



STATE OF ARIZONA

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GOVERNOR

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April 17, 2006

The Honorable Ken Bennett  
President  
Arizona State Senate  
1700 West Washington Street  
Senate Office Building  
Phoenix, Arizona 85007

Re: Senate Bill 1157: trespassing by illegal immigrants

Dear President Bennett:

Today I vetoed Senate Bill 1157 related to trespassing by illegal immigrants.

Although I agree with several components of this bill, including the concept of sentencing enhancements for aliens who commit crimes while in possession of drugs, unlawful chemicals and deadly weapons, I cannot agree with the basic premise of this bill that all persons here in violation of 8 U.S.C. § 1325 should automatically be deemed criminal trespassers under state law. Among other things, this provision of the bill likely is unconstitutional. In the only case where state criminal trespass liability has been sought against persons present in the United States in violation of federal law, the court dismissed the trespass charges and held that because the United States Congress intended to "occupy the field" of sanctions for being illegally present in the United States, state criminal action was preempted.

I disagree that the risk of a misdemeanor trespass violation will deter illegal immigration. It is unwise, to say the least, to divert Arizona's law enforcement resources away from the investigation and prosecution of violent felonies in order to pursue misdemeanor cases. For this and other reasons, virtually every major law enforcement group and leader in the state opposes this bill, including:

The Associated Highway Patrolmen of Arizona  
Western Arizona Law Enforcement Association  
Arizona Police Association  
Arizona Association of Chiefs of Police  
Arizona Conference of Police and Sheriffs  
Arizona State Fraternal Order of Police  
Yuma County Sheriff Ralph Ogden  
Pima County Sheriff Clarence Dupnik

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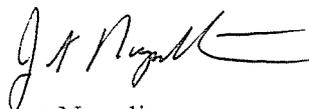
Santa Cruz County Sheriff Tony Estrada  
Pinal County Sheriff Chris Vasquez  
Pima County Attorney Barbara LaWall  
Pinal County Attorney Carter Olsen  
Phoenix Police Chief Jack Harris  
Chandler Police Chief Sherry Kiyler  
Avondale Police Chief Ken Kotsar  
Paradise Valley Police Chief John Wintersteen

Additionally, many mayors, including the mayors of the border communities of Nogales, Douglas and San Luis, all oppose this bill. It is unfortunate that the legislature has once again ignored the officials who are most directly affected by illegal immigration and instead has passed yet another bill that will have no effect on the problem but that will impose an unfunded burden on law enforcement.

I have repeatedly emphasized that Arizona's and the nation's border security efforts need to focus on: 1) providing needed financial resources and border security equipment to law enforcement agencies along the border; 2) imposing effective employer sanctions; and 3) getting Congress to pass a no-amnesty guest worker program. In January, I sent you a budget calling for a \$100 million border security package. Three months later you still have not acted upon this comprehensive approach. I have also supported efforts to impose effective employer sanctions, but the legislature has yet to act. Finally, I have supported the federal efforts of Senator McCain and others to achieve comprehensive federal immigration reform, but Congress recently adjourned without acting on this crucial issue. These are the steps we must take to develop an effective and meaningful immigration policy.

Senate Bill 1157 is not such a step. For these and other reasons, I am vetoing it.

Yours very truly,



Janet Napolitano  
Governor

JN:TN/jm

cc: The Honorable Jim Weiers  
The Honorable Barbara Leff