

## ***A long legal road Immigration • Federal injunction against Arizona law should prompt Missourians to review their own efforts. OTHER VIEWS***

St. Louis Post-Dispatch (Missouri)

August 5, 2010 Thursday, THIRD EDITION

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**Section:** EDITORIAL; Pg. A15

**Length:** 765 words

**Byline:** By Ken Schmitt

**Dateline:** 0

### **Body**

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A week ago, U.S. District Court Judge Susan Bolton enjoined **Arizona** from enforcing the most controversial aspects of its new **immigration law**, as civil rights groups and the U.S. Justice Department had advocated. Bolton's temporary **injunction** is only the first step in what likely will be a **long** and complicated **road** to eventually resolve how far a state may go in imposing its **own** scheme of **immigration** regulation.

After all, United States v. State of **Arizona**, et al. is one of seven **federal** court challenges to **Arizona** Senate Bill 1070, six of which are before Bolton.

Although only a relatively small portion of the entire bill was before the court on the **federal** government's **injunction** hearing, there is much clamoring about what the court's ruling means for Missouri's 2008 anti-immigrant legislation, House Bill 1549.

In some respects, the answer is: "very little." For example, Missouri's **immigration law** does not create new criminal offenses for failing to carry a registration card or for seeking unauthorized employment, as **Arizona's law** attempted to create. Neither, by the way, does **federal law**.

However, a careful reading of Bolton's order relating to **Arizona's** "show-me-your-papers" provisions calls into question Missouri's similar provision in its 2008 **immigration law** being touted this year by several legislative candidates running for office using the "get tough 'n kick'em out" platform.

The **Arizona** statute requires that any person arrested shall have his or her **immigration** status confirmed before being released. Missouri **law**, post HB 1549, provides that upon arrest, whenever a person's **immigration** status cannot be determined by the documents on the person or by a reasonable **effort**, his status shall be determined with an inquiry to the **federal** government.

Bolton ruled that this **Arizona** provision likely will be shown to impose an impermissible burden on **federal** authorities and force the diversion of **federal** resources away from **federal** priorities to satisfy **Arizona's** demands. If Bolton is correct, **Arizona's law** clearly is pre-empted by **federal law** and Missouri's **law** cannot be far behind on the way to the pre-emption trash bin.

**Arizona's** "show-me-your-papers" provision goes even farther than Missouri's, and applies to any lawful stop (in addition to any detention or arrest), even without probable cause sufficient to otherwise make an arrest for a separate crime. Presumably, this permits the "lack of papers" **law** to be enough to authorize an arrest in **Arizona**.

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There's no doubt about the intent of the Arizona law's drafters, made clear in a well-circulated e-mail from Kris Kobach, the University of Missouri-Kansas City law professor who wrote the Arizona law. He directed it to Arizona state senator Russell Pearce, one of the law's sponsors.

His e-mail states that Arizona's "show-me-your-papers" provision should be extended to municipal ordinance enforcement to allow a police officer to demand papers upon noticing minor building code violations such as "too many occupants of a rental accommodation" or "cars on blocks in the yard."

But the real disconcerting aspect of the recent reaction to Bolton's injunction is the rush by many Missouri legislators to "assure" us that Missouri's immigration statute actually is much "tougher" than Arizona's. It's as if it is virtuous to be the most immigrant-unfriendly place in an effort to force compliance with our dysfunctional immigration system.

Never mind that these laws disrupt legitimate law enforcement priorities and constitutional principles of equal protection and due process as well as the lives of American families. Never mind how or why the underlying immigration system remains hopelessly flawed and the injustices that would inevitably result from attempts to force compliance through Arizona-styled coercion. The attitude is: "the law is the law, no matter how bad that law may be, and compliance must be enforced or coerced, one way or the other."

Much has been said, quite inaccurately, about the federal government's refusal to enforce immigration law. In fact, the federal government has dramatically increased, by more than double, the resources committed to border enforcement, internal immigration enforcement and removal proceedings in the last seven years. Removals and deportations actually are at an all-time high. But it is clear that enforcement alone has failed and will continue to fail.

It's time to consider that while some Arizonans and Missourians dwell on tougher enforcement, our broken immigration system itself is the problem.

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## Classification

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Language: ENGLISH

Document-Type: COMMENTARY

Publication-Type: Newspaper

**Subject:** IMMIGRATION (91%); IMMIGRATION LAW (91%); LAW COURTS & TRIBUNALS (90%); US FEDERAL GOVERNMENT (90%); LEGISLATION (90%); PROBABLE CAUSE (89%); US STATE IMMIGRATION LAW (78%); DECISIONS & RULINGS (78%); LAW ENFORCEMENT (78%); CAMPAIGNS & ELECTIONS (78%); ARIZONA IMMIGRATION LAW (78%); HUMAN RIGHTS ORGANIZATIONS (78%); JUDGES (78%); LAW SCHOOLS (78%); LITIGATION (78%); SPECIAL INVESTIGATIVE FORCES (78%); LEGISLATIVE BODIES (76%); POLITICAL CANDIDATES (75%); FEDERAL INVESTIGATIONS (75%); CIVIL RIGHTS (73%); JUSTICE DEPARTMENTS (72%); CRIMINAL OFFENSES (72%); COLLEGE & UNIVERSITY PROFESSORS (60%)

**Organization:** US DEPARTMENT OF JUSTICE (84%)

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**Industry:** LAW SCHOOLS (78%); COLLEGE & UNIVERSITY PROFESSORS (60%)

**Geographic:** KANSAS CITY, MO, USA (79%); ARIZONA, USA (99%); MISSOURI, USA (95%); UNITED STATES (93%)

**Load-Date:** August 6, 2010

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