

Federal Judge Enjoins Key Provisions of South Carolina's Immigration Law

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Washington, D.C.—The American Immigration Council welcomes today's ruling from U.S. District Judge Richard M. Gergel, which temporarily enjoined three provisions of South Carolina Act 69 and found a fourth provision likely to be overturned in future proceedings. The ruling makes South Carolina the sixth state—after Arizona, Indiana, Georgia, Utah, and Alabama—to see major parts of a punitive immigration law blocked in federal court.

Following its enactment last June, South Carolina Act 69 was challenged in court by both the federal government and a coalition of civil rights groups. Today, in a [42-page opinion](#) [1], Judge Gergel entered temporary injunctions against the following provisions, finding each to be preempted by federal immigration law:

- Section 4, which makes it a state crime to transport or harbor undocumented immigrants, or for undocumented immigrants to allow themselves to be transported or harbored.
- Section 5, which makes it a state crime to fail to carry an immigration registration document issued by the federal government.
- Section 6, which requires police to try to determine the immigration status of any person under investigation or arrest whom the officer has "reasonable suspicion" to believe is in the country illegally, and which makes it a state crime to possess or attempt to use a fraudulent identification to establish lawful presence in the United States.

As Judge Gergel explained, while local lawmakers have every right to disagree with the federal government's efforts to set priorities in the enforcement of federal immigration law, their opinion "does not entitle the State of South Carolina to adopt its own immigration policy to supplant the policy of the national government."

Judge Gergel also found a fourth provision—the one making it a state crime to sell fraudulent identification to undocumented immigrants—to be preempted by federal law, but declined to issue a temporary injunction after finding the federal government would not face irreparable harm if the provision went into effect while legal proceedings continued.

"Once again, a federal judge has confirmed what has long been settled: that states cannot enact their own immigration policies or interfere with the U.S. government's efforts to enforce federal immigration law," said Benjamin Johnson, Executive Director of the American Immigration Council.

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For more information, contact Seth Hoy at 202-507-7509 or shoy@immcouncil.org [2]

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[1] <http://www.legalactioncenter.org/sites/default/files/docs/lac/US-v-South-Carolina-order-on-temporary-injunction-12-22-2011.pdf>

[2] <mailto:shoy@immcouncil.org>

[3] http://www.americanimmigrationcouncil.org/sites/default/files/docs/South_Carolina_Immigration_Law_Enjoined_122211.pdf