States Deal With Illegal Alien Problems

by Phyllis Schlafly June 10, 2011

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Alabama has suddenly become the leader in comprehensive immigration reform, passing up Arizona whose laws have had so much news coverage. By large margins, the Alabama State Legislature passed a bill, known as HB56, which covers most areas of abuses by illegal aliens.

HB56 requires proof of citizenship or residency before voting, a giant protection against vote fraud. It prohibits aliens not lawfully present in the United States from receiving state or local financial benefits.

Like the Arizona law upheld on May 26 by the U.S. Supreme Court, Alabama's HB56 requires employers to verify the legal status of their employees by using the federal government's E-Verify program. That Arizona law, which has been kicking around in the courts since 2007, was signed by then-Arizona Governor Janet Napolitano, a Democrat, who is now director of the Department of Homeland Security.

E-Verify, which was created by the federal government for voluntary use, can be made mandatory by state law. E-Verify instantly checks workers' Social Security numbers to make sure they are eligible to work, and is so easy and inexpensive for employers to use that more than 99 percent of lawful workers receive positive verification within seconds.

Opponents of the Arizona law that made E-Verify mandatory tried to get supremacist judges to knock it out on the argument that it was preempted by federal law. They lost bigtime when the Supreme Court ruled that the Arizona law is okay as a business license statute, which is an ordinary power of the states and expressly allowed by federal immigration law.

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The employer doesn't commit a crime if he fails to use E-Verify, but he could lose his business license, which the state government has the authority to revoke. Kansas Secretary of State Kris Kobach, the leading expert in this area of law, observed that "Alabama is now the new No. 1 state for immigration enforcement."

Kobach added, "I have worked closely with Senate and House leadership to ensure that the Alabama law is drafted carefully. It will pass judicial muster if the ACLU and the open borders crowd decide to take Alabama to court."

The Alabama law has several other provisions that the Arizona law lacks.

HB56 requires public schools in Alabama to ascertain students' immigration status, giving parents of foreign-born children the opportunity to confirm lawful status by providing a sworn statement. It also compels Alabama's public schools to inform taxpayers, who are footing the costs, of the total cost of educating illegal aliens in the schools.

HB56 bars businesses from taking state tax deductions on wages paid to illegal aliens, and makes it an offense to knowingly rent living quarters to an illegal alien. HB56 bars illegal aliens from enrolling in any state-funded, public college in Alabama.

The law's sponsors, Sen. Scott Beason and Rep. Micky Hammon, properly related the illegal alien problem to our unemployment problem. Hammon said "This is a jobs-creation bill for Americans."

Three other states also make E-Verify mandatory. A half-dozen others require the use of E-Verify for state employees or contractors.

The Supreme Court decision in the Arizona E-Verify case was a tremendous victory for the right of the states to have a greater say about immigration issues. Kobach explained that the decision said that "as long as the state relies upon federal definitions of immigration status and relies upon federal determinations of any particular alien's status, then that state is not in conflict with federal law," and that is "exactly" what the Arizona law does.

Last month's Supreme Court ruling about Arizona's E-Verify law did not rule on Arizona's other controversial immigration law which grants police broader power to check the status of persons they suspect of being illegally in this country. That case is still in the courts.

However, the May 26 decision did touch on many of the same issues of federal versus state authority and seemed to show an openness to action by the states. Kobach said the Supreme Court's decision signaled that it will set a high threshold before ruling that a state law conflicts with federal law.

In an unrelated decision issued on May 23, the Supreme Court ordered California to release up to 46,000 of the state's 140,000 prisoners because of overcrowding and unsanitary conditions. One way to deal with the Court's order would be to deport the estimated 19,000 prisoners who are illegal aliens, costing California a billion dollars a year to incarcerate.

That might put pressure on the government to build a secure fence on the border so the deportees don't come back. The illegal alien drunk driver who killed a policeman in Houston last month had been deported twice, then came right back into the United States.