



Alabama Immigration Law Upheld – Mostly

Insights

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On September 28, 2011, U.S. District Court Judge Sharon Lovelace Blackburn upheld the key provisions of Alabama's immigration law, the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Alabama's immigration law is still considered the toughest immigration law in the country.

Judge Blackburn issued a preliminary injunction against some sections of the law, finding that these sections are likely pre-empted by federal law. She enjoined the provisions that:

- prohibit the harboring or transporting of illegal immigrants;
- prohibit illegal immigrants from enrolling in or attending public universities;
- prevent businesses from taking tax deductions for wages paid to workers who are not lawfully present in the US;
- make it a misdemeanor crime for an unauthorized alien to apply for, solicit or perform work;
- establish a civil cause of action against an employer who failed to hire or who discharged a U.S. citizen or an authorized alien while hiring or retaining an undocumented alien;
- prohibit drivers from stopping along a road to hire temporary workers; and
- allow consideration of only the federal government's verification in determining whether an alien is lawfully present in the U.S.

Judge Blackburn's ruling upheld a provision that requires Alabama businesses to use E-Verify to confirm the work authorization of new hires. She upheld a provision that requires law enforcement officials to try to verify a person's immigration status during routine traffic stops or arrests, if "a reasonable suspicion" exists that the person is in the country illegally. Judge Blackburn also upheld a provision that nullifies any contracts entered into by an illegal immigrant and a provision that requires elementary and secondary schools to determine the immigration status of incoming students.

In a statement released in response to the judge's ruling, Alabama Governor Robert Bentley stated: *"Today is a victory for Alabama. The court agreed with us on a majority of the provisions that were challenged . . . but this fight is just beginning. I am optimistic that this law will be completely upheld, and I remain committed to seeing this law fully implemented."*

The provisions of the law that were not enjoined will go into effect as scheduled.

For additional information, please contact your local Fisher Phillips attorney or any member of our Global Immigration Practice Group.

This Legal Alert provides information about a particular state law. It is not intended to be, and should not be construed as, legal advice for any specific fact situation.