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JUSTICE NEWS

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Department of Justice Challenges Utah's Immigration Law

Several Provisions Interfere with Enforcement of Federal Immigration Law

WASHINGTON – The Department of Justice today challenged Utah's immigration law, which comes after recent lawsuits in Arizona, Alabama and South Carolina.

In a complaint, filed in the District of Utah, the department states that several provisions of Utah's H.B. 497 are preempted by federal law. The provisions were enacted on March, 15, 2011.

The department's lawsuit comes after several months of constructive discussions with Utah state officials. Notwithstanding today's lawsuit, department officials expect this important dialogue to continue.

The department's complaint states that H.B. 497 clearly violates the Constitution because it attempts to establish state-specific immigration policy. The law creates and mandates immigration enforcement measures that interfere with the immigration priorities and practices of the federal government in a way which is not cooperative with the primary federal role in this area. The law's mandates on law enforcement could lead to harassment and detention of foreign visitors and legal immigrants who are in the process of having their immigration status reviewed in federal proceedings and whom the federal government has permitted to stay in this country while such proceedings are pending.

The federal government has the ultimate authority to enforce federal immigration laws and the Constitution does not permit a patchwork of local immigration policies. A state setting its own immigration policy interferes with the federal government's enforcement efforts.

"A patchwork of immigration laws is not the answer and will only create further problems in our immigration system," said Attorney General Eric Holder. "The federal government is the chief enforcer of immigration laws and while we appreciate cooperation from states, which remains important, it is clearly unconstitutional for a state to set its own immigration policy. We will continue to monitor and coordinate with our federal partners as we remain concerned about the potential impact of these state laws."

"This kind of legislation diverts critical law enforcement resources from the most serious threats to public safety and undermines the vital trust between local jurisdictions and the communities they serve," said Department of Homeland Security Secretary Janet Napolitano. "The Department will continue to enforce federal immigration laws in Utah in smart, effective ways that focus our resources on criminal aliens, recent border crossers, repeat and egregious immigration law violators and employers who knowingly hire illegal labor."

The department notified Utah state officials of its position that the Utah's Immigrant Guest Worker statutes, H.B. 116 and H.B. 469, are clearly preempted by federal law. Given that the provisions do not take effect until 2013, and in light of the constructive conversations the department continues to have with Utah officials about these provisions pursuant to the Justice Department's long-standing policy of exploring resolution short of litigation before filing suit against a state, the department is not challenging these provisions today. If, however, Utah fails to comply with federal law in this area, the department will not hesitate to take the legal action necessary to vindicate the important federal interests in this matter before these laws go into effect.

The suit was filed on behalf of the Departments of Justice, Homeland Security and State, which share responsibilities in administering federal immigration law. The department will soon request a preliminary injunction to enjoin enforcement of the certain provisions of H.B. 497.

The Justice Department previously challenged S.B. 1070, H.B. 56, and Act No. 69 on federal preemption grounds in Arizona, Alabama and South Carolina, respectively. The department continues to review immigration-related laws that were passed in Indiana and Georgia. Courts have enjoined key parts of the Arizona, Alabama, Georgia and Indiana state laws and temporarily restrained enforcement of Utah's law.

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