

Alabama to stop immigration checks for government transactions, but fed help may be months away

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By **Brian Lawson, The Huntsville Times**

HUNTSVILLE, Alabama -- In a plainly worded letter last week, Alabama Attorney General Luther Strange advised government officials across the state to stop requiring people to demonstrate U.S. citizenship or lawful immigration status during transactions for things like car tags.

The announcement touches a major and far-reaching area of the Alabama immigration law.

And it is unclear how long that part of the law will be on hold.

Strange said local governments should not check immigration status until they establish a relationship with the U.S. government's SAVE program, as called for in the immigration law. The program offers a computer check on immigration status when someone wants to enter a government business transaction.

But so far, of Alabama's 460 incorporated cities and 67 counties, only Pell City is signed up with SAVE, according to the United States Citizenship and Immigration Services, which runs the program. And the review process can take months before a local government or agency is signed up, said spokeswoman Sharon Scheidhauer.

SAVE participation was a major factor in a recent federal lawsuit that led to a section of the law being temporarily blocked. The court order may have also had an impact on Strange's guidance letter.

The lawsuit was filed in federal court in Montgomery to ensure mobile home tags could be renewed by people living in Alabama. U.S. District Judge Myron Thompson found last month that the verification of immigration status approach used by the Alabama Department of Revenue and the Elmore County probate judge conflicted with federal law, as they were not verifying people through SAVE.

Sam Brooke, an attorney for the Southern Poverty Law Center, and one of the attorneys suing the state to block the law's implementation, said Strange's order was overdue.

"This is a big deal for immigrants, but also for all Alabamians, who are no longer going to have to wait in long lines to get their car tag, driver's license, etc.," Brooke said. "It is just unfortunate they didn't issue this guidance months ago, because counties and cities have been out of compliance with the law for a long time now, for no reason."

But, despite Strange's letter directing that governments "should not require anyone to demonstrate their citizenship or lawful presence in the United States," the law has another, possibly complicating wrinkle.

The Alabama League of Municipalities issued guidance Friday suggesting that "individuals still need to declare their citizenship or lawful status under penalty of perjury."

Lori Lein, a general counsel for the league, said the law's Section 7, dealing with state or local public benefits, requires a declaration of citizenship be made.

That section says if the effort to verify a person's status through SAVE is delayed or inconclusive, the person can be given the benefit - license, car tag, etc. - but has to sign a declaration swearing they are here lawfully. Lein said the declaration is not regarded as burdensome for local governments, since they are not checking that information for accuracy.

The SPLC's Brooke said any claim that a declaration is required is an inaccurate reading of the law and of what a "public benefit" means.

Strange's letter and a frequently asked questions section on the Alabama Attorney General's website covering immigration, don't mention the declaration requirement.

Alabama Revenue Commissioner Julie Magee advised probate judges and license and tax officials across the state in a Thursday memo to stop checking immigration status until they are part of SAVE.

Magee's message was blunt.

"Under no circumstances is a state or county official or employee to make a determination as to whether an alien is lawfully present in the United States," Magee wrote. The memo does not mention a declaration requirement.

Madison County Attorney Julian Butler said Friday he is still studying the issue and will advise the Madison County Commission next week.

Huntsville City Attorney Peter Joffrion said since Huntsville is still waiting to become part of the SAVE program, the only people who've been asked to provide a declaration in Huntsville are U.S. citizens. Joffrion said it is still unclear if the city will need to require people to swear they are lawfully in the U.S.

http://blog.al.com/breaking/2011/12/alabama_to_stop_immigration_ch.html