

## **Bad for business and workers**

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### **Body**

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On Wednesday, the Supreme Court heard arguments in Chamber of Commerce v. Whiting, a constitutional challenge to the Legal Arizona **Workers** Act of 2007, one of thousands of overlapping and conflicting state and local immigration laws proposed in recent years. A strange bedfellows alliance of business organizations, civil rights and immigrant rights groups, labor unions, current and former congressmen and the Obama administration united to challenge the Arizona law because it is **bad for business**, and bad for **workers**.

Former Arizona governor Janet Napolitano -- now the secretary of the Department of Homeland Security -- called the Arizona law the "business death penalty" because of the harsh penalties it imposes. The U.S. Chamber of Commerce opposes knowingly hiring undocumented **workers**. However, the law's penalties are so severe that they encourage employers to avoid hiring anyone who even appears to be an immigrant. This is precisely what Congress intended to avoid when it passed the Immigration Reform and Control Act in 1986, carefully balancing the twin goals of preventing employment of undocumented **workers** and preventing discrimination against job applicants.

The confusing patchwork of immigration laws also conflicts with Congress' decision in the 1986 law to displace state and local laws, and instead to establish a uniform, national framework for employment verification. Some states, such as Arizona, require employers to use E-Verify -- a federal pilot program for electronically verifying **workers** that Congress decided should be voluntary, not mandatory. Other states modify the federal I-9 program, and some states create entirely new verification systems totally independent from the program Congress enacted to regulate employment.

Rather than solving the nation's immigration problems, this patchwork of state immigration laws drowns employers in regulations and exposes job applicants to increased risk of discrimination. Fortunately, the Constitution includes a provision for resolving conflicts between state and federal law. Article VI of the Constitution states, "The laws of the United States ... shall be the supreme law of the land." To the extent that Arizona's statute and other state and local laws frustrate Congress' objective of establishing a uniform framework, the Constitution is clear: Federal law is the "supreme law of the land."

Robin S. Conrad is executive vice president of the National Chamber Litigation Center, the public policy law firm of the U.S. Chamber of Commerce.

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