

Section 8 USC 1324(a)(1)(A)(iv)(b)(iii)

Enforcement

A person or entity having knowledge of a violation or potential violation of employer sanctions provisions may submit a signed written complaint to the INS office with jurisdiction over the business or residence of the potential violator, whether an employer, employee, or agent. The complaint must include the names and addresses of both the complainant and the violator, and detailed factual allegations, including date, time, and place of the potential violation, and the specific conduct alleged to be a violation of employer sanctions. By regulation, the INS will only investigate third-party complaints that have a reasonable probability of validity. Designated INS officers and employees, and all other officers whose duty it is to enforce criminal laws, may make an arrest for violation of smuggling or harboring illegal aliens.

State and local law enforcement officials have the general power to investigate and arrest violators of federal immigration statutes without prior INS knowledge or approval, as long as they are authorized to do so by state law. There is no extant federal limitation on this authority. The 1996 immigration control legislation passed by Congress was intended to encourage states and local agencies to participate in the process of enforcing federal immigration laws. Immigration officers and local law enforcement officers may detain an individual for a brief warrantless interrogation where circumstances create a reasonable suspicion that the individual is illegally present in the U.S. Specific facts constituting a reasonable suspicion include evasive, nervous, or erratic behavior; dress or speech indicating foreign citizenship; and presence in an area known to contain a concentration of illegal aliens. Hispanic appearance alone is not sufficient. Immigration officers and police must have a valid warrant or valid employer's consent to enter workplaces or residences. Any vehicle used to transport or harbor illegal aliens, or used as a substantial part of an activity that encourages illegal aliens to come to or reside in the U.S. may be seized by an immigration officer and is subject to forfeiture. The forfeiture power covers any conveyances used within the U.S.