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ARIZONA RULING ONLY A NARROW OPENING FOR OTHER STATES

By Julia Preston
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While the Supreme Court's mixed decision on Monday on Arizona's immigration enforcement law gave a big political boost to officials there who supported it, the ruling does not seem likely to unleash a new wave of legislation by other states to crack down on illegal immigration.

Gov. Jan Brewer and Arizona lawmakers who wrote the law can claim victory because the court's decision allows the authorities to go ahead with its most intensely disputed provision, which requires the police to determine the immigration status of anyone they stop if there is a "reasonable suspicion" the person is an illegal immigrant.

But in practice, the legal opening the justices defined for action by states on immigration is relatively narrow, constitutional lawyers said.

On the basis of the ruling, five other states that have already passed similar laws – Alabama, Georgia, Indiana, South Carolina and Utah – should be able to defeat some of the many challenges they faced from civil rights organizations, which have held up those laws in the courts.

But the Supreme Court's carefully etched decision also gave opponents of Arizona's law a clear affirmation of the primary role of the federal government on immigration. The court put state governments on notice that they would have to tread carefully to avoid interfering with federal policy if they want to engage in immigration enforcement.

The court also allowed, and even invited, lawsuits against Arizona's law that are based squarely on civil rights claims that it would lead to racial profiling against Latinos and other immigrants – issues that did not arise directly in the current case. Many civil rights groups, predicting that the police provision of the law would rapidly lead to discriminatory actions by officers once it takes effect, said on Monday that they were ready for that fight.

"If state governments enact new immigration bills, we say bring it on, we will see them in court," said Anthony D. Romero, the executive director of the American Civil Liberties Union. His organization has participated with other rights groups in a separate lawsuit against Arizona over the law, known as S.B. 1070, and against immigration enforcement laws in other states.

The Supreme Court struck down three central sections of Arizona's law, which had been regarded by opponents as the most harsh. In allowing the "show-me-your-papers" provision to stand, the court accepted, for the time being at least, Arizona's word that police officers would not engage in racial profiling as they put it into practice.

Both sides claimed on Monday that they had achieved important gains. Dan Stein, the president of the Federation for American Immigration Reform, or FAIR, a group that supported Arizona, called the ruling “an important victory.”

“Even if the Obama administration refuses to enforce most immigration laws, states have the power to deter and discourage illegal aliens from settling or remaining within their jurisdictions,” Mr. Stein said.

He said the ruling, coupled with a Supreme Court decision last year that affirmed an Arizona law requiring employers to verify the legal immigration status of employees, gives states “broad latitude to carry out a policy of attrition through enforcement.”

Mr. Stein’s organization supported a small but determined corps of lawyers who created legal blueprints for Arizona’s and other state laws that were intended to drive out illegal immigrants by making daily life impossible for them in this country.

In Georgia, Gov. Nathan Deal, a Republican who signed an immigration enforcement law last year, welcomed the court’s decision more cautiously.

“It appears the court has upheld the major thrust of our state’s statute,” Mr. Deal said, “that states have the right to assist in enforcing federal immigration law.” An appeals court suspended parts of immigration enforcement laws in Georgia and in Alabama, awaiting the decision from the Supreme Court.

On the other side, Obama administration officials also offered praise. “I am pleased the Supreme Court confirmed that state laws cannot dictate the federal government’s immigration enforcement policies or priorities,” said Janet Napolitano, the secretary of homeland security.

To prove the point, officials from her agency announced that they were suspending, throughout Arizona, a program of joint agreements, known as 287g, under which they had deputized state and local police to detain illegal immigrants.

Homeland Security officials also said they will send a directive to federal agents in Arizona reminding them that to be consistent with the administration’s priorities, they should not pursue deportation of illegal immigrants who have not committed serious crimes or are not repeat offenders.

Lawyers for both sides, after digging down into the complex decision, were guarded in their assessments.

Calling the ruling a “qualified victory for Arizona,” Kris Kobach, a constitutional lawyer who helped to write S.B. 1070, said the court had avoided sweeping statements. Though affirming rights of states on immigration, he said, the court also “left open the possibility that a state action might not be permissible depending on whether it is cooperative” with federal efforts. Mr. Kobach is now the Kansas secretary of state.

Latino leaders said they were deeply dismayed that the Supreme Court had allowed the policing provision of the law to take effect.

“We believe it puts the civil rights of all Americans at risk and it places a bull’s-eye on the back of all Latinos,” said Janet Murguía, president of N.C.L.R., also called the National Council of La Raza, one of the nation’s largest Latino groups.

Mr. Romero said that the A.C.L.U. had raised a new “war chest” of $8.7 million to combat state immigration laws across the country. “The Supreme Court kicked the can down the road, opening the floodgates to racial profiling and years of litigation,” Mr. Romero said. “The constitutional sequel will be much more controversial, messy and costly.”

Officials in states that have adopted similar laws said they would have to sort through the court’s decision to determine exactly how their statutes would be affected. In Alabama, an especially far-reaching immigration law included provisions imposing mandatory penalties for businesses that hired unauthorized immigrants and requiring schools to check the immigration status of students, neither of which were in Arizona’s law.

In Utah, lawmakers avoided most of the pitfalls the court signaled in the provisions it struck down, Attorney General Mark Shurtleff said Monday.

Across a wide spectrum, politicians from President Obama to Gov. Nikki Haley of South Carolina, a Republican, said the decision should spur Congress to move on a broad overhaul of immigration laws.

At least eight states considered enforcement legislation this year. But as officials elsewhere have watched the polarized battles in Arizona, the mood appears to have changed. No state passed a law like Arizona’s.