by an employee upon termination of employment before retirement to the extent they were deducted in arriving at Arizona taxable income in any year.

11. That portion of the net operating loss included in federal adjusted gross income which has already been taken as a net operating loss for Arizona purposes or which is separately taken as a subtraction under the special net operating loss transition rule.

12. Any nonitemized amount deducted pursuant to section 170 of the internal revenue code representing contributions to an educational institution which denies admission, enrollment or board and room accommodations on the basis of race, color or ethnic background except those institutions primarily established for the education of American Indians.

13. The amount paid as taxes on property in this state with respect to which a credit is claimed under section 43-1078.

14. Amounts withdrawn from a medical savings account by the individual during the taxable year computed pursuant to section 220(f) of the internal revenue code and not included in federal adjusted gross income.

15. Any amount of agricultural water conservation expenses that were deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1084.
16. The amount by which the depreciation or amortization computed under
the internal revenue code with respect to property for which a credit was
taken under section 43-1080 exceeds the amount of depreciation or
amortization computed pursuant to the internal revenue code on the Arizona
adjusted basis of the property.

17. The amount by which the adjusted basis computed under the internal
revenue code with respect to property for which a credit was claimed under
section 43-1080 and which is sold or otherwise disposed of during the taxable
year exceeds the adjusted basis of the property computed under section
43-1080.

18. The amount by which the depreciation or amortization computed under
the internal revenue code with respect to property for which a credit was
taken under either section 43-1081 or 43-1081.01 exceeds the amount of
depreciation or amortization computed pursuant to the internal revenue code
on the Arizona adjusted basis of the property.

19. The amount by which the adjusted basis computed under the internal
revenue code with respect to property for which a credit was claimed under
section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise
disposed of during the taxable year exceeds the adjusted basis of the
property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
applicable.

20. The deduction referred to in section 1341(a)(4) of the internal
revenue code for restoration of a substantial amount held under a claim of
right.

21. The amount by which a net operating loss carryover or capital loss
carryover allowable pursuant to section 1341(b)(5) of the internal revenue
code exceeds the net operating loss carryover or capital loss carryover
allowable pursuant to section 43-1029, subsection F.

22. Any amount deducted pursuant to section 170 of the internal revenue
code representing contributions to a school tuition organization or a public
school for which a credit is claimed under section 43-1089 or 43-1089.01.

23. Any amount deducted in computing Arizona gross income as expenses
for installing solar stub outs or electric vehicle recharge outlets in this
state with respect to which a credit is claimed pursuant to section 43-1090.

24. Any wage expenses deducted pursuant to the internal revenue code
for which a credit is claimed under section 43-1087 and representing net
increases in qualified employment positions for employment of temporary
assistance for needy families recipients.

25. Any amount deducted for conveying ownership or development rights
of property to an agricultural preservation district under section 48-5702
for which a credit is claimed under section 43-1081.02.

26. The amount of any depreciation allowance allowed pursuant to
section 167(a) of the internal revenue code to the extent not previously
added.
27. With respect to property for which an expense deduction was taken pursuant to section 179 of the internal revenue code, the amount in excess of twenty-five thousand dollars.

28. The amount of any deductions that are claimed in computing federal adjusted gross income representing expenses for which a credit is claimed under section 43-1075.

29. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1090.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

30. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1090.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1090.01.

31. For taxable years beginning from and after December 31, 2007 through December 31, 2012, the amount of salary or other compensation that is paid to an unauthorized alien and that is deducted as a business expense under section 162 of the internal revenue code. This paragraph applies only to a taxpayer that knowingly employs an unauthorized alien. For the purposes of this paragraph:

   (a) "KNOWINGLY EMPLOYS AN UNAUTHORIZED ALIEN" MEANS THE ACTIONS DESCRIBED IN 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.

   (b) "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 8 UNITED STATES CODE SECTION 1324a(h)(3).

Sec. 5. Intent

It is the intent of the legislature that, on receipt of a complaint that an employer has allegedly violated section 23-212, Arizona Revised Statutes, as added by this act, the attorney general or county attorney investigate the alleged violation.

Sec. 6. Severability

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

Sec. 7. Legislative findings

The Legislature finds that this act complies with the requirements of 8 United States Code section 1324a(h)(2) by addressing employer sanctions through licensure and similar means. Criminal penalties contained in this act are associated exclusively with the state crimes of failing to file an
affidavit and false swearing on an affidavit filed with the secretary of state, not the act of employing unauthorized persons.

Sec. 8. **Short title**
This act shall be known as and may be cited as the "Arizona Fair and Legal Employment Act."

Sec. 9. **Appropriation; attorney general enforcement; exemption**
A. The sum of $500,000 is appropriated from the state general fund in fiscal year 2007-2008 to the attorney general for the purpose of enforcing any immigration related matters and section 23-212, Arizona Revised Statutes, as added by this act.

B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 10. **Appropriation; county attorney enforcement; exemption**
A. The sum of $2,500,000 is appropriated from the state general fund in fiscal year 2007-2008 to the department of administration to be distributed to the county attorneys in this state for the purpose of enforcing any immigration related matters and section 23-212, Arizona Revised Statutes, as added by this act. The department of administration shall distribute these monies to each county attorney as follows:

1. $1,500,000 to each county attorney of a county in this state having a population of one million five hundred thousand or more persons as determined by the most recent United States decennial census.

2. $500,000 to each county attorney of a county in this state having a population of eight hundred thousand or more persons but less than one million five hundred thousand persons as determined by the most recent United States decennial census.

3. The remainder of monies to be distributed as equally as possible to each county attorney of counties in this state having a population of less than five hundred thousand persons as determined by the most recent United States decennial census.

B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 11. **Appropriation; secretary of state administration; exemption**
A. The sum of $200,000 is appropriated from the state general fund in fiscal year 2007-2008 to the secretary of state for the purpose of administering section 23-212, Arizona Revised Statutes, as added by this act.

B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.
Sec. 12. **Delayed repeal**

A. Title 23, chapter 2, article 2, Arizona Revised Statutes, as added by this act, is repealed from and after December 31, 2012.

B. Section 41-2505, Arizona Revised Statutes, as added by this act, is repealed from and after December 31, 2012.