

Immigration

Small businesses need reprieve from the relentless onslaught of regulations and paperwork

Few issues in Washington, D.C., are more polarizing than immigration reform. With illegal immigrants working in the U.S. reaching 11 million, immigration reform is likely to be center stage for a significant period of time. Beyond the issue of guest workers, employer compliance requirements remain a key significant issue to small-business owners.

A recent NSBA survey on immigration showed that NSBA members reflect the general sentiment of Congress—a relatively even split on those who support broadening guest-worker provisions and those that don't. When asked about the top issue facing their business today, 14 percent responded that immigration was, making it the third-highest ranking issue just behind health care and taxes. Surprisingly, however, only 28 percent reported that illegal immigration directly affects their business. The one constant that small-business owners have is the need to ensure that any new mandates brought forth by immigration reform must not be overly-burdensome.

It is common knowledge that small businesses face a greater overall regulatory burden than large businesses—a 45 percent higher cost per employee. As Congress proceeds forth in passing immigration reform language, it is of utmost importance that the existing small-business burden be taken into account in the drafting of any new employee eligibility verification requirements.

A piece of the House-passed language from the 109th Congress included language that placed the onus of conducting employee eligibility verification solely on the employer. The language, based on a pilot program that only required the verification of new hires, would have expand the government's requirement of small-business owners to verify all workers, not just new hires.

In addition to the expanded requirements of employee verification, that legislation would have added steep and misapplied penalties placed on employers. The House-passed language would have increased the penalty on employers for hiring undocumented workers up to \$50,000 and one year in prison for each offense. The bill also would have imposed a 25-fold increase on employers who do as little as make a mistake on immigration documentation.

While no legislation was enacted during the 109th Congress, a proposal by Sens. John McCain (R-Ariz.) and Edward Kennedy (D-Mass.) would have included certain protections from liability and penalty. The McCain/Kennedy bill included language that would provide flexibility under "good-faith efforts," a requirement that employers receive pre-penalty notices, and more reasonable penalty increases than in House-passed legislation.

Small-business owners strive to operate in accordance with the law. However, small businesses are disadvantaged with insufficient resources to address the myriad new regulatory requirements passed each year. It is important to include "good-faith effort" language, leeway for inadvertent errors, and certain flexibility in the allowable time-frames.

NSBA urges any immigration reform measure to take into account the regulatory and possible financial burden imposed by over-reaching verification and penalty regimes.