

Huntsville Police Department beginning to enforce Alabama immigration law

By **Brian Lawson, The Huntsville Times**

HUNTSVILLE, Alabama -- The Huntsville Police Department has developed policies that will allow it to effectively enforce the new Alabama immigration law, Chief Mark Hudson said Friday.

The department is encouraging motorists to always carry their driver's license, vehicle registration and proof of insurance. If a person is driving without a license and the officer cannot electronically verify they have a valid license, they are to be taken to a local magistrate and their immigration status is to be verified.

"If you cannot prove you have valid license, we can arrest you and take you to the nearest magistrate," Hudson said. "If it's a case where 'I left my wallet at the house, here's my date of birth and driver's license number and address' and this person is who he says he is, then we write you a ticket for no driver's license.

"If you don't have a license and can't prove it, and we have reasonable suspicion of unlawful status, we notify ICE (Immigration and Customs Enforcement) to verify status."

Hudson said the person brought before the magistrate will, for now, likely be allowed to post a signature bond - pledging to respond to a court summons - and be released pending the status check.

Under the law, if a person has an Alabama driver's license, officers should presume the person is lawfully in the U.S.

"As police chief I'm responsible for ensuring our department and our officers enforce the law as mandated and do it in a manner that does not violate the constitutional case law," Hudson said. "And we have found the manner in which to do that. That's how our policy is written, and that's how we're training our officers."

The far-reaching law includes provisions that direct officers to check the immigration status of people who are stopped or arrested for any violation of state law.

But those checks should occur only "where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States," according to the law. And the checks with federal immigration authorities are to be made only "when practicable."

Hudson said the Alabama Peace Officers and Standards Training Commission has set out common sense guidelines for both "reasonable suspicion" and "practicable."

The law does not allow checks on the basis of a person's appearance.

"This law is applicable to all illegal immigrant and aliens, it doesn't matter what country you're from. This is not a Hispanic law," Hudson said. "The law is very clear: Law enforcement cannot use race, color or national origin as a basis to stop and detain and check. We have to have a lawful reason to stop you - meaning you're suspect in a crime and traffic violations apply."

Court challenges to the law have raised the specter of violations of the Fourth Amendment related to unreasonable searches and seizures. Hudson said existing case law does not establish a specific time test for how long a stop can occur for an immigration check, but that it shouldn't take longer than the normal processing of an offense, like a traffic violation.

"If there is no probable cause, no basis for arrest other than the ticket, then we release you," Hudson said.

http://blog.al.com/breaking/2011/10/huntsville_police_department_b.html