



## October 2011 Immigration Update

### October 2011 Issue

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### Strictest Immigration Law to Date Upheld

U.S. Federal District Court Judge Sharon Blackburn, in a 115 page decision, upheld most of the sections in HB 56,

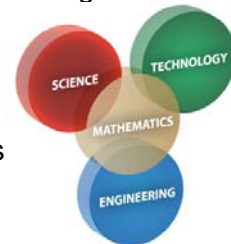


Alabama's recent immigration law. In addition to sections blocked by Judge Blackburn, the 11th Circuit Court of Appeals has now blocked provisions requiring public schools to check the immigration status of students; and making failure to carry an alien registration card a misdemeanor for immigrants. The court has left intact other

controversial provisions such as requiring the police to question the immigration status of those suspected to be undocumented in the U.S. and barring the enforcement of contracts with undocumented individuals. The law is already affecting some businesses that are unable to find willing workers. [Click here](#) to read the opinion.

### STEM Foreign Graduates Encouraged

Foreign students with advanced graduate degrees in STEM fields (Science, Technology, Engineering and Math) are behind many innovations and businesses that are part of our economic growth. However, our immigration laws make it difficult for foreign students to receive visas to stay in the U.S. upon graduation. On a welcomed effort, the House judiciary subcommittee on immigration is seeking modifications to the immigration laws to make it more accessible for STEM graduates to remain and contribute to the U.S. economy. To read the judiciary press release, [click here](#).



### OCAHO issues another I-9 Compliance decision

The Office of the Chief Administrative Hearing Officer (OCAHO) ordered Ketchikan Drywall Services, Inc. (KDS) to pay \$770 per violation for a total of \$173,250 in fines for I-9 violations. The case began when ICE subpoenaed three plus years of employees' I-9s and issued a Notice of

Intent to Fine alleging 271 employment verification violations by KDS and seeking \$286,000 in fines. KDS disputed the findings and the case went to the OCAHO. Notably, the judge found the following to be substantive violations: failure to complete the I-9 form; failure of the employee to sign the I-9 form; listing the incorrect documents to establish identity or employment eligibility; failure to complete the I-9 within 3 days of hire; and failure to fully complete the form including the employee attestation. The decision notes that specific omissions on the form, when the supporting document is retained, will be considered on a case-by-case basis. Mitigating factors included the fact that KDS had no prior violations. Read the decision [here](#).



### **Legal Workforce Act Making Its Way Through the House**

In follow-up to an issue I addressed in June on my blog ([gisellecarson.wordpress.com](http://gisellecarson.wordpress.com)), on September 21, 2011, Rep. Lamar Smith's (R-TX) "Legal Workforce Act" passed the house judiciary committee and has a strong chance of winning passage through the House. The Act would require all employers to utilize E-Verify, and would do away with the paper I-9 system with a gradual phase in process. To read more, [click here](#)



Rep. Lamar Smith

### **November 2011 Visa Bulletin Movement**

The upcoming Visa Bulletin for November brings good news for applicants from China and India with a 3+ month favorable advance in cut-off dates for EB-2 visas seekers (members of professions holding advanced degrees or persons of exceptional ability). It is the most favorable shift since August of 2007 and is hoped to be the first of more date movements. However, future movements are not expected to be as significant. To read the Bulletin, [click here](#).

### **An Immigration Success Story: The NIW Gives the US an Advantage in Cancer Therapy**

The National Interest Waiver (NIW) petition allows foreign nationals the opportunity to self-petition for a 'green card' to permanently reside in the U.S. The Marks Gray Immigration team worked with an expert in cancer therapy treatment to successfully file a NIW and obtain U.S. permanent residency. To read more of this story [click](#)

[here](#)

### Fact Sheet to Help Nonimmigrants with Driver's Licenses / ID Cards



U.S. Immigration and Customs Enforcement (ICE) has made available a detailed fact sheet to guide F, M and J nonimmigrants on documents needed to apply to obtain a driver's license or state ID card. The fact sheet also addresses general questions such as who is eligible for an ID; when to apply for one; and dealing with change

in status or program gaps. The fact sheet is available [here](#).

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If you need assistance with any immigration-related issues, please contact Giselle Carson or Thyra Reveron at (904) 398-0900.

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