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Breaking News: Justice Department Goes After Third State for Tackling Immigration

Tuesday, November 1, 2011 by Larry Bodine - Editor-in-Chief of Lawyers.com

By Penny Arevalo

The Obama administration has filed its third lawsuit against a state – this time South Carolina – for trying to deal with illegal immigration on a state level.

South Carolina's law, like proposals in Arizona and Alabama, requires immigrants to carry documents with them and allows local law enforcement officials to detain those they believe are in the country illegally. In June, Gov. Nikki Haley signed the law, which is to take effect Jan. 1.

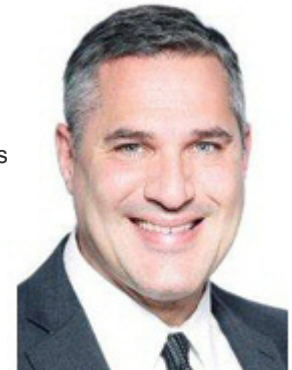
- Governor named as a defendant.
- Litigation already underway in two other states; more on the way?
- Law would lead to racial profiling.

Other Nuances of the South Carolina Law

According to published reports, police would only be able to inquire about a person's legal status at a traffic stop, arrest or other incident where they had [reasonable suspicion](#) that a person was in the country illegally.

The law specifically prohibits law enforcement to racially profile suspected undocumented workers, says Michael Wildes, managing partner of [Wildes & Weinberg](#), an immigration law firm in New York. Critics, however, say the new law will lead to exactly that, Wildes says.

The law would also make it a felony to create bogus photo IDs for illegals, he adds.



Michael Wildes

States Take Matters into Their Own Hands; Feds Sue

The lawsuit filed Monday in Charleston, S.C. named Gov. Haley as a defendant. According to [Bloomberg News](#), Assistant U.S. Attorney General Tony West, in a telephone press conference, said creating a patchwork of immigration laws is not only unconstitutional, "it ultimately creates more problems than it solves."

Arizona was the first state to pass an immigration law to empower local officials to enforce immigration laws politicians said the federal government wasn't. The federal government sued and successfully overturned the law at the district-court level in June 2010, but the matter is up on appeal.

The government then turned its eyes to Alabama and was able to reverse parts of that state's immigration law. While the state can't make immigrants carry papers, police can still inquire about their legal status at traffic stops, the [11th Circuit Court of Appeals ruled Oct. 14](#). That decision, too, is on appeal.

But the feds may not be done. The Justice Department is also studying new immigration enforcement measures in Indiana, Georgia and Utah, Bloomberg reports.

Wildes says he's not sure which state's challenge will get to the US Supreme Court first, but all legal roads lead that way.

Frustration Among Immigrants

Because the federal government does not have a handle on illegal immigration, politicians at a state level feel they have to step in, says Wildes. The country has 7,000 [US Immigration and Customs Enforcement](#) agents, 270 immigration judges and millions of illegal immigrants.

"I don't blame the states feeling this way, but they're going about it wrongly," he says. "There are not enough beds, detention center or handcuffs to handle" the problem. In addition, placing the burden on employers has clearly not worked.

Congress members have the ability to deal with immigration head-on, Wildes says. When they don't, "we should unelect every one of them."

But, he adds, as a nation, we cannot ignore the positive contributions foreign national offer the economy. Arizona, Alabama and South Carolina are about to learn about this firsthand, Wildes says.

[Penny Arevalo](#) is a reporter for Lawyers.com.

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