



Written by [R. Cort Kirkwood](#) on October 20, 2011

## 11th Circuit Upholds Most of Alabama's Immigration Law

The U.S. Court of Appeals for the 11th Judicial Circuit has upheld almost all of Alabama's tough immigration law, frustrating the Obama administration and its leftist allies who sought to have the entire statute overturned. A three-judge panel refused to overturn the most important provision of HB 56, which requires police in the state to determine the immigration status of persons with whom they have a lawful contact. It struck down the provisions that require illegals to carry alien registration documents and schools to determine the immigration status of suspect pupils.



The decision is a major blow to the Obama administration's campaign against states trying to stem the tide of illegal immigration and the fiscal strain those illegals are placing upon American taxpayers, which [has reached](#) some \$113 billion in federal and state costs annually.

The administration [prevailed against](#) Arizona's law, SB 1070, the U.S. Court of Appeals for the Ninth Judicial Circuit.

### The Ruling

The [11th Circuit ruled](#) upon the decision of federal Judge [Sharon Blackburn](#) (above), of the U.S. Court for the Northern District of Alabama. Two weeks ago, Blackburn upheld six of the laws 10 major provisions. The Obama administration filed an emergency appeal with the 11th Circuit.

The 11th Circuit issued an injunction against Alabama's enforcement of Sections 10 and 28. Section 10 requires that illegals carry an alien registration document or be charged with a misdemeanor. Section 28 requires public schools to inquire about the immigration status of their students.

The [three judges enjoined](#) those measures by applying the same standard that Blackburn used, but they came to a different conclusion.

For the administration and its leftist cohort of legal torpedoes to prevail, they had to show: "(1) a substantial likelihood they will prevail on the merits of the appeal; (2) a substantial risk of irreparable injury to the intervenors unless the injunction is granted; 3) no substantial harm to other interested persons; and, 4) no harm to the public interest."

[The court noted](#) that "failure to show any of the four factors is fatal" to the appellant's cause.

The court found that the administration and its myrmidons met this standard and enjoined the two sections.

In her ruling, [Judge Blackburn found](#) the opposite.

### Law Upheld

Yet the [11th Circuit left](#) the most important parts of the law stand. The two most significant for law



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enforcement purposes [are sections](#) 12 and 18. Section 12 requires police to check the immigration status of a person they lawfully stop or arrest if they reasonably suspect the person is an illegal alien. Section 18 energized section 12. It requires police to check the immigration status of motorists caught driving without a license. If the motorist is a border jumper, the police must turn him over to federal immigration authorities.

[Blackburn not only found](#) that the Obama administration could not meet the legal standard that it would succeed in its legal arguments, but also that HB 56 would not interfere with American foreign policy or federal prerogatives vis-a-vis the enforcement of federal immigration law.

With respect to Section 12, [Blackburn ruled](#), “[T]he court finds the United States has not submitted sufficient evidence that Section 12 conflicts with federally-established foreign policy goals. For the foregoing reasons, the court concludes that the United States is not likely to succeed on its claim that [Section 12] conflicts with congressional intent.

[Blackburn agreed](#) with the dissenting judge in the [U.S. Ninth Circuit’s decision](#) striking down Arizona’s [SB 1070](#). That judge, [Carlos Bea](#), said Congress did indeed intend for the states to cooperate with the federal government’s immigration enforcement efforts. [He wrote](#) that Congress “provided important roles for state and local officials to play in the enforcement of federal immigration law” and that the controlling issue in Arizona should be what Congress intended with federal immigration law, not what the executive branch or its bureaucracy wants to do. Continued Bea:

Congress has clearly expressed its intention that state officials should assist federal officials in checking the immigration status of aliens and in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States. ... Congress has clearly stated its intention to have state and local agents assist in the enforcement of federal immigration law, at least as to the identification of illegal aliens, in two federal code sections.

[Blackburn agreed](#), upholding, again, most of Alabama’s carefully constructed law.

## **Immigrants, Leftist Allies Upset**

The “civil rights coalition” opposed to the law, including the [American Civil Liberties Union](#), [National Immigration Law Center](#) and discredited [Southern Poverty Law Center](#), aren’t happy. [The coalition issued](#) the following statement, which said the law would usher in an era of what professional activists labeled call “[Juan Crow](#),” a reference to the discriminatory but long-dead [Jim Crow](#) laws of the past.:

In just two weeks that the law has been in effect, families have been fleeing the state, children have been pulled out of schools, and businesses have been put in jeopardy. This law sadly revisits Alabama’s painful racial past and tramples the rights of all its residents.

Beside the usual aforementioned group, the coalition includes the [Asian Law Caucus](#), the [National Day Laborers’ Organizing Network](#), the [Asian American Justice Center](#), and the [Mexican-American Legal Defense and Educational Fund](#).

That HB 56 is racist and will inspire “racial profiling” against Hispanics [was a central theme](#) of the leftist campaign against it.

Last week, as [The New American reported](#), various news reports told the lachrymose tales of Hispanics “vanishing” from the state and Hispanic children conspicuously absent from school. In DeKalb County, the [Associated Press reported](#), 23 percent of the school system’s students did not show up for class one day in the weeks after [Blackburn upheld](#) Alabama’s law on Sept. 29.



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But those reports [also showed](#) that when Hispanics began “vanishing” from the state’s poultry plants, real Americans showed up in droves to work at the jobs “that Americans won’t do.”

## **The Legal War Goes On**

The Obama administration’s legal attack on Alabama, [which spends](#) nearly \$300 million annually educating, jailing, and doctoring the state’s 145,000 illegal aliens, is just one prong of its multi-front war against immigration enforcement. Its most stunning success was persuading the Ninth Circuit [to upend](#) Arizona’s SB 1070.

Along with Arizona and Alabama, South Carolina, which [also passed](#) a tough immigration law that bans sanctuary policies and requires police to check the immigration status of suspected border jumpers, now faces the ideological wrath of the administration’s leftist allies. The ACLU [has sued](#) the Palmetto State on the same grounds it joined Obama’s war against Alabama.

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