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## The Battle Over Immigration and Its Impact on the Agriculture Industry (/full-blog/2010/10/battle-over- immigration-and-its-impact.html)

By **Rebecca Griffin**, Staff Member

The truth of the matter is that “immigrants are a growing part of the Kentucky labor force and are often found in difficult to fill occupations, including... agriculture workers on tobacco and horse farms.” LEGISLATIVE RESEARCH COMMISSION, IMMIGRATION IN KENTUCKY: A PRELIMINARY DESCRIPTION, No. 305 at 1 (2002). Based on this fact, those in the agriculture and equine industries in Kentucky and throughout the United States should pay close attention to the controversy over the constitutionality of the recent reforms in state immigration laws. The controversy began earlier this year when Arizona strengthened its immigrations laws. The more stringent reforms acted as a catalyst that intensified the debate over illegal immigration and prompted other states and municipalities to draft and promote their own tougher immigration laws. *What does Arizona’s immigration law do?*, CNN, April 23, 2010, [http://articles.cnn.com/2010-04-23/politics/immigration.faq\\_1\\_immigration-reform-law-institute-immigrant-advocates-illegal?\\_s=PM:POLITICS](http://articles.cnn.com/2010-04-23/politics/immigration.faq_1_immigration-reform-law-institute-immigrant-advocates-illegal?_s=PM:POLITICS).

An alarming trend in these recently adopted state and municipal laws is the targeting of businesses “who hire illegal laborers.” *Id.* State legislatures are able to target and pressure businesses to not hire illegal immigrants by including “business death penalty” clauses in their reforms. These provisions allow “the state to revoke the charter and articles of incorporation” of businesses that do not fully comply with reformed immigration laws and could potentially damage equine and agriculture businesses that either knowingly or inadvertently hire illegal immigrants. *Id.*

Courts throughout the nation are now deciding the fate of these recently enacted reforms. Currently,

there is a “split on whether states and municipalities have the right to enforce laws dealing with immigration.” Micheal Rubinkam, *Pa. mayor to take immigration law to Supreme Court*, Yahoo!, Sept. 9, 2010, [http://news.yahoo.com/s/ap/20100909/ap\\_on\\_re\\_us/us\\_illegal\\_immigrants\\_crackdown](http://news.yahoo.com/s/ap/20100909/ap_on_re_us/us_illegal_immigrants_crackdown). The underlying legal issue causing the split is whether the enforcement of state or municipal regulations “intrudes into federal immigration enforcement.” Jerry Markon and Stephanie McCrummen, *Arizona Immigration Law SB 1070- judge blocks some sections*, Washington Post, July 29, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/28/AR2010072801794.html>. Several courts have already attempted to resolve this issue. In July of this summer, U.S. District Judge Susan Bolton ordered an injunction on portions of the Arizona Bill based on her decision that enforcement of Arizona’s immigration law intrudes on federal enforcement. *U.S. v. Arizona*, 703 F. Supp. 2d 980 (D. Az. 2010). Similarly, in September of 2010, the Third Circuit came down with a decision - *Lozano v. City of Hazleton*, No. 07-3531, 2010 U.S. App. Lexis 18835 (3d Cir. Sept. 9, 2010)- that the municipality of Hazleton, PA cannot enforce its immigration laws on the basis of preemption. Rubinkam, *supra*.

Recent developments suggest that this trend of targeting businesses in state and local immigration law may stop. But, those in support of the more stringent state and municipal immigration laws say they will continue to fight for the measures. Id. Uncertainty about whether or not agriculture or equine industries will suffer from these business death penalty clauses will not be resolved until the Supreme Court rules on the issue. Businesses in these industries have an opportunity to influence this debate by filing suit or intervening in pending suits, arguing that the promulgation and enforcement of immigration law is under the domain of the federal government. By contributing to the debate now, industry players may have a chance to stop state governments from adopting and enforcing business death penalty clauses, which could have fatal consequences for agriculture and equine business in the future.

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