

COMMITTEE ON MILITARY AFFAIRS AND PUBLIC SAFETY
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2632
(Reference to printed bill)

- 1 Page 1, line 20, strike "LEGITIMATE" insert "LAWFUL"
2 Line 24, after "MADE" insert ", WHEN PRACTICABLE,"
3 Page 2, line 24, strike ", WHICH SHALL"; strike lines 25 through 29, insert "FOR
4 DEPOSIT IN THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION
5 FUND ESTABLISHED BY SECTION 41-1724."
6 Between lines 36 and 37, insert:
7 "J. THIS SECTION SHALL BE IMPLEMENTED IN A MANNER CONSISTENT WITH
8 FEDERAL LAWS REGULATING IMMIGRATION, PROTECTING THE CIVIL RIGHTS OF ALL
9 PERSONS AND RESPECTING THE PRIVILEGES AND IMMUNITIES OF UNITED STATES
10 CITIZENS."
11 Page 3, line 3, after "AUTHORIZED" insert "BY THE FEDERAL GOVERNMENT"
12 After line 43, insert:
13 "Sec. 4. Section 13-2319, Arizona Revised Statutes, is amended to
14 read:
15 13-2319. Smuggling; classification; definitions
16 A. It is unlawful for a person to intentionally engage in the
17 smuggling of human beings for profit or commercial purpose.
18 B. A violation of this section is a class 4 felony.
19 C. Notwithstanding subsection B of this section, a violation of this
20 section:
21 1. Is a class 2 felony if the human being who is smuggled is under
22 eighteen years of age and is not accompanied by a family member over eighteen
23 years of age or the offense involved the use of a deadly weapon or dangerous
24 instrument.
25 2. Is a class 3 felony if the offense involves the use or threatened
26 use of deadly physical force and the person is not eligible for suspension of
27 sentence, probation, pardon or release from confinement on any other basis
28 except pursuant to section 31-233, subsection A or B until the sentence

1 imposed by the court is served, the person is eligible for release pursuant
2 to section 41-1604.07 or the sentence is commuted.

3 D. Chapter 10 of this title does not apply to a violation of
4 subsection C, paragraph 1 of this section.

5 E. NOTWITHSTANDING ANY OTHER LAW, A PEACE OFFICER MAY LAWFULLY STOP
6 ANY PERSON WHO IS OPERATING A MOTOR VEHICLE IF THE OFFICER HAS REASONABLE
7 SUSPICION TO BELIEVE THE PERSON IS IN VIOLATION OF ANY CIVIL TRAFFIC LAW AND
8 THIS SECTION.

9 ~~E.~~ F. For the purposes of this section:

10 1. "Family member" means the person's parent, grandparent, sibling or
11 any other person who is related to the person by consanguinity or affinity to
12 the second degree.

13 2. "Procurement of transportation" means any participation in or
14 facilitation of transportation and includes:

15 (a) Providing services that facilitate transportation including travel
16 arrangement services or money transmission services.

17 (b) Providing property that facilitates transportation, including a
18 weapon, a vehicle or other means of transportation or false identification,
19 or selling, leasing, renting or otherwise making available a drop house as
20 defined in section 13-2322.

21 3. "Smuggling of human beings" means the transportation, procurement
22 of transportation or use of property or real property by a person or an
23 entity that knows or has reason to know that the person or persons
24 transported or to be transported are not United States citizens, permanent
25 resident aliens or persons otherwise lawfully in this state or have attempted
26 to enter, entered or remained in the United States in violation of law."

27 Renumber to conform

28 Page 8, strike lines 25 through 30, insert:

29 "K. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF
30 THIS SECTION THAT THE EMPLOYER WAS ENTRAPPED. TO CLAIM ENTRAPMENT, THE
31 EMPLOYER MUST ADMIT BY THE EMPLOYER'S TESTIMONY OR OTHER EVIDENCE THE
32 SUBSTANTIAL ELEMENTS OF THE VIOLATION. AN EMPLOYER WHO ASSERTS AN ENTRAPMENT

1 DEFENSE HAS THE BURDEN OF PROVING THE FOLLOWING BY CLEAR AND CONVINCING
2 EVIDENCE:

3 1. THE IDEA OF COMMITTING THE VIOLATION STARTED WITH LAW ENFORCEMENT
4 OFFICERS OR THEIR AGENTS RATHER THAN WITH THE EMPLOYER.

5 2. THE LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE
6 EMPLOYER TO COMMIT THE VIOLATION.

7 3. THE EMPLOYER WAS NOT PREDISPOSED TO COMMIT THE VIOLATION BEFORE THE
8 LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE EMPLOYER TO
9 COMMIT THE VIOLATION.

10 L. AN EMPLOYER DOES NOT ESTABLISH ENTRAPMENT IF THE EMPLOYER WAS
11 PREDISPOSED TO VIOLATE SUBSECTION A OF THIS SECTION AND THE LAW ENFORCEMENT
12 OFFICERS OR THEIR AGENTS MERELY PROVIDED THE EMPLOYER WITH AN OPPORTUNITY TO
13 COMMIT THE VIOLATION. IT IS NOT ENTRAPMENT FOR LAW ENFORCEMENT OFFICERS OR
14 THEIR AGENTS MERELY TO USE A RUSE OR TO CONCEAL THEIR IDENTITY. THE CONDUCT
15 OF LAW ENFORCEMENT OFFICERS AND THEIR AGENTS MAY BE CONSIDERED IN DETERMINING
16 IF AN EMPLOYER HAS PROVEN ENTRAPMENT."

17 Page 12, strike lines 4 through 9, insert:

18 "K. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF
19 THIS SECTION THAT THE EMPLOYER WAS ENTRAPPED. TO CLAIM ENTRAPMENT, THE
20 EMPLOYER MUST ADMIT BY THE EMPLOYER'S TESTIMONY OR OTHER EVIDENCE THE
21 SUBSTANTIAL ELEMENTS OF THE VIOLATION. AN EMPLOYER WHO ASSERTS AN ENTRAPMENT
22 DEFENSE HAS THE BURDEN OF PROVING THE FOLLOWING BY CLEAR AND CONVINCING
23 EVIDENCE:

24 1. THE IDEA OF COMMITTING THE VIOLATION STARTED WITH LAW ENFORCEMENT
25 OFFICERS OR THEIR AGENTS RATHER THAN WITH THE EMPLOYER.

26 2. THE LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE
27 EMPLOYER TO COMMIT THE VIOLATION.

28 3. THE EMPLOYER WAS NOT PREDISPOSED TO COMMIT THE VIOLATION BEFORE THE
29 LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE EMPLOYER TO
30 COMMIT THE VIOLATION.

31 L. AN EMPLOYER DOES NOT ESTABLISH ENTRAPMENT IF THE EMPLOYER WAS
32 PREDISPOSED TO VIOLATE SUBSECTION A OF THIS SECTION AND THE LAW ENFORCEMENT

1 OFFICERS OR THEIR AGENTS MERELY PROVIDED THE EMPLOYER WITH AN OPPORTUNITY TO
2 COMMIT THE VIOLATION. IT IS NOT ENTRAPMENT FOR LAW ENFORCEMENT OFFICERS OR
3 THEIR AGENTS MERELY TO USE A RUSE OR TO CONCEAL THEIR IDENTITY. THE CONDUCT
4 OF LAW ENFORCEMENT OFFICERS AND THEIR AGENTS MAY BE CONSIDERED IN DETERMINING
5 IF AN EMPLOYER HAS PROVEN ENTRAPMENT."

6 Page 13, line 17, after "PERSON" insert "IS IN VIOLATION OF A CRIMINAL OFFENSE AND"

7 Page 14, between lines 25 and 26, insert:

8 "Section 10. Title 41, chapter 12, article 2, Arizona Revised
9 Statutes, is amended by adding section 41-1724, to read:

10 41-1724. Gang and immigration intelligence team enforcement
11 mission fund

12 THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND IS
13 ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 11-1051 AND
14 MONIES APPROPRIATED BY THE LEGISLATURE. THE DEPARTMENT SHALL ADMINISTER THE
15 FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION AND SHALL
16 BE USED FOR GANG AND IMMIGRATION ENFORCEMENT AND FOR COUNTY JAIL
17 REIMBURSEMENT COSTS RELATING TO ILLEGAL IMMIGRATION."

18 Renumber to conform

19 Amend title to conform

and, as so amended, it do pass

JERRY P. WEIERS
Chairman

2632-maps
2/24/10
H:jmb