

Chamber of Commerce v. Whiting, 563 U.S. 582 (2011)

FACTS

Parties filed a suit centered on the 2007 Legal Arizona Workers Act that forbids any business to intentionally or knowingly hire an unauthorized alien that does not have the federal authorization to legally work in the United States. The Arizona law compels companies to use the Homeland Security's Web-based E-Verify on all new hires to validate new workers to see if they are lawfully able to work in the United States. The Act allows superior courts to revoke or suspend business licenses to those not in compliance.

ISSUE(S)

Does the Arizona Act preempt federal law by necessitating every employer use the E-Verify, the Federal Law Employment Verification System, before hiring an employee when federal law does not mandate usage?

Is the Arizona law that punishes employers for hiring undocumented aliens under the Federal Immigration Reform and Control Act legal?

Does the Arizona statute comfortably fall within the margins of its rights under the Federal Immigration Reform and Control Act?

RULE(S)

8 U.S.C. § 1324a(a)(1)(A): It makes persons unlawful for knowingly hiring an unauthorized alien for a fee, employment, and as defined in subsection 1324a(h)(3).

ANALYSIS

The law only penalizes businesses that intentionally hire undocumented aliens and not the undocumented employees that the businesses did not know about. How is a business supposed to hire employees when the federal government has failed in many cases to not enforce its laws? The federal statute signifies that states can only act to legally hire viable employees, and the law is quite broad. E-Verify is one tool a business can use to eliminate some undocumented prospects. By requiring all businesses to check potential hires, it is a tool everyone has to use and not just some. Revoking licenses and suspending licenses are two ways Arizona can help combat the problem. Without any sanctions, businesses will continue to do what they want to do without any punishment. The spirit of the law is clear.

Questions about the E-Verify system that Congress made voluntary is noted, but it does help to know about offenders and the legality of a worker however imperfect. The mandatory requirement to use the tool does not take into question the uniformity of usage across other states. The scope of the federal law is broad, and it does not consider the flows of prohibited workers, and how it may impact the United States as a whole. It is fair to say it is an experiment as has been information technology since the dawn of the Internet.

HOLDING

The 5-3 decision of the Supreme Court ruled that the parties did not overstep its bounds when the Arizona law revoked or suspended licenses of businesses found to be knowingly employing unlawful aliens, and thus, it does not preempt the Immigration Reform and Control Act.