

- 26 confidentiality of records;
- 27           • requiring an adult not lawfully present in the United States to obtain a permit;
- 28           • permitting a minor not lawfully present in the United States to obtain a permit
- 29 under certain circumstances;
- 30           • establishing the criteria to obtain and maintain a permit;
- 31           • creating the application and renewal process;
- 32           • requiring reporting by a permit holder;
- 33           • requiring a permit holder to carry the permit;
- 34           • requiring Type B permit holders to meet certain standards;
- 35           • addressing proficiency in English and civics;
- 36           • imposing requirements on a business to obtain the services of a permit holder;
- 37           • providing for registration of approved businesses;
- 38           • requiring reporting by an approved business;
- 39           • creating a complaint process concerning the participation of approved
- 40 businesses;
- 41           • requiring compliance with labor laws;
- 42           • establishing prohibited activities;
- 43           • providing for administrative and criminal enforcement; and
- 44           • providing for severability;
- 45       ▶ enacts the Identity Enforcement Act, including:
- 46           • defining terms;
- 47           • requiring an individual to present a photographic document if subject to a lawful
- 48 stop, detention, or arrest by a law enforcement officer;
- 49           • requiring fingerprinting and photographing under certain circumstances;
- 50           • imposing penalties;
- 51           • requiring the establishment of a database; ~~§~~ **and** ~~§~~
- 52           • providing for the sharing of information with federal agencies under certain
- 53 circumstances; ~~§~~ **[and]**
- 53a           ▶ **directs the Fraudulent Documents Identification Unit to administer**
- 53b **a new Identity Theft Victims Restricted Account; and** ~~§~~
- 54           ▶ makes technical and conforming amendments.
- 55 **Money Appropriated in this Bill:**
- 56           None

57 **Other Special Clauses:**

58 This bill provides an effective date.

59 **Utah Code Sections Affected:**

60 AMENDS:

61 **32B-1-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

62 **32B-1-406 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

63 **46-1-2**, as last amended by Laws of Utah 2009, Chapter 315

64 **58-37c-10**, as last amended by Laws of Utah 2008, Chapter 322

65 **63G-2-206**, as last amended by Laws of Utah 2009, Chapter 344

66 **63G-2-302**, as last amended by Laws of Utah 2010, Chapters 36 and 379

67 **63G-2-305**, as last amended by Laws of Utah 2010, Chapters 6, 113, and 247

68 **63G-11-102**, as last amended by Laws of Utah 2010, Chapter 281

69 **63J-1-602.3**, as enacted by Laws of Utah 2010, Chapter 265

69a **§→ 67-5-22.7, as enacted by Laws of Utah 2009, Chapter 30 ←§**

70 **76-10-526**, as last amended by Laws of Utah 2010, Chapter 62

71 ENACTS:

72 **53-16-101**, Utah Code Annotated 1953

73 **53-16-102**, Utah Code Annotated 1953

74 **53-16-103**, Utah Code Annotated 1953

75 **53-16-104**, Utah Code Annotated 1953

76 **53-16-105**, Utah Code Annotated 1953

77 **53-16-201**, Utah Code Annotated 1953

78 **53-16-202**, Utah Code Annotated 1953

79 **53-16-203**, Utah Code Annotated 1953

80 **53-16-204**, Utah Code Annotated 1953

81 **53-16-301**, Utah Code Annotated 1953

82 **53-16-302**, Utah Code Annotated 1953

83 **53-16-303**, Utah Code Annotated 1953

84 **53-16-304**, Utah Code Annotated 1953

85 **53-16-305**, Utah Code Annotated 1953

86 **53-16-307**, Utah Code Annotated 1953

87 **53-16-308**, Utah Code Annotated 1953

305 services from a permit holder are subject.

306 (d) The governor shall determine when the state obtains the necessary waivers,  
307 exemptions, or authority to implement the program.

308 (2) The department may enter into one or more agreements with federal, state, and  
309 local government entities to coordinate efforts to meet the needs of businesses in this state to  
310 obtain necessary labor or services in a manner consistent with this chapter.

311 Section 11. Section **53-16-203** is enacted to read:

312 **53-16-203. Pilot Accountability Permit Program Restricted Account.**

313 (1) There is created a restricted account within the General Fund known as the "Pilot  
314 Accountability Permit Program Restricted Account."

315 (2) (a) The restricted account shall consist of:

316 (i) a fee collected under this chapter;

317 (ii) civil penalties imposed under Section 53-16-501 or 53-16-502;

318 (iii) money appropriated to the restricted account by the Legislature; and

319 (iv) interest earned on the restricted account.

320 (b) The restricted account shall earn interest.

321 (3) The Legislature may appropriate money from the restricted account to:

322 (a) the department to administer the program;

323 (b) the State Tax Commission for costs associated with implementing Section  
324 53-16-204;

325 (c) the attorney general for costs associated with:

326 (i) a multi-agency strike force created under Section 67-5-22.7; ~~§~~ → [or] ← ~~§~~

327 (ii) a memorandum of understanding executed under Section 67-5-28;

327a **§ → (iii) the Fraudulent Documents Identification Unit created in Section 67-5-22.7; or**

327b **(iv) the Identity Theft Victims Restricted Account created in Subsection 67-5-22.7(5); ← ~~§~~**

328 (d) the State Office of Education for costs associated with implementing Section

329 53-16-308; or

330 (e) fund the costs associated with Title 76, Chapter 8, Part 15, Identity Enforcement

331 Act.

332 Section 12. Section **53-16-204** is enacted to read:

333 **53-16-204. Withholding under the program.**

334 (1) (a) If a waiver, exemption, or authority described in Section 53-16-202 does not

335 provide for the issuance of a Social Security number to a permit holder, the State Tax

336 Commission shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
 337 Rulemaking Act, provide a means for a person who receives services from a permit holder to  
 338 withhold from compensation paid to the permit holder an amount to be determined by State  
 339 Tax Commission rule that, as closely as possible, equals the income ~~§→ [and employment]~~ ~~←§~~  
 339a taxes that  
 340 would be imposed by state law if the permit holder were an employee with a Social Security  
 341 number.

342 (b) If a waiver, exemption, or authority described in Section 53-16-202 provides for the  
 343 issuance of a Social Security number to a permit holder, a person who receives services from a  
 344 permit holder is required to withhold from compensation as provided in Title 59, Chapter 10,  
 345 Part 4, Withholding of Tax.

346 (2) The rules described in Subsection (1)(a) shall be substantially similar to Title 59,  
 347 Chapter 10, Part 4, Withholding of Tax.

348 (3) To the extent feasible and consistent with a waiver, exemption, or authority entered  
 349 into under Section 53-16-202, the State Tax Commission shall work with the applicable federal  
 350 government agencies to ensure that the withholding provided for under Subsection (2) is  
 351 compatible with a federal process by which the ~~§→ federal government collects federal~~ ~~←§~~  
 351a income and employment taxes ~~§→ [are collected]~~ ~~←§~~  
 352 that would be imposed under federal law if a permit holder were an employee with a Social  
 353 Security number.

354 Section 13. Section **53-16-301** is enacted to read:

### Part 3. Issuance of an Accountability Permit

#### **53-16-301. Issuing a permit.**

357 (1) The department may not issue a permit under this chapter:

358 (a) before 120 days after the day on which the governor notifies that department that  
 359 the state has obtained the necessary waivers, exemptions, or authority to implement the  
 360 program; or

361 (b) after the day on which the necessary waivers, exemptions, or authority described in  
 362 Subsection (1)(a) terminate.

363 (2) The department shall:

364 (a) create a permit that:

365 (i) is of impervious material that is resistant to wear or damage; and

366 (ii) minimizes the risk that the permit may be forged, falsified, or counterfeited;

1359 Fund, as provided in Section 59-12-103.

1360 Section 35. Section **76-8-1501** is enacted to read:

1360a **§→ INSERT SECTION HERE ←§**

1361 **Part 15. Identity Enforcement Act**

1362 **76-8-1501. Title.**

1363 This part is known as the "Identity Enforcement Act."

1364 Section 36. Section **76-8-1502** is enacted to read:

1365 **76-8-1502. Definitions.**

1366 As used in this part:

1367 (1) "Database" means the identity database created in Section 76-8-1504.

1368 (2) "Department" means the Department of Public Safety.

1369 (3) "Law enforcement agency" means an entity of the federal government, a state, or a  
1370 political subdivision of a state, including a state institution of higher education, that exists  
1371 primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

1372 (4) "Law enforcement officer" has the same meaning as in Section 53-13-103.

1373 (5) (a) "Photographic document" means a document that is:

1374 (i) a form of positive identification that:

1375 (A) is issued by a federal, state, or tribal government entity; and

1376 (B) contains a numerical identifier and a photograph of the person identified; or

1377 (ii) (A) a driving privilege card issued in accordance with Section 53-3-207; or

1378 (B) an accountability permit issued in accordance with Title 53, Chapter 16, Utah Pilot  
1379 Accountability Permit Program Act.

1380 (b) "Photographic document" includes:

1381 (i) an identification card issued by the state;

1382 (ii) an identification card issued by another state that is similar to an identification card  
1383 issued by this state;

1384 (iii) a driver license issued by any state;

1385 (iv) a United States military identification card; or

1386 (v) one of the following if it contains a photograph of the individual:

1387 (A) a valid tribal identification card;

1388 (B) a Bureau of Indian Affairs card; or

1389 (C) a tribal treaty card.

1389a **§→Section 37. Section 67-5-22.7 is amended to read:**

1389b **67-5-22.7. Multi-agency strike force to combat violent and other major felony crimes**

1389c **associated with illegal immigration and human trafficking -- Fraudulent Documents Identification ←§**

1389d **§→ Unit.**

1389e (1) The Office of the Attorney General is authorized to administer and coordinate the  
1389f operation of a multi-agency strike force to combat violent and other major felony crimes committed  
1389g within the state that are associated with illegal immigration and human trafficking.

1389h (2) The office shall invite officers of the U.S. Immigration and Customs Enforcement and state  
1389i and local law enforcement personnel to participate in this mutually supportive, multi-agency strike  
1389j force to more effectively utilize their combined skills, expertise, and resources.

1389k (3) The strike force shall focus its efforts on detecting, investigating, deterring, and eradicating  
1389l violent and other major felony criminal activity related to illegal immigration and human trafficking.

1389m (4) In conjunction with the strike force and subject to available funding, the Office of the  
1389n Attorney General shall establish a Fraudulent Documents Identification Unit:

1389o (a) for the primary purpose of investigating, apprehending, and prosecuting individuals or  
1389p entities that participate in the sale or distribution of fraudulent documents used for identification  
1389q purposes; ~~{and}~~

1389r (b) to specialize in fraudulent identification documents created and prepared for individuals  
1389s who are unlawfully residing within the state ~~{-}~~ ; and

1389t (c) to administer the Identity Theft Victims Restricted Account created under Subsection (5).

1389u (5) (a) There is created a restricted account in the General Fund known as the "Identity Theft  
1389v Victims Restricted Account."

1389w (b) The Identity Theft Victims Restricted Account shall consist of money appropriated to the  
1389x Identity Theft Victims Restricted Account by the Legislature.

1389y (c) Subject to appropriations from the Legislature, the Fraudulent Documents Identification  
1389z Unit may expend the money in the Identity Theft Victims Restricted Account to pay a claim as  
1389aa provided in this Subsection (5) to a person who is a victim of identity theft prosecuted under Section  
1389ab 76-6-1102 or 76-10-1801.

1389ac (d) To obtain restitution from the Identity Theft Victims Restricted Account, a person shall  
1389ad file a claim with the Fraudulent Documents Identification Unit by no later than one year after the day  
1389ae on which an individual is convicted, pleads guilty, pleads no contest to, pleads guilty in a similar  
1389af manner to, or resolved by diversion or its equivalent an offense under Section 76-6-1102 or 76-10-1801  
1389ag for the theft of the identity of the person filing the claim.

1389ah (e) A claim filed under this Subsection (5) shall include evidence satisfactory to the Fraudulent  
1389ai Documents Identification Unit:

1389aj (i) that the person is the victim of identity theft described in Subsection (5)(d); and

1389ak (ii) of the actual damages experienced by the person as a result of the identity theft that are  
1389al not recovered from a public or private source.

1389am (f) The Fraudulent Documents Identification Unit shall pay a claim of restitution from the  
1389an Identity Theft Victims Restricted Account: ←§

1389ao            **§→ (i) if the Fraudulent Documents Identification Unit determines that the person has**  
1389ap **provided sufficient evidence to meet the requirements of Subsection (5)(e);**  
1389aq            **(ii) in the order that claims are filed with the Fraudulent Documents Identification Unit; and**  
1389ar            **(iii) to the extent that it there is money in the Identity Theft Victims Restricted Account.**  
1389as            **(g) If there is insufficient money in the Identity Theft Victims Restrict Account when a claim is**  
1389at **filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents Identification Unit**  
1389au **may pay a claim when there is sufficient money in the account to pay the claim.**  
1389av            **[~~5~~] (6) The strike force shall make an annual report on its activities to the governor and**  
1389aw **the Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1, together**  
1389ax **with any proposed recommendations for modifications to this section. ←§**