

By: Senator(s) Walls

To: Judiciary, Division A

SENATE BILL NO. 2508

1 AN ACT TO PROHIBIT RACIAL PROFILING BY LAW ENFORCEMENT
2 OFFICERS; TO PROVIDE PENALTIES FOR VIOLATIONS; TO AMEND SECTION
3 63-1-19, MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE TYPES OF
4 DOCUMENTS THAT AN APPLICANT FOR A MISSISSIPPI DRIVER'S LICENSE MAY
5 PROVIDE TO THE DRIVER'S LICENSE EXAMINER IN ORDER TO SHOW PROOF OF
6 RESIDENCY; TO AMEND SECTION 63-1-35, MISSISSIPPI CODE OF 1972, TO
7 PROVIDE FOR THE FILING OF AN AFFIDAVIT BY A PERSON WHO HAS NEVER
8 BEEN ISSUED A SOCIAL SECURITY NUMBER; TO CREATE NEW SECTION
9 63-1-20, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A CERTIFICATE FOR
10 DRIVING; TO PROSCRIBE AS UNLAWFUL CERTAIN EMPLOYMENT PRACTICES; TO
11 CREATE SECTION 71-11-1, MISSISSIPPI CODE OF 1972, TO REQUIRE
12 EMPLOYERS TO PROVIDE EMPLOYEES ACCESS TO THEIR PERSONNEL FILES AT
13 ALL REASONABLE TIMES; TO CREATE SECTION 11-1-73, MISSISSIPPI CODE
14 OF 1972, TO PROHIBIT CONSIDERATION OF A PERSON'S IMMIGRATION
15 STATUS IN THE JUDGMENT RENDERED IN ANY CIVIL MATTER; TO PROHIBIT
16 LOCAL LAW ENFORCEMENT AGENCIES FROM PARTICIPATING IN ICE RAIDS;
17 AND FOR RELATED PURPOSES.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

19 **SECTION 1.** It shall be unlawful for any law enforcement
20 officer to detain or stop a person in traffic based solely on the
21 race of the person being detained or stopped. All law enforcement
22 agencies shall keep accurate records of all traffic stops and
23 detentions identifying the reasons for the stops and the race of
24 the person being stopped or detained. Any law enforcement officer
25 who violates this section shall, upon conviction, be fined not
26 more than One Thousand Dollars (\$1,000.00) or imprisoned for up to
27 one (1) year, or both. In addition to such fine or imprisonment,
28 or both, the law enforcement officer shall not return to the
29 profession of law enforcement until such officer has been trained
30 in the prevention of racial profiling as provided in Section
31 45-6-11.

32 **SECTION 2.** Section 63-1-19, Mississippi Code of 1972, is
33 amended as follows:



34 63-1-19. (1) * * * Every applicant for a license or permit
35 issued pursuant to this article, or for renewal of such license or
36 permit, shall file an application for such license, permit or
37 renewal, on a form provided by the Department of Public Safety,
38 with the commissioner or an official license examiner of the
39 department. All persons not holding valid, unexpired licenses
40 issued in this state shall be required to secure an original
41 license, except those specifically exempted from licensing under
42 Section 63-1-7. The application shall state the name, date of
43 birth, the social security number of the applicant unless the
44 applicant is not a United States citizen and does not possess a
45 social security number issued by the United States government,
46 sex, race, color of eyes, color of hair, weight, height and
47 residence address, and whether * * * the applicant's privilege to
48 drive has been suspended or revoked at any time, and, if so, when,
49 by whom, and for what cause, and whether any previous application
50 by him has been denied, and whether he has any physical defects
51 which would interfere with his operating a motor vehicle safely
52 upon the highways.

53 (2) Every applicant for an original license shall show proof
54 of residency in this state. An applicant for an original license
55 may show proof of residency in this state by presenting to the
56 license examiner at least two (2) of the following documents:

57 (a) A utility bill, including telephone service,
58 showing a valid residential address;

59 (b) A bank statement showing a valid Mississippi
60 address;

61 (c) An acceptable employer verification, such as an
62 employment identification card, a letter from the employer on its
63 official letterhead or a payroll check or payroll check stub;

64 (d) An automobile, life or health insurance policy
65 showing a valid Mississippi address;



66 (e) A driver's license issued by the State of
67 Mississippi to a parent, legal guardian or spouse;

68 (f) A Mississippi motor vehicle registration showing a
69 valid Mississippi address;

70 (g) An Internal Revenue Service Tax Reporting W-2 Form;

71 (h) A receipt for personal or real estate taxes paid
72 within the last year showing a valid Mississippi address;

73 (i) A copy of a residential lease showing a valid
74 Mississippi address;

75 (j) If the applicant is a student enrolled in a public
76 or private school in Mississippi, a photo student identification
77 card and acceptable documentation that the student resides on
78 campus; or

79 (k) A photo identification card issued by the
80 government of the applicant's country of origin.

81 (3) If an applicant is unable to provide at least two (2) of
82 the documents described in subsection (2) of this section, he may
83 provide one (1) of the documents described in subsection (2) of
84 this section and one (1) of the following documents:

85 (a) The Individual Taxpayer Identification Number
86 (ITIN) issued by the Internal Revenue Service;

87 (b) Form I-94 issued to the applicant by the United
88 States Immigration and Naturalization Service;

89 (c) An Employment Authorization Card (EAD) issued to
90 the applicant by the United States Immigration and Naturalization
91 Service;

92 (d) A Permanent Residence Card issued to the applicant
93 by the United States Immigration and Naturalization Service; or

94 (e) A stamp in a foreign passport issued by the United
95 States Immigration and Naturalization Service showing evidence of
96 lawful admission for permanent residence.

97 (4) The documents described in subsections (1) and (2) of
98 this section must include the applicant's name or the name of the



99 applicant's spouse, if the applicant has a spouse, or if the
100 applicant is a minor, the name of a parent or legal guardian.
101 These documents must also show the applicant's valid residence
102 address used on the application for the Mississippi driver's
103 license.

104 Each application or filing made under this section, except as
105 otherwise provided under Section 63-1-35(2), shall include the
106 social security number(s) of the applicant in accordance with
107 Section 93-11-64, Mississippi Code of 1972.

108 (5) Whenever a person who has applied for or who has been
109 issued a license or permit under this article moves from the
110 address listed in the application or on the permit or license, or
111 whenever the name of a licensee changes by marriage or otherwise,
112 such person, within thirty (30) days thereafter, shall notify, in
113 writing, the Department of Public Safety, Driver Services
114 Division, and inform the department of his or her previous address
115 and new address and of his or her former name and new name. The
116 department shall not change the name of a licensee or permittee on
117 his or her license or permit unless the applicant appears in
118 person at an office of the department and provides a certified
119 copy of his or her marriage license, court order, birth
120 certificate or divorce decree changing the licensee's or
121 permittee's name.

122 (6) (a) Any male who is at least eighteen (18) years of age
123 but less than twenty-six (26) years of age and who applies for a
124 permit or license or a renewal of a permit or license under this
125 chapter shall be registered in compliance with the requirements of
126 Section 3 of the Military Selective Service Act, 50 USCS Appx 451
127 et seq., as amended.

128 (b) The department shall forward in an electronic
129 format the necessary personal information of the applicant to the
130 Selective Service System. The applicant's submission of the
131 application shall serve as an indication that the applicant either



132 has already registered with the Selective Service System or that
133 he is authorizing the department to forward to the Selective
134 Service System the necessary information for registration. The
135 commissioner shall notify the applicant on, or as a part of, the
136 application that his submission of the application will serve as
137 his consent to registration with the Selective Service System, if
138 so required. The commissioner also shall notify any male
139 applicant under the age of eighteen (18) that he will be
140 registered upon turning age eighteen (18) as required by federal
141 law.

142 **SECTION 3.** Section 63-1-35, Mississippi Code of 1972, is
143 amended as follows:

144 63-1-35. (1) The Commissioner of Public Safety shall
145 prescribe the form of licenses issued pursuant to this article
146 which shall, among other features, include a driver's license
147 number assigned by the Department of Public Safety which, at the
148 option of the licensee, may or may not be the social security
149 number of the licensee. A licensee who chooses not to use his
150 social security number as his driver's license number, except as
151 otherwise provided under subsection (2) of this section, shall
152 list his social security number with the department which shall
153 cross reference the social security number with the driver's
154 license number for purposes of identification. Additionally, each
155 license shall bear a full face color photograph of the licensee in
156 such form that the license and the photograph cannot be separated.
157 Such photograph shall be taken so that one (1) exposure will
158 photograph the applicant and the application simultaneously on the
159 same film. The department shall use a process in the issuance of
160 a license with a color photograph which shall prevent as nearly as
161 possible any alteration, counterfeiting, duplication,
162 reproduction, forging or modification of such license or the
163 superimposition of a photograph without ready detection. Such
164 photograph shall be replaced by the department at the time of



165 renewal. Driver's licenses, including photographs appearing
166 thereon, may be renewed by electronic means according to rules and
167 regulations promulgated by the commissioner. The Department of
168 Public Safety may accept bank credit cards and debit cards in
169 payment of fees for driver's license renewals that are processed
170 by electronic means and, if authorized by general law, may charge
171 an additional fee for the use of such cards.

172 (2) An applicant who does not have, or who states that he
173 has never been issued, a social security number as required under
174 subsection (1) of this section, shall complete an affidavit, under
175 penalty of perjury, affirming that he has never been issued a
176 social security number.

177 (3) Any new, renewal or duplicate driver's license,
178 temporary driving permit, intermediate license or commercial
179 driver's license issued to a person required to register as a sex
180 offender pursuant to Section 45-33-25 shall bear a designation
181 identifying the licensee or permittee as a sex offender.

182 **SECTION 4.** The following shall be codified as Section
183 63-1-20, Mississippi Code of 1972:

184 63-1-20. (1) Notwithstanding any other provision of law to
185 the contrary, the department may issue a certificate for driving
186 to persons whose presence in the United States has been authorized
187 by the federal government for a specific purpose and for a
188 specified period of authorized stay. Such certificate of driving
189 shall be valid only during the period of time of the applicant's
190 authorized stay in the United States; no certificate shall be
191 issued for a period of less than (1) year or longer than five (5)
192 years.

193 (2) Notwithstanding the provisions of subsection (1) of this
194 section, the department may issue a certificate for driving to
195 persons who do not satisfy the requirements of subsection (1).
196 Such certificate for driving shall be valid for a period of one
197 (1) year. Except as otherwise provided in this section, all laws



198 applicable to driver's licenses and financial responsibility shall
199 also apply to certificates for driving. All laws applicable to
200 convictions, suspensions, cancellations and revocations of
201 driver's licenses shall also apply to certificates for driving.

202 (3) Any applicant applying for a certificate for driving,
203 upon initial issuance, renewal or reinstatement, shall meet the
204 requirements of this section.

205 (4) For the purposes of this section, "certificate for
206 driving" means a certificate issued by the department to an
207 individual who does not satisfy the requirements of Section
208 63-1-35 to obtain a driver's license. Such certificate for
209 driving shall be clearly distinguishable from a driver's license
210 and shall clearly display on its face a phrase substantially
211 similar to: "FOR DRIVING PURPOSES ONLY - NOT VALID FOR
212 IDENTIFICATION."

213 **SECTION 5.** (1) It is hereby declared to be the public
214 policy of Mississippi that the right of a person to work shall not
215 be denied or abridged on account of a person's immigration status.

216 (2) It shall be an unlawful employment practice for an
217 employer to retaliate against an employee by contacting the United
218 States Immigration and Customs Enforcement or the United States
219 Customs and Border Patrol to begin a worksite investigation of the
220 employer's records or to arrest current or former employees
221 because the employee has exercised any workplace right granted to
222 the employee under state or federal law.

223 (3) No employer shall take an adverse action against an
224 employee based solely on the employer's participation in the work
225 authorization program of the Illegal Immigration Reform and
226 Immigration Responsibility Act of 1996, Public Law 104-208,
227 Division C, Section 403(a); 8 USC, Section 1324a, and operated by
228 the United States Department of Homeland Security, known as the
229 E-Verify Program.



230 (4) No employer shall require any person, as a condition of
231 employment or continuation of employment, to waive any right
232 granted to the person under this section.

233 (5) Any person who may be denied employment or be deprived
234 of continuation of his employment in violation of this section
235 shall be entitled to recover from such employer and from any other
236 person, firm, corporation or association acting in concert with
237 him, by appropriate action in the courts of this state, such
238 actual damages as he may have sustained by reason of such denial
239 or deprivation of employment.

240 **SECTION 6.** The following shall be codified as Section
241 71-11-1, Mississippi Code of 1972:

242 71-11-1. An employer shall be required to provide each
243 employee reasonable access to the employee's personnel file at all
244 reasonable times.

245 **SECTION 7.** The following shall be codified as Section
246 11-1-73, Mississippi Code of 1972:

247 11-1-73. In any civil action, whether for personal injury or
248 on any other grounds, a person's immigration status shall not be
249 considered in the remedy awarded in the suit.

250 **SECTION 8.** There shall be no authority under law, including
251 under the provisions of Section 19-25-23, Sections 21-21-31
252 through 21-21-41, or Sections 17-13-1 through 17-13-17, for a
253 local law enforcement agency, the Mississippi Highway Patrol, the
254 Mississippi Bureau of Narcotics or the Mississippi Bureau of
255 Investigation to participate in any United States Immigration and
256 Customs Enforcement raid.

257 **SECTION 9.** This act shall take effect and be in force from
258 and after July 1, 2009.

