

SENATE BILL NO. 388

BY SENATORS HODGES, ABRAHAM, BASS, CLOUD, COUSSAN, EDMONDS, FESI, HENRY, KLEINPETER, MIGUEZ, MORRIS, PRESSLY, SEABAUGH, STINE AND TALBOT AND REPRESENTATIVES AMEDEE, BAYHAM, BILLINGS, CARRIER, COX, DICKERSON, EDMONSTON, HORTON, MIKE JOHNSON, JACOB LANDRY, OWEN, SCHAMERHORN, THOMPSON, WILDER AND WYBLE

1 AN ACT

2 To enact Subpart E of Part VI of Chapter 1 of Title 14 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 14:112.21 through 112.23, and R.S. 49:216, relative
4 to offenses affecting the public; to deter unlawful entry into this state by certain
5 persons; to create the crime of unlawful entry or reentry by an alien; to prohibit
6 abatement or termination of prosecutions under certain circumstances; to provide
7 definitions; to provide penalties; to authorize the governor to develop and negotiate
8 an interstate compact to deter unlawful entry or reentry into this state with the
9 assistance of the attorney general; to provide for severability; to provide for effective
10 dates; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Subpart E of Part VI of Chapter 1 of Title 14 of the Louisiana Revised
13 Statutes of 1950, comprised of R.S. 14:112.21 through 112.23, is hereby enacted to read as
14 follows:

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

16 **§112.21. Definitions**

17 **For purposes of this Subpart:**

18 **(1) "Alien" shall have the same meaning as "alien" as defined by 8**

19 **U.S.C. 1101.**

20 **(2) "Lawfully present in this state" or "lawful presence in this state"**

1 refers to a person within the borders of this state who is either:

2 (a) A natural person who is a United States citizen, regardless of whether
3 the United States citizenship was acquired by birth or granted because the
4 person has met the requirements for asylum established by the United States
5 Congress in the Immigration and Nationality Act, in particular 8 U.S.C. 1158.

6 (b) Legally present in this state by virtue of authorization by the United
7 States Department of Homeland Security on the basis of any one of the
8 following:

9 (i) The person is a permanent legal resident.

10 (ii) The person holds an unexpired student visa.

11 (iii) The person holds an unexpired work permit.

12 (c) Legally present or entitled to be present in the United States pursuant
13 to an unexpired visitor or tourist visa, or pursuant to any other provision of
14 federal law.

15 (3) "Unlawful entry" refers to an alien who is found entering or has
16 entered into this state by automobile, watercraft, airplane, or any other method
17 of entry or means of conveyance, whether or not entry is made directly from a
18 foreign nation or indirectly from another state, without lawful presence in this
19 state.

20 (4) "Unlawful reentry" refers to an alien who has entered, attempted to
21 enter, or at any time is found in this state after the alien has been found to have
22 been subject to any of the following:

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

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

27 (5) "Unlawfully present in this state" or "unlawful presence in this state"
28 refers to an alien who is not lawfully present in this state because the alien does
29 not meet the definition in this Section of "lawfully present in this state" or
30 "lawful presence in this state".

1 **§112.22. Unlawful entry or reentry into the state of Louisiana by an alien**

2 **A. The crime of unlawful entry or unlawful reentry is committed when**
3 **an alien enters or reenters into this state and is unlawfully present in this state.**

4 **B.(1) Whoever commits the crime of unlawful entry or unlawful reentry**
5 **into this state by an alien upon a first offense shall be imprisoned for not more**
6 **than six months, fined not more than one thousand dollars, or both.**

7 **(2) Whoever commits the crime of unlawful entry or unlawful reentry**
8 **into this state by an alien upon a second or subsequent offense shall be**
9 **imprisoned, with or without hard labor, for not less than one year nor more**
10 **than two years, fined not more than ten thousand dollars, or both.**

11 **C. It shall be an affirmative defense to a prosecution to the crime of**
12 **unlawful entry or unlawful reentry into this state by an alien that either:**

13 **(1) The defendant is lawfully present in this state because the federal**
14 **government has granted the defendant lawful presence in the United States or**
15 **asylum pursuant to 8 U.S.C. Section 1158.**

16 **(2) The defendant's conduct does not constitute a violation of 8 U.S.C.**
17 **Section 1325(a), relative to illegal entry into the United States.**

18 **D. This Section shall not apply to an alien unlawfully present in the**
19 **United States if he has been a necessary witness to or victim of a crime of**
20 **domestic violence, rape, sexual exploitation, sexual assault, murder,**
21 **manslaughter, assault, battery, human trafficking, kidnapping, false**
22 **imprisonment, involuntary servitude, fraud in foreign labor contracting,**
23 **blackmail, extortion, or witness tampering.**

24 **§112.23. Abatement or termination of prosecution on basis of an immigration**
25 **status determination**

26 **No court shall abate or terminate the prosecution of an offense pursuant**
27 **to this Subpart on the basis that a federal determination regarding the**
28 **immigration status of the defendant has not been determined or may possibly**
29 **be initiated at a future date.**

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

1 §216. Interstate compact for border security; deterrence of unlawful entry into
2 this state; procedures; assistance; approval; purposes; legislative
3 findings

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

6 B. The purpose of this compact is to deter unlawful entry and unlawful
7 reentry into this state by an alien, as defined by R.S. 14:112.21, and to join with
8 other states in mutual assistance in order for border states to control the influx
9 with respect to illegal immigration that consequentially threatens the safety and
10 security of Louisiana citizens.

11 C. The legislature finds all of the following:

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

15 (a) "[I]llegal entry and reentry to the United States, as well as the
16 encouragement and inducement of illegal entry and transportation of illegal
17 aliens within the United States, are criminal offenses under federal law, and
18 those who aid and abet these offenses also commit a criminal act."

19 (b) "[T]he United States Supreme Court has recognized States 'bear[]
20 many of the consequences of unlawful immigration.' *Arizona v. United States,*
21 567 U.S. 387, 397 (2012)."

22 (c) As a result of the federal government's "non-enforcement policies,
23 large numbers of aliens who commit subsequent crimes are [being] released into
24 communities across the United States," including Louisiana, "rather than being
25 detained or removed, allowing these criminal aliens to commit additional crimes
26 and increase the number of victims".

27 (d) "[S]tates are financially burdened by the cost of incarcerating illegal
28 aliens in their prison systems. Although the U.S. Department of Justice provides
29 limited funding to the states to offset some of these costs...reimbursements are
30 usually less than one percent of the total cost of incarcerating aliens, leaving the

1 states," including Louisiana, "to pay the balance".

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

7 (2) In his executive order, the governor directed the head of every
8 executive branch agency, department, office, commission, board, or entity of the
9 State of Louisiana shall . . .review the expenditures of public funds directly or
10 indirectly to, or for the benefit of illegal aliens.

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

16 (4) The economic and human costs borne by the taxpayers and citizens
17 of Louisiana include all of the following:

18 (a) Increased violent crimes are being committed against Louisiana
19 citizens by illegal immigrants. Each murder committed by an illegal alien is one
20 hundred percent preventable if that illegal alien had been barred from entering
21 the state by the federal government, which has been derelict in its duty to
22 enforce immigration laws.

23 (b) Schools and school teachers have been overburdened by the
24 unfunded mandates forced on Louisiana schools by the federal government. The
25 letter grades for certain school districts have been substantially lowered due to
26 school overcrowding, the lack of certified teachers who are bilingual, and the
27 lack of a local tax base needed to pay the bilingual teachers even if they were
28 available.

29 D. The governor, with the legal assistance of the attorney general, is
30 hereby authorized to negotiate and assist the state of Texas in an interstate

1 compact for border security among interested states with the governor of the
2 state of Texas in securing the southern border of the United States of America.

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

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

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

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

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

21 G. Once the governor, with the assistance of the attorney general,
22 negotiates and assists the governor of the state of Texas with preparation and
23 finalization of the compact to secure the United States-Mexico border, the
24 governor shall promptly submit the Interstate Compact for Border Security to
25 the legislature for approval and the appropriation of necessary funds to fulfill
26 the purposes provided for in Subsection F of this Section.

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

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

4 (A) Any decision of the Supreme Court of the United States in the case of *United*
5 *States v. Texas*, Docket No. 23A814, which affirms the Act which originated as Texas
6 Senate Bill No. 4 of the 2023 88th Legislature Fourth Called Legislative Session of the
7 Texas Legislature, which enacted Texas Penal Code Section 51.01 et seq, entitled "Illegal
8 Entry Into the State", that recognizes the right of states to protect their citizens of their
9 respective states when "actually invaded, or in such imminent Danger as will not admit
10 delay", pursuant to Article 1, Section 10 of the Constitution of the United States of America.

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

16 Section 5. The provisions of this Section and Section 2 of this Act shall become
17 effective upon any executive order or other such executive action by the governor of the
18 state of Texas in furtherance of the Act which originated as Texas Senate Bill No. 1403 of
19 the 2023 Regular Session of the 88th Texas Legislature, which enacted Texas Government
20 Code Section 794 et seq, entitled "Interstate Compact for Border Security" which authorizes
21 the governor of the state of Texas to develop and execute an interstate compact for border
22 security for among interested states.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____