



## The migration response to the Legal Arizona Workers Act



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### ABSTRACT

The 2008 Legal Arizona Workers Act (LAWA) requires all public and private employers to authenticate the legal status of their workers using the federal employment verification system known as E-Verify. With LAWA, Arizona became the first state to have a universal mandate for employment verification. While LAWA targets unauthorized workers, most of whom are Latino immigrants, other groups could experience LAWA's effects, such as those who share households with undocumented workers. In addition, employers may seek to minimize their risk of LAWA penalties by not hiring those who appear to them as more likely to be unauthorized, such as naturalized Latino immigrants and US-born Latinos. Existing research has found a reduction in foreign-born Latino employment and population in response to LAWA. This paper asks a different question: have groups that are most likely to be affected by the law migrated to other states? We find a significant and sustained increase in the internal outmigration rate from Arizona of foreign-born, noncitizen Latinos – the group most likely to include the unauthorized – after the passage of LAWA. There was no significant LAWA internal migration response by foreign-born Latino citizens. US-born Latinos showed some signs of a LAWA-induced internal migration response after the law went into effect, but it is not sustained. The results indicate that local and state immigration policy can alter the settlement geography of the foreign born. This leads us to speculate about how immigrant settlement may adjust in the coming years to the intersecting geographies of post-recession economic opportunity and tiered immigration policies.

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### Introduction

Any summary of US immigration trends since 1990 would include these three observations: the doubling of the foreign-born population from 19.8 million in 1990 to 40 million in 2010; the rapid growth in immigrant settlement in “new destinations”, which are places that had previously been relatively untouched by the post 1960s upturn in immigration (e.g., Singer, 2004; Singer, Hardwick, & Brettell 2008); and the emergence of local and state policy responses to both of these developments, particularly in reaction to the increase in unauthorized immigrant populations in new destinations (e.g., Varsanyi, 2010; Walker & Leitner, 2011). This article studies these new nonfederal immigration statutes, not from the perspective of why they emerged in certain places but rather their effects: in particular, do they spur the foreign born to move and thereby alter the geography of immigrant settlement?

Specifically, we investigate if immigrants disproportionately exited Arizona during the buildup to and after the implementation

of the 2008 Legal Arizona Workers Act (LAWA). LAWA was the first all-employer implementation of E-Verify – the federally hosted database system for checking each worker's legal right to work. Arizona pioneered such a universal verification scheme. A few other states had limited E-Verify requirements for government contracts or were starting to phase in E-Verify requirements, but none had Arizona's comprehensive verification mandate in 2008 or 2009. Thus LAWA was singular in the timing of this enlarged scope of enforcement and, as such, presents a unique opportunity to measure if such state-wide exclusionary laws generated an inter-state migration response.

Migration is not the only possible reaction to LAWA or to any of the other local and state exclusionary policies targeting unauthorized immigrants. Such policies further drive undocumented populations toward the fringes of society in search of unregulated or self-employment, or by limiting or changing their daily travel patterns to minimize the risk of apprehension (Coleman, 2012a). Exiting the state, however, is the only alternative to becoming additionally marginalized in situ.

Unauthorized workers may not be the only group to leave Arizona because of LAWA. Other immigrants and the US-born who

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experience or fear the possibility of discrimination based on their appearance or ethnicity may also opt to migrate because of this law or because they share their lives in households or as partners with undocumented workers. With these possibilities in mind, we investigate the interstate migration response to LAWA's implementation across various US- and foreign-born groups.

The analysis proceeds with a review of the recent rise in local and state immigration policy-making and the effects of these laws on immigrant lives. We set these statutes in historical context, outlining how the scale of their application marks a break from the past but arguing that their motivation aligns with the forces that promoted nativist movements and legislative action in the nineteenth and twentieth centuries. This frames a discussion of E-Verify and its adoption by states, the passage and implementation of LAWA, and the findings of other studies on its effects and those of E-Verify more generally. Arizona's law went far beyond the employment enforcement regimes in other states, which leads us to hypothesize a greater migration response by affected groups in Arizona compared with other states at the time LAWA came into effect. Then we turn to the analytics, reviewing data and measurement issues, modeling strategies, and results. Here we speak to the complications posed by the Great Recession in measuring a LAWA migration push and our techniques for distilling the effect of the latter from the former (cf. Bohn, Lofstrom, & Raphael, 2014; Lofstrom, Bohn, & Raphael, 2011). We end with a discussion of the implications of our findings, speculating on how exclusionary policies, such as universal E-Verify within a state, may combine with the new geography of employment opportunity post-Great Recession to change the geographies of immigrant settlement and weaken the pull of new destinations.

### Immigrant exclusion policies: spatial scale and historical context

LAWA is by no means the first subnational exclusionary policy aimed at removing unauthorized immigrants from a place. In the decade or so prior to LAWA, various cities and counties across the country devised policies designed to make life difficult for this population and thereby discourage their presence (Leitner & Preston, 2011; Walker & Leitner, 2011). By 2008, most states had ramped up identification requirements for driving licenses, making it harder, if not impossible, for the unauthorized to obtain a driving permit. In addition, a number of local police departments developed 287(g) agreements with the federal government, which empowered local police to perform immigration enforcement tasks (Coleman, 2009). LAWA, though, represented an expansion in the scope of these subnational exclusionary measures by mandating employee verification statewide. Since its enactment, which was bolstered by a 2011 US Supreme Court ruling that allowed LAWA and by extension similar E-Verify laws elsewhere to stand, other states have followed suit by passing LAWA-like all-employer E-Verify requirements.

Arizona itself attempted to expand its enforcement regime by enacting SB1070 in 2010, which criminalized the unauthorized for being present in the state. In June 2012, the US Supreme Court struck down much of SB1070 on the grounds that some of its measures undermine federal authority to regulate immigration. This ruling, *Arizona v. the United States*, helped undo similar "attrition through enforcement" legislation that had subsequently been enacted in Alabama, Georgia, Indiana, South Carolina, and Utah. Alabama's SB58, for example, would have required K-12 public schools to collect information about the immigration status of their students and, in addition, criminalized noncitizens who failed to carry their alien registration documents. SB58 also made renting housing to an unauthorized immigrant a criminal offense (Chishti & Hipsman, 2013).

This eruption of state-scale legislation is not the first time states have tried to influence immigration. Prior to the assertion of federal authority over immigration in the late nineteenth century, states regulated and taxed immigration for the purposes of screening out paupers, convicts, and others deemed undesirable, and to cover social costs when those procedures failed (Klebaner, 1958; Zolberg, 2006). California's Proposition 187, a 1994 referendum designed to exclude undocumented immigrants from a wide variety of public services, was, in many respects, the first modern-day variant of these nineteenth-century policies. But California's "Save Our State" initiative, which is how Proposition 187 was packaged to the public, emerged during a period of much greater federal authority over immigration matters than in the earlier era. The law was never enforced because of an immediate court injunction and was voided in 1999 after the US District Court had previously ruled most of it unconstitutional on the grounds that it infringed on the authority of the federal government to regulate immigration. California agreed to mediate rather than appeal this decision.

Immigrant rights groups have also challenged the LAWA. This law, however, was never going to face the same level of legal difficulties as Proposition 187 – or Arizona's SB1070, for that matter – because LAWA is an application of an existing federal workplace detection scheme with added state sanctions for employers who hire unauthorized workers. Sanctions for employing unauthorized immigrant workers have been part of US law since the 1986 Immigration Reform and Control Act. LAWA expanded the application of this existing statute rather than proposing qualitatively different enforcement regimes that challenged or exceeded federal law.

While the geography of contemporary immigration policies might be new, the underlying forces are the same as those that have motivated immigration restriction in the past. John Higham's (1955) classic study of US nativism examined the ebb and flow of anti-immigration sentiment from the mid nineteenth century through to the passage of the restrictive quota acts of the 1920s. In this period, targeted groups included Catholics, Jews, and others deemed unassimilable, as well as suspected radicals. The tides of nativism, however, waxed during economic downturns. American nativism in any era is always bound up with racism and xenophobia but the receptivity of the larger population to anti-immigration campaigns often hinges on the state of the economy. Immigrants can be more easily scapegoated during economic hard times when good jobs, or any jobs, are much harder to come by for residents.

The mapping of recent economic cycles onto the rise of contemporary anti-immigration movements is beyond the scope of this paper. While we await a Higham-like dissection of these events, the high rate of immigration, both documented and unauthorized, combined with recession surely amplified the clamor for restriction in the last decade. The surge in the enactment of state immigration legislation coincides with the acceleration of job loss beginning in 2007, but the timing is not precise. A handful of counties and municipalities passed anti-immigrant measures before the crash, and the regime of enforcement at the federal level that militarized the border and accelerated deportations has its roots in events that predate the current crisis (Nevens, 2010).

The five states that followed Arizona's lead and passed LAWA-style universal employment verification laws were new immigrant destinations; no major immigrant gateway state had such a law.<sup>1</sup> At the county and municipal scales, 88.5% of immigration-oriented policies in southern jurisdictions were exclusionary compared to 69% nationally (Walker & Leitner, 2011). New destinations, or places with rapid growth in immigrant populations, appear more likely to adopt these policies than established immigrant destinations. These categorizations alone, however, are

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