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Ninth Circuit Court of Appeals rules on constitutionality of parts of Arizona's controversial "Support Our Law Enforcement and Safe Neighborhoods Act" ("SB 1070").

UPDATE: What Arizona's Controversial Immigration Law Means for Employers

By Neil M. Alexander and Michael J. Lehet

In our July 2010 ASAP Update, Littler discussed the federal district court decision temporarily enjoining enforcement of certain provisions of Arizona's controversial "Support Our Law Enforcement and Safe Neighborhoods Act" ("SB 1070"). On April 11, 2011, the Ninth Circuit Court of Appeals issued an opinion affirming the district court ruling.

Like the district court decision, the Ninth Circuit opinion does not impact those provisions of SB 1070 that amend the Legal Arizona Workers Act (LAWA). Consequently, LAWA will continue to provide an entrapment defense to employers charged with knowingly or intentionally hiring undocumented workers. LAWA will also continue to require that employers keep a record of each E-Verify verification. Furthermore, the Ninth Circuit opinion does not affect the language of SB 1070 making it a Class 1 Misdemeanor for occupants of a motor vehicle stopped on a street, roadway, or highway, to hire and pick up, or attempt to hire and pick up, passengers for work at a different location, if the motor vehicle blocks or impedes the normal movement of traffic.

The opinion is the second Ninth Circuit decision to weigh in on Arizona's recent immigration debate. As explained in our September 2008 ASAP, *Ninth Circuit Court of Appeals Upholds Legal Arizona Workers Act*, the court previously sided with the district court and ruled that LAWA was constitutional. That decision is currently on review before the U.S. Supreme Court. A ruling from the high court is expected within the next several months.

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