



Where does HB56 stand? What the Courts Have Said (and Done)



LATEST UPDATE:

On August 20, 2012, the 11th Circuit issued a revised ruling, after reviewing supplemental briefing filed by both parties regarding the applicability of the Supreme Court's ruling in *Arizona v. United States*, to wit: the injunctions on Sections 10, 11, 13, 16, 17, 27 and 28 were upheld and the injunctions on Sections 8 and 30 (finding the legal impediments removed by legislative action, HB658) were lifted. In allowing the "show me your papers" provision to remain in effect, the court gave a nod to the Supreme Court's rationale and cautioned that the current ruling was based on the language of the statute alone, which could prove problematic in practice. Like SCOTUS before it, the court did not foreclose future litigation to resolve allegations of constitutional violations based on the statute's application.

PREVIOUS RULINGS:

On March 8, 2012, the 11th Circuit enjoined:

- Section 27, which forbids courts of the State of Alabama from enforcing contracts between a party and an unlawfully present alien, and
- Section 30, which forbids any "business transactions" between state and local agencies and undocumented aliens.

On October 14, 2011, the 11th Circuit enjoined:

- Section 10, which creates a misdemeanor under Alabama law for not carrying an alien registration document, in violation of the Compulsory and Confrontation Clauses of the 6th Amendment and Due Process Clause of the 14th Amendment, and
- Section 28, which requires every public elementary and secondary school to verify the status of every student at the time of enrollment and to report data to the State Board of Education (who will then report to the legislature), in violation of the Equal Protection Clause.

On Sept. 28, 2011, the District Court (Judge Blackburn) enjoined the following:

- Section 8, which bars certain non-citizens from postsecondary institutions in violation of the Equal Protection Clause;
- Section 11(a), which prohibits the solicitation of work by undocumented immigrants in violation of the Supremacy Clause;
- Sections 11(f) and (g), which prohibits the solicitation of work by day laborers in violation of the First Amendment;
- Section 13, which criminalizes harboring an undocumented immigrant, encouraging or inducing one to enter, transporting an undocumented immigrant, and renting a home to an undocumented immigrant, in violation of the Supremacy Clause;
- Section 16, which denies a tax deduction for business expenses related to employing unauthorized workers in violation of the Supremacy Clause;
- Section 17, which creates a cause of action for private citizens to sue employers employing unauthorized workers in violation of the Supremacy Clause, and
- The final sentence of sections 10(e), 11(e), and 13(h), which limit the types of evidence that may be used as proof of immigration status, in violation of the Sixth Amendment's Compulsory Process Clause.