

HB56 Frequently Asked Questions

Disclaimer: Alabama Appleseed does not intend for this document to constitute legal advice. It is meant to provide information only. If you have specific legal needs, please contact an attorney that specializes in that area of law.

1) Can a police officer pull me over because of the color of my skin?

No. This behavior is racial profiling and is against the law. HB56 allows an officer to ask about immigration status during any lawful stop, detention, or arrest. This includes allegations of serious crimes, minor traffic offenses, and even violations of city ordinances. The officer is required to notify ICE and take whatever other action state or federal law permits. The legal status of anyone who lands in jail will be investigated and ICE will be informed if they are undocumented. HB56 also allows a police officer to verify the immigration status of any driver who does not have with them a current driver license.

2) Who can a police officer question in the vehicle during a stop?

Because of HB56, an officer can ask about immigration status during any lawful traffic stop. HB56 allows a police officer to verify the status of any person – this may include passengers - that he or she has reasonable suspicion to believe is unlawfully present in the U.S. The question is what is reasonable suspicion? It is inappropriate for a law enforcement officer to question immigration status because of the way you look or how you sound. If you or someone you know has experienced improper police conduct, you should report this Southern Poverty Law Center's (SPLC) hotline 1-800-982-1620.

3) What type of ID do I need to drive in Alabama?

To drive legally in Alabama, you must have a current valid Alabama driver's license or a current valid driver's license from another U.S. state. An international driver's license is not valid in Alabama.

4) What documents do I need to carry with me at all times?

Carry any document that proves your lawful status. Even if an officer says it's not good enough, because of Federal law, an immigration attorney may be able to help you. Never carry false documents!

5) If I carry my approval letter with me will this help me from being detained?

Carry your approval letter with you at all times. The police might detain you and try to verify your status. If you are detained your approval notice could speed up the verification process. Make sure you have an extra copy in case you lose one.

6) What happens if I am arrested?

If a person is arrested and booked into custody, that person's immigration status will be determined (must be within 24 hours). If it is determined that that person is unlawfully present, they will be detained until prosecution or they are handed over to ICE. It is important that everyone know and understand their basic legal rights. NEVER give a police officer false documents. This will only make things worse. Do not say or sign anything (even your home country). Ask to speak with an attorney.

7) What will happen to my children if I am arrested?

It depends on the situation. Only a federal immigration judge decides who must leave the country and when. U.S. citizen children have the right to remain in the U.S. However, you can choose to have them returned to your home country. If both parents can be deported, it is best a plan in place to avoid a child going into the custody of the state. This can be done by preparing a power of attorney. When individuals create a power of attorney (POA) they are stating what they want someone to be able to do for them if they are detained or deported. Because different states have different requirements for executing a valid POA, seek legal advice when preparing a POA. Remember, a POA is temporary and can give you peace-of-mind in a stressful situation. A POA is not considered a contract.

8) Is it true that we will have to show lawful presence to get water, power, or gas?

HB56 is being interpreted by utility companies to prohibit providing services to those without proof of lawful status. Currently, our attorneys are seeking clarification on this matter.

9) What does HB56 say about registering my car or other transactions with the state?

HB56 requires proof of lawful status before entering into any type of “business transaction” with the state, county, or city. Under HB56, a “business transaction” includes, among others: applying for or renewing a car tag, driver’s license, or business license. It does not include a marriage license.

10) Will we be able to rent an apartment or house?

The part of HB56 that made it a crime to conceal, harbor, transport or rent to an undocumented person **WAS BLOCKED**. However, HB56 still prohibits the enforcement of a contract signed by an undocumented person. A lease is a contract. Therefore, landlords may now start requiring renters to show documentation of lawful status before they sign or renew a lease.

11) Should my kids continue to go to school?

A 1982 U.S. Supreme Court Case, *Plyler v. Doe*, held that undocumented students have a constitutional right to attend public elementary and secondary school for free. Undocumented students also have the right to participate in activities that are part of the educational experience, such as school clubs and field trips. HB56 does not prevent anyone, regardless of status, from attending school. It does allow a school at the time of enrollment to verify the immigration status of the student. This law applies only to **NEW ENROLLEES** who have never attended that particular school.

12) What is E-Verify and will my employer use it?

E-Verify is the federal government’s online system for verifying the legal status of new hires. All state and local government bodies are to use them. This is for new hires only. So, your employer **CANNOT** ask you for additional papers as a result of this law, if you are currently employed there. Federal law prohibits screening existing employees or job applicants. HB56 requires all employers to use E-Verify by April 2012. If you feel discriminated against or your employer asks to see your immigration papers or misuses E-Verify, contact the Department of Justice at 1-800-255-7688.

13) How does HB56 affect public benefits for undocumented immigrants?

All applicants must show lawful status to qualify for public benefits. This does not apply to: prenatal care and Women, Infant, and Children (WIC) nutritional program; child and adult protective services (including domestic violence); immunizations and communicable disease testing; emergency medical treatment; short term, non-cash, in kind emergency disaster relief; crisis intervention counseling; short term shelter; community and non-profit services. All existing restrictions in state and local services remain in place.

If you or someone you know has experienced improper police conduct, discrimination or other issues related to Alabama immigration law HB56, call SPLC at 1-800-982-1620. If you have any questions, please contact Zayne Smith at Alabama Appleseed at 334-263-0086 or zayne.smith@alabamaappleseed.org

For updated information about HB56, our lawsuit, or other issues related to Alabama’s immigrant population, please find Alabama Appleseed and Alabama Coalition for Immigrant Justice on Facebook.

This document was prepared on September 29, 2011 and is subject to change as litigation proceeds.