

Protect State and Local Rights - Six Flaws in H.R. 2164, the Legal Workforce Act

From: The Honorable Lou Barletta

Sent By: thomas.lamberti@mail.house.gov

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PROTECT STATE AND LOCAL RIGHTS

Dear Colleague,

Three weeks ago, the United States Supreme Court ruled that Arizona acted well within its right to target businesses that hired illegal aliens when it passed the Legal Arizona Workers Act of 2007. To the chagrin of the American Civil Liberties Union (ACLU), the Arizona law was not considered a violation of the federal preemption clause of the U.S. Code.

Simply stated, the inaction of the United States Department of Justice under Attorney General Eric Holder and his predecessors and their refusal to enforce federal immigration laws forced Arizona to take measures to combat the problem at the state level by addressing it through the only means they could – targeting businesses that knowingly employ illegal aliens.

The business licensing ordinance passed in Hazleton, Pennsylvania, set the precedent for many local jurisdictions, including Valley Park, Missouri, and Fremont, Nebraska, to pass their own similar laws. Additionally, Alabama, Colorado, Missouri, Mississippi, Tennessee, South Carolina, Pennsylvania, West Virginia, and Virginia have already passed or are considering tough laws at the state level.

The Legal Workforce Act, introduced in the U.S. House on Tuesday, will preempt state and local laws, prohibiting states like Arizona and municipalities like Hazleton from investigating and suspending the business licenses of employers who knowingly hire illegal aliens. On top of that, the tiny amount of authority that the bill appears to give to states (taking licenses from employers who fail to use E-Verify) is illusory. As written, the bill states the federal government must enforce the E-Verify law against a particular business before a state or municipality can take away the business' license. If the federal government refuses to act, states and municipalities can't take any action.

In short, the Legal Workforce Act sells out the states and gets very little in return. States are the only governmental entities that are actively enforcing the law. As a result, if we are truly serious about enforcing our nation's immigration laws and standing up for American federalism, our only option is to vote NO on H.R. 2164, the Legal Workforce Act.

Sincerely,

/s/

Lou Barletta
Member of Congress

SIX FLAWS IN H.R. 2164, THE LEGAL WORKFORCE ACT

1. **It stabs Arizona in the back immediately after Arizona won its victory in the U.S. Supreme Court.**
The law that Arizona passed in 2007 (which suspends business licenses of employers who knowingly hire unauthorized aliens and which has been enforced vigorously), would be preempted under the Legal Workforce Act (sec. (6), p. 50).
2. **It is an affront to states' rights.**
The Supreme Court has upheld the constitutionality of cooperative enforcement, with the states and the federal government working together to restore the rule of law in immigration. Yet this bill snatches defeat from the jaws of victory and tells the states that they can no longer take meaningful actions to go after employers who knowingly hire unauthorized aliens. Alabama adopted Arizona's approach just two weeks after the Supreme Court victory. Dozens of other states are likely to follow in 2012 when the state legislatures go back into session. If the Legal Workforce Act passes, Congress will tie the states' hands, forcing them to continue paying about \$80 billion a year in fiscal costs caused by illegal immigration.
3. **The Legal Workforce Act will be another federal law that goes unenforced.**
The federal government has been unwilling to aggressively enforce immigration laws in the workplace, and this law will be no exception. There is zero likelihood that the Obama Administration will go after employers who fail to use E-Verify or who knowingly help their employees circumvent the system (which is very easy to do by using a U.S. citizen's stolen name and Social Security number). In contrast, states like Arizona have been very effective in enforcing their own laws. In Arizona, dozens of worksite raids have occurred. That is why the number of illegal aliens in Arizona dropped 16 percent between 2008 and 2010 — more than double the national average (of 7 percent).
4. **The Legal Workforce Act gives a "workplace amnesty" to virtually all of the illegal aliens who are already employed in the United States.**
Illegal aliens already working in the United States cannot be subjected to E-Verify unless they work for state or local governments (sec. (b)(3)(A), p. 26). The Legal Workforce Act is clearly designed to keep the current population of illegal aliens employed and working in the United States in the country, so they would still be here if amnesty is granted in the future.
5. **The Legal Workforce Act allows agricultural workers to skip E-Verify entirely.**
All an employer has to do is assert that the alien worked for him/her at some point in the past (sec. (b)(1)(D), p. 18).
6. **Special Interest Groups want to take the immigration issue off the table in the 2012 elections.**
Knowing the huge popular support for these state laws, Special Interest Groups want to eliminate them, and at the same time (falsely) claim that the issue of illegal immigration in the workplace is now resolved. Illegal immigration is an issue that voters consistently rank in their Top 5 issues of importance, and it needs to be used, not buried, in the 2012 elections.