

July 2008

Federal Court Enjoins Oklahoma From Enforcing State Immigration Law

On June 4, 2008, a federal court in Oklahoma City enjoined Oklahoma from enforcing portions of the state's immigration law, H.B. 1804, that were scheduled to take effect July 1. Among them was a requirement that employers use E-Verify to check work authorizations of employees, which is currently voluntary for private employers under federal law. Judge Robin J. Cauthron found that it was "substantially likely" that Oklahoma's law is preempted by federal immigration law. The lawsuit was filed by the U.S. Chamber of Commerce and other groups.

The court noted that:

[W]hile the public clearly has an interest in issues of illegal immigration, and no court should treat the prospect of overturning state law without grave consideration, the Constitution requires that the will of the States must occasionally give way to the need for uniformity among the States, and that uniformity can only be accomplished through congressional action. Thus, for now, the provisions of H.B. 1804 challenged by Plaintiffs must be enjoined until a final determination can be made about the extent to which States can permissibly regulate without interfering with areas reserved exclusively for congressional action. The Court is not deciding that Plaintiffs will ultimately prevail, rather, when the materials before the Court are viewed as the facts and law exist today, it appears that Plaintiffs are likely to prevail and consequently are entitled to a preliminary injunction.

The decision is available at <http://www.uschamber.com/assets/nclc/henrypreliminjuction.pdf>. For additional details and a history of the case, see http://www.nfib.com/object/IO_37522.html and <http://hr.cch.com/news/employment/062008a.asp>.