

1 follows:

2 **SUBPART E. UNLAWFUL ENTRY INTO THIS STATE BY AN ALIEN**

3 **§112.21. Definitions**

4 **For purposes of this Subpart, each of the following terms shall have the**
5 **following meanings, unless the context clearly indicates otherwise:**

6 **(1) "Alien" means a person in this state that is unlawfully present in this**
7 **state and shall have the same meaning as "alien" as defined by 8 U.S.C. Section**
8 **1101.**

9 **(2) "Lawful presence in this state" means a person, who is within the**
10 **borders of this state, and includes any person who meets one of the following**
11 **categories:**

12 **(a) Is a natural person who is a United States citizen, regardless of**
13 **whether the United States citizenship was obtained by either of the following:**

14 **(i) Citizenship was acquired by birth.**

15 **(ii) Citizenship was granted to a person who has met the requirements**
16 **established by the United States Congress in the Immigration and Nationality**
17 **Act, 8 U.S.C. 1158 et seq.**

18 **(b) Is legally present in this state by virtue of authorization by the United**
19 **States Department of Homeland Security, on the basis of anyone of the**
20 **following categories:**

21 **(i) A permanent legal resident.**

22 **(ii) A holder of an unexpired student visa.**

23 **(iii) A holder of an unexpired work permit.**

24 **(3) "Unlawfully enters into this state" means an alien who is found**
25 **entering or has entered into the state, whether such entry was by an automobile,**
26 **watercraft, airplane, or by any other method of entry, and whether such entry**
27 **is directly from a foreign nation or indirectly from another state.**

28 **(4) "Unlawfully reenters into this state" means that an alien has entered,**
29 **attempted to enter, or at any time is found in this state after the alien has been**

1 found to have been subject to any of the following:

2 (a) Denied admission, excluded, deported, or otherwise removed from
3 the United States.

4 (b) Departed from the United States while an order of exclusion,
5 deportation, or removal is outstanding.

6 §112.22. Unlawful entry into this state without lawful presence by an alien;
7 unlawful reentry into this state without lawful presence by an
8 alien

9 A.(1) Unlawful entry into this state by an alien is committed when an
10 alien unlawfully enters into this state.

11 (2) Unlawful reentry into this state by an alien is committed when an
12 alien unlawfully reenters into this state.

13 B.(1) Whoever violates the provisions of Subsection A of this Section
14 upon a first offense shall be imprisoned for not more than one year, fined not
15 more than four thousand dollars, or both.

16 (2) Whoever violates the provisions of Subsection A of this Section upon
17 a second or subsequent offense shall be imprisoned, with or without hard labor,
18 for not less than six months nor more than two years, fined not more than ten
19 thousand dollars, or both.

20 C. It shall be an affirmative defense to a prosecution for a violation of
21 Subsection A of this Section if any of the following circumstances exist:

22 (1) The federal government has granted the defendant lawful presence
23 in the United States or asylum pursuant to 8 U.S.C. Section 1158.

24 (2) The defendant's conduct does not constitute a violation of 8 U.S.C.
25 Section 1325(a).

26 §112.23. Abatement or termination of prosecution on basis of an immigration
27 status determination

28 No court shall abate or terminate the prosecution of an offense pursuant
29 to this Subpart on the basis that a federal determination regarding the

1 immigration status of the defendant has not been determined or may possibly
2 be initiated at a future date.

3 Section 2. R.S. 49:216 is hereby enacted to read as follows:

4 §216. Interstate compact for border security; deterrence of illegal immigration;
5 procedures; assistance; approval; purposes; legislative findings

6 A. This Section shall be known and may be cited as the "Interstate
7 Compact for Border Security Act".

8 B. The purpose of this Section is to deter illegal immigration into the
9 state of Louisiana, to prevent the unlawful entry or unlawful reentry into this
10 state by an alien, as defined by R.S. 112.21, and to join with other states in
11 mutual assistance in order for border states to control the influx with respect
12 to illegal immigration that consequentially threatens the safety and security of
13 Louisiana citizens.

14 C. The legislature finds all of the following:

15 (1) In 2024, an executive order was issued by Governor Jeff Landry,
16 JML 24-05, entitled "Identifying, Qualifying, and Mitigating the Adverse
17 Effects of Illegal Immigration on Louisiana" and provided findings, as follows:

18 (a) "Illegal entry and reentry to the United States, as well as the
19 encouragement and inducement of illegal entry and transportation of illegal
20 aliens within the United States, are criminal offenses under federal law, and
21 those who aid and abet these offenses also commit a criminal act."

22 (b) "(T)he United States Supreme Court has recognized States 'bear
23 many of the consequences of unlawful immigration.' *Arizona v. United States,*
24 567 U.S. 387. 397. (2012)."

25 (c) As a result of the federal governments "non-enforcement policies,
26 large number of aliens who commit subsequent crimes are (being) released into
27 communities across the United States (including Louisiana) rather than being
28 detained or removed, allowing these criminal aliens to commit additional crimes
29 and increase the number of victims."

1 (d) (S)tates are financially burdened by the cost of incarcerating illegal
2 aliens in their prison systems. With more than ninety-nine of the total cost of
3 incarcerating illegal aliens, leaving the states (including Louisiana) to pay the
4 balance for illegal aliens who commit secondary crimes.

5 (e) Article 1, Section 1 of the Constitution of Louisiana declares that
6 government is instituted by the people to protect the rights of the individual and
7 for the good of the whole. Its only legitimate ends are to secure justice for all,
8 preserve peace, protect the rights, and promote the happiness and general
9 welfare of the people.

10 (f) The governor directed the head of every executive branch agency,
11 department, office, commission, board, or entity of the State of Louisiana shall
12 ...review the expenditures of public funds directly or indirectly to, or for the
13 benefit of illegal aliens.

14 (2) In the 2024 Second Extraordinary Session of the Louisiana
15 Legislature, the legislature appropriated funds and the governor issued an
16 executive order to deploy the Louisiana National Guard to assist the state of
17 Texas in securing the southern border of the United States of America to curb
18 the invasion by illegal immigrants at the international border in South Texas.

19 (3) The economic and human costs born by the taxpayers and citizens of
20 Louisiana include all of the following:

21 (a) Increased violent crimes are being committed against Louisiana
22 citizens by illegal immigrants. Each murder committed by an illegal alien is one
23 hundred percent preventable if that illegal alien had been barred from entering
24 the state by the federal government who is derelict in their duty to enforce
25 immigration laws.

26 (b) Schools and school teachers have been overburdened by the
27 unfunded mandates forced on Louisiana schools by the federal government. The
28 letter grades for certain school districts have been substantially lowered due to
29 school overcrowding, the lack of certified teachers who are bilingual, and the

1 lack of a local tax base needed to pay the bilingual teachers even if they were
2 available.

3 D. The governor, with the legal assistance of the attorney general, is
4 hereby authorized to negotiate and assist the state of Texas in an interstate
5 compact for border security among interested states with the governor of the
6 state of Texas in securing the Southern border of the United States of America.

7 E. Any interstate compact that may be developed and executed under the
8 authority of this Section shall, in order to take effect, represent a voluntary
9 association of sovereign states of this United States of America, with the
10 understanding that any such interstate compact shall not in any way increase
11 the political authority of the compacting states in relation to the federal
12 government or in any other manner that violates the Constitution of the United
13 States of America.

14 F. The interstate compact authorized by this Section shall provide for
15 joint action among the states that participate in the compact to pursue all
16 security priorities, as follows:

17 (1) Sharing of law enforcement intelligence on illegal activity occurring
18 at or in proximity to the United States-Mexico border.

19 (2) Sharing of state resources in order to build physical barriers,
20 comprehensive technological surveillance systems, or combinations of barriers
21 and surveillance systems on state property for the purposes of deterring and
22 detecting illegal activity at or in proximity to the United States-Mexico border.

23 (3) Sharing of other law enforcement resources to ensure the protection
24 of personnel and property of citizens of the states participating in the compact.

25 G. Once the governor, with the assistance of the attorney general,
26 negotiates and assists the governor of the state of Texas with preparation and
27 finalization of the compact to secure the United States-Mexico border, the
28 governor shall promptly submit the Interstate Compact for Border Security to
29 the legislature for approval and for the purposes of appropriating necessary

1 **funds to fulfill the purposes provided for in Subsection F of this Section.**

2 Section 3. If any provision or item of this Act, or the application thereof, is held
3 invalid, such invalidity shall not affect other provisions, items, or applications of the Act
4 which can be given effect without the invalid provision, item, or application and to this end
5 the provisions of this Act are hereby declared severable.

6 Section 4. The provisions of this Section and Section 1 shall take effect on and
7 become effective immediately upon, and to the extent permitted, by the occurrence of any
8 of the following circumstances:

9 (A) Any decision of the Supreme Court of the United States in the case of *United*
10 *States v. Texas*, Docket No. 23A8154, which affirms the Act which originated as Texas
11 Senate Bill No. 4 of the 2023 88th Legislature Fourth Called Legislative Session of the
12 Texas Legislature, which enacted Texas Penal Code Section 51.01 et seq, entitled "Illegal
13 Entry Into the State", that recognizes the right of states to protect their citizens of their
14 respective states when "actually invaded, or in such imminent (d)anger as will not admit
15 delay", pursuant to Article 1, Section 10 of the Constitution of the United States of America.

16 (B) Adoption of an amendment to the Constitution of the United States of America
17 that, in whole or in part, restores or increases the authority of the state of Louisiana to
18 prohibit or limit the unlawful entry or reentry by an alien without lawful presence in this
19 state should the Supreme Court of the United States fail to affirm the provisions of
20 Subsection A of this Section.

21 Section 5. The provisions of this Section and Section 2 of this Act shall become
22 effective upon any executive order or other such executive action by the governor of the
23 state of Texas in furtherance of the Act which originated as Texas Senate Bill No. 1404 of
24 the 2023 Regular Session of the 88th Texas Legislature, which enacted Texas Government
25 Code Section 794 et seq, entitled "Interstate Compact for Border Security" which authorizes
26 the governor of the state of Texas to develop and execute an interstate compact for border
27 security for among interested states.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

SB 388 Original 2024 Regular Session Hodges

Present law provides in the La. Constitution that the state's government is instituted by the people to protect the rights of the individual for the good of the whole and state government's only legitimate ends are to secure justice for all, preserve peace, protect rights, and to promote the happiness and general welfare of the people.

Proposed law retains present law and creates the crimes of unlawful entry and reentry without lawful presence in this state.

Proposed law provides that the crime of unlawful entry by an alien without lawful presence in this state is committed when a person who is an illegal alien has committed unlawful entry into this state. Defines "unlawfully entry" to mean an alien without lawful presence in this state that is found entering or has entered into the state without lawful presence whether by an automobile, watercraft, airplane, or by any other method of entry, either directly from a foreign nation or indirectly from another state.

Proposed law provides that the crime of unlawful reentry by an alien without lawful presence in this state is committed when an illegal alien has committed unlawfully entry into this state. Defines "unlawfully reentry" to mean an alien without lawful presence in this state who has entered, attempted to enter, or at any time is found in this state after the person has been found to have been subject to any of the following:

- (1) Denied admission, excluded, deported, or otherwise removed from the U.S.
- (2) Departed from the U.S. while an order of exclusion, deportation, or removal is outstanding.

Proposed law provides that the punishment for being guilty of violating proposed law is imprisonment for not more than one year, or payment of a \$4,000 fine, or both. Second or subsequent conviction of proposed law is subject to imprisonment, with or without hard labor, for not less than six months nor more than two years, fined not more than \$10,000, or both.

Proposed law provides for an affirmative defense to a prosecution if the federal government has granted the defendant lawful presence or asylum in the U.S. pursuant to federal law. The defendant is not entitled to an affirmative defense, if his conduct is a violation of any of the following:

- (1) Is an alien who enters or attempts to enter the U.S. at any time or place other than as designated by immigration officers, or eludes examination or inspection by immigration officers or to enter or obtains entry to the U.S. by a false or misleading representation or a material fact.
- (2) Marriage fraud to evade a federal immigration law.
- (3) An individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws.

Proposed law provides for an interstate compact for border security.

Proposed law authorizes Governor Jeff Landry, with the assistance of the attorney general, to assist the governor of the state of Texas to establish an interstate compact for border

security at the southern border at the U.S.-Mexico border to control the influx with respect to illegal immigration that threatens the safety and security of La. citizens.

Proposed law provides legislative finding, as follows:

- (1) In 2024, an executive order was issued by Governor Jeff Landry, JML 24-05, entitled "Identifying, Qualifying, and Mitigating the Adverse Effects of Illegal Immigration on Louisiana". The executive order found that illegal entry and reentry to the U.S., as well as the encouragement and inducement of illegal entry and transportation of illegal aliens within the U.S., are criminal offenses under federal law, and those who aid and abet these offenses also commit a criminal act and that the state of Louisiana bears 99% of the costs due to incarcerating illegal immigrants who commit secondary crimes in La. other than unlawful entry by an alien.
- (2) The U.S. Supreme Court has recognized that states bear the consequences of unlawful immigration.
- (3) Open border policies by the federal government result in increased prison overcrowding, overcrowding at La. schools, and threatened the state and local tax base of La. citizens.
- (4) In the 2024 Second Extraordinary Session, the legislature appropriated funds and the governor issued an executive order to deploy the La. National Guard to assist the state of Texas in securing the southern border of the U.S. to curb the invasion by illegal immigrants at the international border in South Texas.

Proposed law provides that, the governor, with the legal assistance of the attorney general, is hereby authorized to negotiate and assist the state of Texas in an interstate compact for border security among interested states with the governor of the state of Texas in securing the southern border of the U.S.

Proposed law provides that the interstate compact authorized by proposed law may do all of the following:

- (1) Share law enforcement intelligence on illegal activity occurring at or in proximity to the U.S.-Mexico border.
- (2) Sharing of state resources in order to build physical barriers, comprehensive technological surveillance systems, or combinations of barriers and surveillance systems on state property for the purposes of deterring and detecting illegal activity at or in proximity to the U.S.-Mexico border.
- (3) Sharing of other law enforcement resources to ensure the protection of personnel and property of citizens of the states participating in the compact.

Proposed law provides that, once the governor, with the assistance of the attorney general, has negotiated and assisted the governor of the state of Texas with preparation and the state of Texas finalizes the compact to protect its southern border, the governor shall promptly submit the Interstate Compact for Border Security to the legislature for approval and for the purposes of appropriating necessary funds to fulfill the purposes of proposed law.

Proposed law provides that if any provision or item of proposed law, or the application thereof, is held invalid by a court, that invalid portion shall be severed and the rest of proposed law will be valid.

Proposed law provides that the portion of the proposed law that creates the crime of unlawful entry by an illegal alien without lawful presence in this state is to become effective immediately upon, and to the extent permitted, by the occurrence of any of the following

circumstances:

- (1) Any decision of the Supreme Court of the U.S. in the case of *U.S. v. Texas*, that affirms the Act which originated as Texas Senate Bill No. 4 of the 2023 88th Legislature Fourth Called Legislative Session of the Texas Legislature, which enacted Texas Penal Code, entitled "Illegal Entry Into the State", that recognizes the right of states to protect their citizens of their respective states when "actually invaded, or in such imminent (d)anger as will not admit delay", pursuant to Art. 1, Section 10 of the Const. of the U.S.
- (2) Adoption of an amendment to the U.S. Const. if, in whole or in part, restores or increases the authority of the state of La. to prohibit or limit the unlawful entry or reentry by an illegal alien to La., should the U.S. Supreme Court fail to affirm the provisions of Texas Senate Bill No. 4.

Proposed law provides that the provision of proposed law is to become effective upon any an executive order or other such executive action by the Texas governor in furtherance of the Act by the Texas legislature that provides for the "Interstate Compact for Border Security" which authorizes the governor of the state of Texas to develop and execute an interstate compact for border security for among interested states.

(Adds R.S. 14:112.21-112.23 and R.S. 49:216)