



Written by [Bruce Walker](#) on August 5, 2011

Federal Courts Uphold Arizona LAWA Statute

Arizona has taken the problem of illegal immigration seriously. Like several other states, Arizona has not just focused on the illegal immigrants themselves. Those who profit by hiring illegal immigrants also face more rigorous state actions for their misconduct. In 2007, Arizona passed LAWA or the “Legal Arizona Workers Act,” which provided for escalating legal sanctions up to the revocation of an employer’s right to do business if the employer knowingly hired illegal immigrants.



The law was not punitive against immigrants. It did not treat legal immigrants any differently than American citizens. State governments have, and do, restricted employment for different classes of citizens. Sex offenders, for example, are often barred from working in schools or daycare facilities. Drunk drivers lose their license to drive and, by that restriction, their ability to work at many jobs.

The law, in fact, was not directed against illegal immigrants but rather against those American businesses which try to gain an unfair advantage over competitors by using workers who are illegally in the country. LAWA was not that severe. The employer had to “knowingly” hire illegal immigrants to work in his business.

It now appears that despite the efforts of the ACLU and similar groups to have federal courts strike down that law have failed. In 2008, lower federal courts upheld the constitutionality of the Arizona law and recently the Supreme Court has affirmed those lower court rulings. The Supreme Court decision was 5 to 3, with Justice Kagan recusing herself, although her vote could not have been decisive.

This ruling probably reflects a judicial sentiment to uphold the more recent Arizona law. SB 70, which caused great national controversy last year. Other states have also passed laws similar to LAWA as well as SB 70. This ruling will allow state legislators to act with more confidence in the federal bench upholding the constitutionality of their laws.

Aside from the policy issue of illegal immigration and the control of that flow of undocumented aliens into America, these judicial decisions favoring the Arizona law will be seen in many corners as a re-affirmation of the 10th Amendment, which allows states to exercise powers not specifically left to the federal government.

State legislatures in 2011 — those in which Republicans controlled both houses of the legislature and the governor’s office — have now acted on a broad range of issues from public employees’ unions and illegal immigration to regulation or prohibition of abortion. Although it is unclear how much of this



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legislation will be voided by federal courts, the decisions of the federal bench so far should encourage those who believe that state governments are genuinely sovereign and that the rights of the federal government are not ubiquitous and absolute.

Photo: Arizona state capitol (top) and House floor (bottom)



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