



Proposed reforms won't fix Alabama's immigration law

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Wednesday the Alabama Senate will consider welcome reforms to that state's controversial immigration law. Unfortunately the proposed changes will leave expensive economic regulations largely intact, impeding much needed job growth.

Complaints about the law prompted House Majority Leader Micky Hammon (R-Decatur) to introduce a bill that removes controversial provisions that forced schools to gather information on students' immigration status and other potential civil liberties abuses. Immigration laws like Alabama's, however, are largely about regulating businesses and whom they employ – often the most important choice confronting entrepreneurs and the largest part of most business expenses, and the bill does not reach these issues.

The Alabama immigration law makes the vital choice of hiring more expensive and the outcome less certain by mandating that all employers use E-Verify for every hire. E-Verify is an expensive federally run electronic workforce verification system that checks the employee's identification papers against various federal databases, essentially forcing the employer to ask the federal government for permission to hire the employee.

E-Verify is wrong about four percent of the time, with unauthorized workers slipping through the system or legal workers being caught in its net. On first pass, workers denied permission to work can contest the decision or identify and correct errors and inconsistencies in the worker's identification.

In a late 2010 report, the Government Accountability Office found that many workers filed a Privacy Act Request to discover and correct their identity information in government databases, which takes an average of 104 days to fulfill (as of 2009). If the worker is unsuccessful in contesting the government's decision in a short amount of time, he must be fired.

E-Verify is largely ineffective at weeding unauthorized workers out of the labor force – missing them more than half of the time – but very effective at imposing large costs on employers and American employees. Around one percent of legal American workers are initially denied employment by E-Verify and many of them have to spend many months sorting out the problems – all because the government has forced them to ask permission to work.

Alabama's immigration law required all employers to enroll with E-Verify in early April, but so far only about 7 percent of them have done so. Arizona mandated that all businesses do the same in 2008. Since that year, only 70 percent of new hires have been run through the system with the other 30 percent hired in the quasi-informal economy thanks to E-Verify. Alabama can expect a similar pattern going forward if it keeps E-Verify.

The only advantage to using E-Verify is that it's a defense against an even worse punishment in the Alabama immigration law: the so called business death penalty. Currently, the second time a business knowingly or intentionally hires an unauthorized worker the state revokes all of its licenses and permits. Hammon's bill gives more flexibility to judges in determining this punishment, but it's odd that the only utility of one strict business regulation is as a defense against an even worse one.

Alabama's \$5 billion a year agricultural industry, where unauthorized immigrants are a major source of labor, perhaps even a majority of pickers according to some estimates, is already being impacted by E-Verify.

If Alabama farmers had to use legal means to hire workers through the costly and bureaucratic H-2A visa or by raising wages, they will either stop growing or shift production to less profitable machine harvested crops. That reaction to government-created scarcity in the low-skilled labor market is inefficient, unprofitable, and will drain the otherwise healthy profits of the state's agricultural producers. The right policy solution is one that increases the supply of labor, not further restricts it.

Proponents of Alabama's immigration law are quick to note that Alabama's unemployment rate has declined since mid-2011, around the time Alabama's immigration law was passed. But the unemployment rates in Louisiana and Tennessee also declined over the same period even though they did not pass similar immigration laws. Alabama's immigration law is not responsible for that improvement in economic conditions, and likely impeded it by placing more regulations on business creation.

Alabama's immigration law expands the informal economy with E-Verify, increases regulatory uncertainty with the business death penalty, and turns good businesses into lawbreakers. It endangers the state's agricultural sector and overall economic recovery. Allowing for the freer flow of labor, not further restricting it, is the better policy.

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