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JUSTICES TO RULE ON ROLE OF THE STATES IN IMMIGRATION

By Julia Preston
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LENOX, Ga. – When Georgia passed a law last year authorizing the local police to question and detain illegal immigrants, Darvin Eason felt the impact immediately on his farms here in south Georgia.

At the peak of the harvest, many of the Mexican workers he had relied on to pick his blackberries were scared away from the state. Ripe berries fell to the ground uncollected, and Mr. Eason lost \$20,000 – even though the sections of the law that struck fear in the immigrants had been suspended by federal courts.

So Mr. Eason is one of many people across the country who will be watching closely when the Supreme Court hears arguments on Wednesday on the bitterly disputed immigration enforcement law that was passed two years ago in Arizona, inspiring the Georgia statute and similar ones in Alabama, Indiana, South Carolina and Utah.

Arizona's law, known as SB 1070, expanded the powers of state police officers to ask about the immigration status of anyone they stop, and to hold those suspected of being illegal immigrants. The law was challenged by the Obama administration, and four of its most contentious provisions were suspended by federal courts. Courts later temporarily blocked other state laws, including the one in Georgia.

Constitutional lawyers on both sides of the argument say the case raises fundamental questions about federal powers. With the strong conservative bent the court has shown this session, a distinct possibility has emerged that the justices could uphold at least some of the Arizona law's contested sections, going against the trend in the lower courts on the core legal issues.

The Arizona case, lawyers said, could lead the Supreme Court to redraw long-established boundaries between the federal government and the states when it comes to immigration enforcement, which has been considered a nearly exclusive federal preserve.

If the court endorses any part of Arizona's approach, it would provide a big lift to groups that campaign against illegal immigration, which have clamored for tough action by states, saying the federal government has failed to do its part. It could rekindle political battles in state legislatures, including in Georgia, where support for Arizona-style laws had begun to fade in the wake of unanticipated consequences like those Mr. Eason and other Georgia farmers faced.

The central issue in the arguments the court will hear is the Obama administration's contention that Arizona's police provisions encroached disruptively on federal terrain.

"Arizona has adopted its own immigration policy, which focuses solely on maximum enforcement and pays no heed to the multifaceted judgments" that immigration law provides for the executive branch to make, the Obama administration wrote in its brief.

Lucas Guttentag, a law professor teaching at Stanford who was the top immigrants' rights lawyer at the American Civil Liberties Union, which has participated in challenges to statutes in Arizona and other states, said that "in many respects, this is a defining moment for the court on whether a historic line will be breached."

"Will immigration law continue to be governed by national interest," he said, "or will the court allow every state and locality to intrude in immigration policy and assert local biases and prejudices?"

Arizona's supporters say the state is well within its rights to enact a measure that they say would help, not hinder, federal agents. Dan Stein, the president of the Federation for American Immigration Reform, a group that seeks reduced immigration, accused the Obama administration of trying to seize power from the states, calling its lawsuit "a bald-faced usurpation of the American people's right to decide who comes and who goes in our country." Mr. Stein's group assisted Arizona in writing its law.

Immigrant and Latino groups have assailed SB 1070, saying it would unleash a wave of discriminatory arrests. Those civil rights issues are not directly before the Supreme Court in the current case. But if the justices strike down the Arizona law, it would be a powerful victory for those groups. Aside from the five states that enacted police laws similar to Arizona's, at least eight additional states weighed such legislation but did not move forward, with many awaiting the outcome in the Supreme Court.

But even if the court widens the way for immigration action by states, the negative fallout that followed Arizona-style policing laws has made many lawmakers cautious.

Mississippi considered an enforcement bill this year, but the State Senate allowed it to die after a surge of opposition from business and agriculture interests. Alabama saw months of turmoil after the state adopted an even tougher law than Arizona's last year. Last week, lawmakers there revised the legislation to mitigate its impact on businesses and schools.

In Georgia, after an outcry from farmers, the legislature ended its session without any new immigration measures for the first time in six years.

The Arizona law explicitly adopts a strategy known as attrition through enforcement, designed to make it so difficult and risky for illegal immigrants to live and work in the state that they will decide voluntarily to return home, or "self-deport."

Events here in Georgia showed how effective policing measures can be at driving illegal immigrants from a state. Georgia has been passing laws aimed at making it hard for illegal immigrants to live and work here since 2006. D. A. King, a staunch foe of illegal immigration who was a driving force behind most of those laws, said the measures deterred illegal immigrants from settling in Georgia, saving taxpayers money. He said the policing law adopted last year built on those earlier initiatives.

"If you use local authorities as a force multiplier for federal enforcement agencies," Mr. King said, "that is the terror that illegal aliens really fear."

Indeed, just the rumor that Georgia had adopted an Arizona-style law sent a chill through Hispanic immigrant communities throughout the southern farming region.

"The workers were afraid," said Mr. Eason, surveying his exuberantly fertile blackberry patch here. "A lot of them were afraid their families are going to get separated. Some of

them may be legal and some of them illegal, and they want to keep all the families together.”

Mr. Eason, 72, a tall, silver-haired farmer who has been working in agriculture for three decades, could not recall a more acute labor shortage. Mexican farm workers from Florida, who normally would head to Georgia for the summer months, stayed home. Georgia farm workers did not come out, worried that a simple roadway police stop could lead to deportation.

Some Georgia workers headed to North Carolina, which, like Florida, has considered but not passed an Arizona-style law.

A labor office advertisement Mr. Eason placed for 16 workers brought one local man, who lasted half a day in the heat of Georgia summer, the farmer said.

Eventually, learning that the courts had suspended the measure, some immigrants came back to work.

But the effect has been felt beyond illegal immigrants. Mr. Eason also runs a big cotton gin nearby, with longtime employees who are legal immigrant residents or Mexican-American citizens. In interviews, they said their communities felt under siege.

“It’s hard, very hard, and it affects a lot of people,” said Armando Martinez, 39, an American citizen who is a foreman at the cotton gin. “Everybody just watches TV to see what’s going on with the law.”

Georgia farmers are cutting back on their spring planting. Some small farmers have warned that they could go out of business if the labor supply continues to decline. With agriculture the biggest industry in the state, the Georgia Agribusiness Council has been vocal in its complaints to Gov. Nathan Deal, a Republican.

Mr. King, the advocate for more restrictive state laws, said a Supreme Court ruling in favor of Arizona would bring a “sigh of relief” in Georgia, giving the state additional confidence that it was on firm legal ground. But Mr. Eason and other farmers in the region, many of whom describe themselves as conservatives, were surprised to find themselves hoping the Supreme Court would not expand the scope for the states.

“We need the labor,” Mr. Eason said. “We need the federal government to get control of illegal aliens.”