

By: Williams, et al.

S.B. No. 9

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the enforcement of state and federal laws governing  
3 immigration by certain governmental entities and the  
4 administration of certain documentation of citizenship status and  
5 other lawful admittance by the Department of Public Safety.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Chapter 370, Local Government Code, is amended  
8 by adding Section 370.0031 to read as follows:

9 Sec. 370.0031. LOCAL GOVERNMENT POLICY REGARDING  
10 ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS. (a) This  
11 section applies to:

12 (1) the governing body of a municipality, county, or  
13 special district or authority, except as provided by Subsections  
14 (b) and (b-1);

15 (2) an officer, employee, or other body that is part of  
16 a municipality, county, or special district or authority, including  
17 a sheriff, municipal police department, municipal attorney, or  
18 county attorney; and

19 (3) a district attorney or criminal district attorney.

20 (b) This section does not apply to a school district or  
21 open-enrollment charter school or a junior college district. This  
22 section does not apply to the release of information contained in  
23 education records of an educational agency or institution, except  
24 in conformity with the Family Educational Rights and Privacy Act of

1 1974, Section 513, Pub. L. No. 93-380 (20 U.S.C. Section 1232g).

2 (b-1) This section does not apply to a hospital or hospital  
3 district.

4 (c) An entity described by Subsection (a) may not adopt a  
5 rule, order, ordinance, or policy under which the entity prohibits  
6 the enforcement of the laws of this state or federal law relating to  
7 immigrants or immigration, including the federal Immigration and  
8 Nationality Act (8 U.S.C. Section 1101 et seq.).

9 (d) In compliance with Subsection (c), an entity described  
10 by Subsection (a) may not prohibit a person employed by or otherwise  
11 under the direction or control of the entity from doing any of the  
12 following:

13 (1) inquiring into the immigration status of a person  
14 lawfully detained for the investigation of a criminal offense or  
15 arrested;

16 (2) with respect to information relating to the  
17 immigration status, lawful or unlawful, of any person lawfully  
18 detained for the investigation of a criminal offense or arrested:

19 (A) sending the information to or requesting or  
20 receiving the information from United States Citizenship and  
21 Immigration Services or United States Immigration and Customs  
22 Enforcement, including information regarding an individual's place  
23 of birth;

24 (B) maintaining the information; or

25 (C) exchanging the information with another  
26 federal, state, or local governmental entity;

27 (3) assisting or cooperating with a federal

1 immigration officer as reasonable and necessary, including  
2 providing enforcement assistance; or

3 (4) permitting a federal immigration officer to enter  
4 and conduct enforcement activities at a municipal or county jail to  
5 enforce federal immigration laws.

6 (d-1) An entity described by Subsection (a) or a person  
7 employed by or otherwise under the direction or control of the  
8 entity may not consider race, color, language, or national origin  
9 while enforcing the laws described by Subsection (c) except to the  
10 extent permitted by the United States Constitution or the Texas  
11 Constitution.

12 (e) An entity described by Subsection (a) may not receive  
13 state grant funds if the entity adopts a rule, order, ordinance, or  
14 policy under which the entity prohibits the enforcement of the laws  
15 of this state or federal laws relating to Subsection (c) or, by  
16 consistent actions, prohibits the enforcement of the laws of this  
17 state or federal laws relating to Subsection (c). State grant funds  
18 for the entity shall be denied for the fiscal year following the  
19 year in which a final judicial determination in an action brought  
20 under this section is made that the entity has intentionally  
21 prohibited the enforcement of the laws of this state or federal laws  
22 relating to Subsection (c).

23 (f) Any citizen residing in the jurisdiction of an entity  
24 described by Subsection (a) may file a complaint with the attorney  
25 general if the citizen offers evidence to support an allegation  
26 that the entity has adopted a rule, order, ordinance, or policy  
27 under which the entity prohibits the enforcement of the laws of this

1 state or federal laws relating to Subsection (c) or that, by  
2 consistent actions, prohibits the enforcement of the laws of this  
3 state or federal laws relating to Subsection (c). The citizen must  
4 include with the complaint the evidence the citizen has that  
5 supports the complaint.

6 (g) If the attorney general determines that a complaint  
7 filed under Subsection (f) against an entity described by  
8 Subsection (a) is valid, the attorney general may file a petition  
9 for a writ of mandamus or apply for other appropriate equitable  
10 relief in a district court in Travis County or in a county in which  
11 the principal office of an entity described by Subsection (a) is  
12 located to compel the entity that adopts a rule, order, ordinance,  
13 or policy under which the local entity prohibits the enforcement of  
14 the laws of this state or federal laws relating to Subsection (c) or  
15 that, by consistent actions, prohibits the enforcement of the laws  
16 of this state or federal laws relating to Subsection (c) to comply  
17 with Subsection (c). The attorney general may recover reasonable  
18 expenses incurred in obtaining relief under this subsection,  
19 including court costs, reasonable attorney's fees, investigative  
20 costs, witness fees, and deposition costs.

21 (h) An appeal of a suit brought under Subsection (g) is  
22 governed by the procedures for accelerated appeals in civil cases  
23 under the Texas Rules of Appellate Procedure. The appellate court  
24 shall render its final order or judgment with the least possible  
25 delay.

26 SECTION 2. The heading to Chapter 370, Local Government  
27 Code, is amended to read as follows:

1 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL~~  
2 ~~AND COUNTY~~] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE  
3 TYPE OF LOCAL GOVERNMENT

4 SECTION 3. Chapter 2, Code of Criminal Procedure, is  
5 amended by adding Article 2.252 to read as follows:

6 Art. 2.252. VERIFICATION OF IMMIGRATION STATUS OF PERSON  
7 CHARGED WITH COMMITTING OFFENSE. (a) A local law enforcement  
8 agency that has custody of a person who has been arrested and  
9 transported to a place of detention shall verify the immigration  
10 status of the person by use of the federal Secure Communities  
11 program operated by United States Immigration and Customs  
12 Enforcement or a successor program.

13 (b) A local law enforcement agency is not required to  
14 conduct an immigration status verification under Subsection (a) of  
15 a person who is transferred to the custody of the agency by another  
16 law enforcement agency if the transferring agency, before  
17 transferring custody of the person, conducted an immigration status  
18 verification under Subsection (a).

19 SECTION 4. Subchapter A, Chapter 521, Transportation Code,  
20 is amended by adding Section 521.007 to read as follows:

21 Sec. 521.007. TEMPORARY VISITOR STATIONS. (a) The  
22 department shall designate as temporary visitor stations certain  
23 driver's license offices.

24 (b) A driver's license office designated as a temporary  
25 visitor station under this section must have at least two staff  
26 members who have completed specialized training on the temporary  
27 visitor issuance guide published by the department.

1        (c) A driver's license office designated as a temporary  
2 visitor station shall provide information and assistance to other  
3 driver's license offices in the state.

4        SECTION 5. Subsection (b), Section 521.041, Transportation  
5 Code, is amended to read as follows:

6        (b) The department shall maintain suitable indexes, in  
7 alphabetical or numerical order, that contain:

8            (1) each denied application and the reasons for the  
9 denial;

10           (2) each application that is granted; ~~and~~

11           (3) the name of each license holder whose license has  
12 been suspended, canceled, or revoked and the reasons for that  
13 action; and

14           (4) the citizenship status of each holder of a license  
15 or personal identification certificate.

16        SECTION 6. Section 521.101, Transportation Code, is amended  
17 by adding Subsections (d-1), (f-2), (f-3), and (k) and amending  
18 Subsection (f) to read as follows:

19        (d-1) Unless the information has been previously provided  
20 to the department, the department shall require each applicant for  
21 an original, renewal, or duplicate personal identification  
22 certificate to furnish to the department:

23           (1) proof of the applicant's United States  
24 citizenship; or

25           (2) documentation described by Subsection (f-2).

26        (f) A personal identification certificate:

27           (1) for an applicant who is a citizen, national, or

1 legal permanent resident of the United States or a refugee or asylee  
2 lawfully admitted into the United States:

3 (A) expires on a date specified by the department  
4 if the applicant is younger than 60 years of age; or

5 (B) does not expire if the applicant is 60 years  
6 of age or older; or

7 (2) for an applicant not described by Subdivision (1),  
8 expires on:

9 (A) the earlier of:

10 (i) a date specified by the department; or

11 (ii) the expiration date of the applicant's  
12 authorized stay in the United States; or

13 (B) the first anniversary of the date of  
14 issuance, if there is no definite expiration date for the  
15 applicant's authorized stay in the United States~~[, except that a~~  
16 ~~certificate issued to a person 60 years of age or older does not~~  
17 ~~expire].~~

18 (f-2) An applicant who is not a citizen of the United States  
19 must present to the department documentation issued by the  
20 appropriate United States agency that authorizes the applicant to  
21 be in the United States.

22 (f-3) The department may not issue a personal  
23 identification certificate to an applicant who fails or refuses to  
24 comply with Subsection (f-2).

25 (k) Except as provided by this section, each personal  
26 identification certificate issued by the department:

27 (1) must:

1                   (A) be in the same format;  
2                   (B) have the same appearance and orientation; and  
3                   (C) contain the same type of information; and  
4                   (2) may not include any information that this chapter  
5 does not reference or require.

6           SECTION 7. Section 521.103, Transportation Code, is amended  
7 by adding Subsection (c) to read as follows:

8           (c) Sections 521.101(f-2) and (f-3) apply to a personal  
9 identification certificate for which application is made under this  
10 section.

11           SECTION 8. Section 521.121, Transportation Code, is amended  
12 by adding Subsection (e) to read as follows:

13           (e) Except as provided by this section, each personal  
14 identification certificate issued by the department:

15                   (1) must:  
16                           (A) be in the same format;  
17                           (B) have the same appearance and orientation; and  
18                           (C) contain the same type of information; and  
19                   (2) may not include any information that this chapter  
20 does not reference or require.

21           SECTION 9. Subsections (a) and (e), Section 521.142,  
22 Transportation Code, are amended to read as follows:

23           (a) An application for an original license must state the  
24 applicant's full name and place and date of birth. This information  
25 must be verified by presentation of proof of identity satisfactory  
26 to the department. An applicant who is not a citizen of the United  
27 States must present to the department documentation issued by the



1 appropriate United States agency that authorizes the applicant to  
2 be in the United States before the applicant may be issued a  
3 driver's license. The department must accept as satisfactory proof  
4 of identity under this subsection an offender identification card  
5 or similar form of identification issued to an inmate by the Texas  
6 Department of Criminal Justice if the applicant also provides  
7 supplemental verifiable records or documents that aid in  
8 establishing identity.

9 (e) The application must include any other information the  
10 department requires to determine the applicant's identity,  
11 residency, competency, and eligibility as required by the  
12 department or state law.

13 SECTION 10. Section 521.1425, Transportation Code, is  
14 amended by amending Subsection (a) and adding Subsection (c) to  
15 read as follows:

16 (a) Except as provided by Subsections [~~Subsection~~] (b) and  
17 (c), the department may require each applicant for an original,  
18 renewal, or duplicate driver's license to furnish to the department  
19 the information required by Section 521.142.

20 (c) Unless the information has been previously provided to  
21 the department, the department shall require each applicant for an  
22 original, renewal, or duplicate driver's license to furnish to the  
23 department:

24 (1) proof of the applicant's United States  
25 citizenship; or

26 (2) documentation described by Section 521.142(a).

27 SECTION 11. Section 521.271, Transportation Code, is

1 amended by amending Subsections (a) and (b) and adding Subsections  
2 (a-2), (a-3), and (a-4) to read as follows:

3 (a) Each original driver's license, ~~and~~ provisional  
4 license, instruction permit, or occupational driver's license  
5 issued to an applicant who is a citizen, national, or legal  
6 permanent resident of the United States or a refugee or asylee  
7 lawfully admitted into the United States expires as follows:

8 (1) except as provided by Section 521.2711, a driver's  
9 license expires on the first birthday of the license holder  
10 occurring after the sixth anniversary of the date of the  
11 application;

12 (2) a provisional license expires on the 18th  
13 birthday of the license holder;

14 (3) an instruction permit expires on the 18th birthday  
15 of the license holder;

16 (4) an occupational driver's license expires on the  
17 first anniversary of the court order granting the license; and

18 (5) unless an earlier date is otherwise provided, a  
19 driver's license issued to a person whose residence or domicile is a  
20 correctional facility or a parole facility expires on the first  
21 birthday of the license holder occurring after the first  
22 anniversary of the date of issuance.

23 (a-2) Each original driver's license issued to an applicant  
24 who is not a citizen, national, or legal permanent resident of the  
25 United States or a refugee or asylee lawfully admitted into the  
26 United States expires on:

27 (1) the earlier of:

1           (A) the first birthday of the license holder  
2 occurring after the sixth anniversary of the date of the  
3 application; or

4           (B) the expiration date of the license holder's  
5 lawful presence in the United States as determined by the  
6 appropriate United States agency in compliance with federal law; or

7           (2) the first anniversary of the date of issuance, if  
8 there is no definite expiration date for the applicant's authorized  
9 stay in the United States.

10         (a-3) Each original provisional license or instruction  
11 permit issued to an applicant who is not a citizen, national, or  
12 legal permanent resident of the United States or a refugee or asylee  
13 lawfully admitted into the United States expires on the earliest  
14 of:

15           (1) the 18th birthday of the license holder;

16           (2) the first birthday of the license holder occurring  
17 after the date of the application; or

18           (3) the expiration of the license holder's lawful  
19 presence in the United States as determined by the United States  
20 agency responsible for citizenship and immigration in compliance  
21 with federal law.

22         (a-4) Each original occupational driver's license issued to  
23 an applicant who is not a citizen, national, or legal permanent  
24 resident of the United States or a refugee or asylee lawfully  
25 admitted into the United States expires on the earlier of:

26           (1) the first anniversary of the date of issuance; or

27           (2) the expiration of the license holder's lawful

1 presence in the United States as determined by the appropriate  
2 United States agency in compliance with federal law.

3 (b) Except as provided by Section 521.2711, a driver's  
4 license that is renewed expires on the earlier of:

5 (1) the sixth anniversary of the expiration date  
6 before renewal if the applicant is a citizen, national, or legal  
7 permanent resident of the United States or a refugee or asylee  
8 lawfully admitted into the United States;

9 (1-a) for an applicant not described by Subdivision  
10 (1):

11 (A) the earlier of:

12 (i) the sixth anniversary of the expiration  
13 date before renewal; or

14 (ii) the expiration date of the applicant's  
15 authorized stay in the United States; or

16 (B) the first anniversary of the date of  
17 issuance, if there is no definite expiration date for the  
18 applicant's authorized stay in the United States; or

19 (2) for a renewal driver's license issued to a person  
20 whose residence or domicile is a correctional facility or a parole  
21 facility, the first birthday of the license holder occurring after  
22 the first anniversary of the date of issuance unless an earlier date  
23 is otherwise provided.

24 SECTION 12. Section 521.2711, Transportation Code, is  
25 amended by adding Subsection (c) to read as follows:

26 (c) Notwithstanding Subsections (a) and (b), an original or  
27 renewal driver's license issued to an applicant who is 85 years of

1 age or older and not a citizen, national, or legal permanent  
2 resident of the United States or a refugee or asylee lawfully  
3 admitted into the United States expires on:

4 (1) the earlier of:

5 (A) the second anniversary of the expiration date  
6 before renewal; or

7 (B) the expiration date of the applicant's  
8 authorized stay in the United States; or

9 (2) the first anniversary of the date of issuance if  
10 there is no definite expiration date for the applicant's authorized  
11 stay in the United States.

12 SECTION 13. Section 521.272, Transportation Code, is  
13 amended by amending Subsection (c) and adding Subsection (d) to  
14 read as follows:

15 (c) Notwithstanding Sections [~~Section~~] 521.271 and  
16 521.2711, a driver's license issued under this section, including a  
17 renewal, duplicate, or corrected license, expires:

18 (1) if the license holder is a citizen, national, or  
19 legal permanent resident of the United States or a refugee or asylee  
20 lawfully admitted into the United States, on the first birthday of  
21 the license holder occurring after the date of application, except  
22 that the initial license issued under this section expires on the  
23 second birthday of the license holder occurring after the date of  
24 application; or

25 (2) if the applicant is not described by Subdivision  
26 (1), on the earlier of:

27 (A) the expiration date of the applicant's

1 authorized stay in the United States; or

2 (B) the first birthday of the license holder  
3 occurring after the date of application, except that the initial  
4 license issued under this section expires on the second birthday of  
5 the license holder occurring after the date of application.

6 (d) Subsection (c) [~~This subsection~~] does not apply to:

7 (1) a provisional license;

8 (2) an instruction permit issued under Section  
9 521.222; or

10 (3) a hardship license issued under Section 521.223.

11 SECTION 14. Section 521.421, Transportation Code, is  
12 amended by adding Subsection (a-3) to read as follows:

13 (a-3) Except as provided by Subsections (a-1) and (a-2), the  
14 fee for a driver's license or personal identification certificate  
15 that is issued to a person who is not a citizen, national, or legal  
16 permanent resident of the United States or a refugee or asylee  
17 lawfully admitted into the United States and that is valid for not  
18 more than one year is \$24.

19 SECTION 15. Section 522.005, Transportation Code, is  
20 amended to read as follows:

21 Sec. 522.005. RULEMAKING AUTHORITY. The department may  
22 adopt rules necessary to carry out this chapter and the federal act  
23 and to maintain compliance with 49 C.F.R. Parts 383 and 384.

24 SECTION 16. Section 522.030, Transportation Code, is  
25 amended to read as follows:

26 Sec. 522.030. CONTENT OF LICENSE. (a) A commercial  
27 driver's license must:

1 (1) be marked "Commercial Driver License" or "CDL";

2 (2) be, to the extent practicable, tamper-proof; and

3 (3) include:

4 (A) the name and mailing address of the person to  
5 whom it is issued;

6 (B) the person's color photograph;

7 (C) a physical description of the person,  
8 including sex, height, and eye color;

9 (D) the person's date of birth;

10 (E) a number or identifier the department  
11 considers appropriate;

12 (F) the person's signature;

13 (G) each class of commercial motor vehicle that  
14 the person is authorized to drive, with any endorsements or  
15 restrictions;

16 (H) the name of this state; and

17 (I) the dates between which the license is valid.

18 (b) Except as provided by this section, each personal  
19 identification certificate issued by the department:

20 (1) must:

21 (A) be in the same format;

22 (B) have the same appearance and orientation; and

23 (C) contain the same type of information; and

24 (2) may not include any information that this chapter  
25 does not reference or require.

26 (c) To the extent of a conflict or inconsistency between  
27 this section and Section 522.013 or 522.051, Section 522.013 or

1 522.051 controls.

2 SECTION 17. Subsection (b), Section 522.033,  
3 Transportation Code, is amended to read as follows:

4 (b) Notwithstanding Section 522.051, a commercial driver's  
5 license or commercial driver learner's permit issued under this  
6 section, including a renewal, duplicate, or corrected license,  
7 expires:

8 (1) if the license or permit holder is a citizen,  
9 national, or legal permanent resident of the United States or a  
10 refugee or asylee lawfully admitted into the United States, on the  
11 first birthday of the license holder occurring after the date of  
12 application, except that the initial license issued under this  
13 section expires on the second birthday of the license holder  
14 occurring after the date of application; or

15 (2) if the applicant is not described by Subdivision  
16 (1), on the earlier of:

17 (A) the expiration date of the applicant's  
18 authorized stay in the United States; or

19 (B) the first birthday of the license holder  
20 occurring after the date of application, except that the initial  
21 license issued under this section expires on the second birthday of  
22 the license holder occurring after the date of application.

23 SECTION 18. Section 522.052, Transportation Code, is  
24 amended by adding Subsection (i) to read as follows:

25 (i) Unless the information has been previously provided to  
26 the department, the department shall require each applicant for a  
27 renewal or duplicate commercial driver's license to furnish to the



1 department:

2 (1) proof of the applicant's United States  
3 citizenship; or

4 (2) documentation described by Section 521.142(a).

5 SECTION 19. Not later than January 1, 2013, the Department  
6 of Public Safety of the State of Texas shall submit to the  
7 legislature a report evaluating the effectiveness of the temporary  
8 visitor stations established under Section 521.007, Transportation  
9 Code, as added by this Act.

10 SECTION 20. The changes in law made by this Act to Chapters  
11 521 and 522, Transportation Code, apply only to a driver's license,  
12 personal identification certificate, commercial driver's license,  
13 or commercial driver learner's permit issued, reissued,  
14 reinstated, or renewed on or after the effective date of this Act.  
15 A driver's license, personal identification certificate,  
16 commercial driver's license, or commercial driver learner's permit  
17 issued, reissued, reinstated, or renewed before the effective date  
18 of this Act is governed by the law in effect when the license,  
19 certificate, or permit was issued, reissued, reinstated, or  
20 renewed, and the former law is continued in effect for that purpose.

21 SECTION 21. This Act takes effect immediately if it  
22 receives a vote of two-thirds of all the members elected to each  
23 house, as provided by Section 39, Article III, Texas Constitution.  
24 If this Act does not receive the vote necessary for immediate  
25 effect, this Act takes effect on the 91st day after the last day of  
26 the legislative session.