

States Adopt a Patchwork of E-Verify Mandates, Increasing Employer Confusion

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Increasingly, state laws are mandating that all employers, public or private, utilize E-Verify, the Internet-based system that allows an employer to check an employee's work eligibility using information obtained from a Form I-9.

Since 2006, twelve states have enacted legislation or imposed other mandates on employers regarding the use of E-Verify. Many employers remain unaware of these laws and regulations or are subject to different requirements in the various states where they do business.

In addition to federal and state mandates, some *cities* now require that its contractors verify the eligibility of all new hires using E-Verify. For instance, although California does not mandate the use of E-Verify, the City of Mission Viejo, California, requires its contractors to verify the work eligibility of all new hires through E-Verify. Obviously, this patchwork system is a compliance hazard for employers with multi-national locations.

As a result, it is advisable to institute a consistent, nationwide policy of verifying all new hires through E-Verify. Although voluntary E-Verify use may sound undesirable, the implementation process is relatively simple and will guarantee a work eligibility verification process that complies with all current federal and state laws, as well as city ordinances. Additionally, this voluntary E-Verify use will create a presumption that your company is complying with federal and state immigration laws.

The following is a short guide to state-specific E-Verify laws:

Arizona: all employers must verify all new hires through E-Verify.

Colorado: employers who have contracts with a Colorado state agency or political subdivision must verify all new hires through E-Verify.

Georgia: all public employers and any contractors or subcontractors to a public employer must verify all new hires through E-Verify.

Minnesota: any employee seeking to enter into a state contract worth \$50,000 or more must verify all new hires through E-Verify.

Mississippi: currently, all employers with 100 or more employees must verify all new hires through E-Verify; by July 1, 2010, employers with 30 or more employees must verify all new hires through E-Verify; by July 1, 2011, all employers must verify all new hires through E-Verify.

Missouri: all public employers and any business with a state contract or grant in excess of \$5,000 or any business receiving state-administered or subsidized tax credit, tax abatement or loans from the state to verify all new hires through E-Verify.

Nebraska: all public employers and public contractors, as well as businesses seeking certain business tax incentives, must verify all new hires through E-Verify.

Oklahoma: state and local government agencies and private employers with government contracts must verify all new hires through E-Verify.

Rhode Island: any contractor "doing business with" the state must verify all new hires through E-Verify.

South Carolina: currently, all employers with 100 employees or more must verify all new hires through E-Verify, or must employ only workers who possess a valid driver's license or other identification card issued by South Carolina or another state approved by the South Carolina Department of Motor Vehicles; by July 1, 2010, all employers must comply with the mandates above.

Tennessee: employers who "knowingly employ, recruit, or refer for a fee for employment an illegal alien" are subject to temporary suspension of their business license; repeat offenders are subject to a one-year suspension; employers who verify new hires through E-Verify within 14 days of employment are shielded from sanctions.

Utah: all public employers must verify all new hires through E-Verify; public employers may not enter into contracts unless the contractor verifies all new hires through E-Verify; private employers with 15 or more employees must verify all new hires through E-Verify.

A federal law imposing mandatory use of E-Verify will likely be passed in the near future. Taking advantage of this period of voluntary E-Verify use to establish consistent employment eligibility policies and procedures throughout your company will save you the difficulty of sifting through various state laws and will lessen the burden of mandatory compliance in the future.

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