

Amendments to E-Verify Requirement Act

Summary: This policy establishes employment eligibility standards, requiring employers to verify the employment eligibility of new hires through E-Verify. It also empowers state Attorneys General to enforce compliance with this requirement and provides civil protections for employers acting in good faith.

Section 1. Definitions

As used in this chapter:

- (A) **“Employee”** means any person directed, allowed, or permitted to perform labor or services of any kind by an employer.
- (B) **“Employer”** means any person, company, corporation, government department, board, bureau, or agency licensed, pursuant to statute or regulation, to operate in the state which employs or seeks to employ any person as an employee.
- (C) **“Employment Verification”** means the electronic verification system known as E-Verify, operated by United States Citizenship and Immigration Services, or its successor program, as authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, PL 104-208, 8 U.S.C. § 1324a.
- (D) **“Knowingly”** means, with respect to conduct, that a person is aware by documentation or action that person’s conduct is of that nature.
- (E) **“Unauthorized Worker”** is a worker as defined in 8 U.S.C. § 1324a(h)(3) who is either not lawfully admitted for permanent residence or is otherwise not authorized to be so employed in the United States.

Section 2. Requirement to Verify All New Employees

- (A) Except as provided in division (B) of this section, all employers as defined in Section 1:
 - (1) Shall register and create an E-Verify employer account;
 - (2) After hiring an employee, an employer shall employ provisionally a new employee until the new employee’s work authorization has been verified pursuant to this section. An employer shall submit a new employee’s name and information for verification even if the new employee’s employment is terminated less than three business days after becoming employed.
 - (3) If a new employee’s work authorization is not verified by the federal work authorization program, a private employer must not employ, continue to employ, or reemploy the new employee.
 - (4) If a new employee’s work authorization is not immediately verified and the employer receives a tentative non-confirmation or is informed that there is a mismatch, the employer must follow program rules and procedures.
 - (5) Shall keep a record of the verification for the duration of the employee’s employment with the employer or three years, whichever is longer.
- (B) An employer is not required to comply with division (A) of this section if:
 - (1) An employee was hired by the employer prior to the day of enactment of this section;
 - (2) The employer is not required to verify or reverify the employee’s eligibility to work pursuant to federal law, excluding for casual domestic work in a private home on a sporadic, irregular, or intermittent basis.

Section 3. Compliance with Federal Immigration Law

Nothing in this bill shall be construed as to abrogate an employer's obligation to comply with federal immigration laws, including the completion and maintenance of federal employment eligibility verification forms or documents.

Section 4. Employment of Unauthorized Workers

An employer shall not employ any employee who meets the definition of Unauthorized Worker as defined in Section 1. Failure to comply with Requirements in Sections 2 or 3 shall be presumed as violations of the herein section.

Section 5. Investigation by the Attorney General

(A) The Attorney General shall prescribe a complaint form for an individual to allege a violation of Section 4. The Attorney General shall not require the complaint to list personal identifying information on the complaint form or to have the form notarized. A complainant shall submit the complaint to the Attorney General. Except as prohibited by law, the Attorney General shall investigate any violation alleged in a prescribed form to the Attorney General.

(1) The Attorney General may, at his discretion, investigate a complaint form submitted by an anonymous complainant.

(2) The Attorney General shall not investigate any complaint filed that is based on race, color, national origin, or any other discriminatory factor.

(B) If the Attorney General conducts an investigation under this section and determines that reasonable evidence exists that an employer has violated a provision of this bill, the Attorney General shall take the following actions:

(1) Provide notice of the alleged violation to the employer and provide the employer with an opportunity to comment;

(2) If, upon notice, the Attorney General determines that this is the employer's first violation and it constitutes only a single unverified or unauthorized worker, the Attorney General may, upon the employer presenting proof that the violation has been corrected, issue a formal warning letter to the employer and close the matter.

(3) If, upon notice, the Attorney General determines that this violation constitutes either a second violation for the employer or constitutes two or more unverified or unauthorized workers, the Attorney General shall ~~make the employer ineligible for state contracts and grants order the employer to pay a fine of two thousand five hundred dollars per violation.~~

(4) If, upon notice, the Attorney General determines that this violation constitutes a third or subsequent violation for the employer the Attorney General shall ~~order the employer to pay a fine of five thousand dollars per violation and shall~~ institute proceedings before a Court of Competent Jurisdiction to suspend or revoke the employer's license to transact business in the State.

(C) ~~An employer who is assessed fines under this paragraph, may appeal that determination by a Court of Competent jurisdiction but is required to pay an appeal bond equal to the amount~~

~~of the fine. If the Court finds for the employer, the bond will be released, and the violation will not count as a previous violation for purposes of a subsequent investigation.~~

~~(D) The Attorney General shall bring proper action against an employer who does not comply with the order to pay the fine and who does not appeal the assessment. If the Court determines that the employer is liable, the Court may assess double the fine of what was ordered by the Attorney General.~~

(C) The Attorney General, in consultation with the State Department responsible for business licenses and for contracts and grants, shall maintain a list of every employer assessed a penalty fine under sections (B)(3) and (4) of this paragraph. An employer shall remain on the list for a period not to exceed one year, and during that period, the employer shall not be eligible to bid for or participate in any state contract or grant. Following the year period, the employer shall be eligible to bid for and participate in state contracts or grants if the employer files a sworn affidavit with the Attorney General that one year or more has elapsed since the order described in this section and that the employer has not violated any provision of this bill during that period.

Section 6. Good Faith Compliance.

For purposes of this chapter, an employer who, in good faith, verifies the immigration status of a new employee pursuant to the provisions of this chapter shall be presumed to have complied with all of the provisions of this chapter.

Section 7. Preemption of local ordinances.

A political subdivision of the State shall not enact an ordinance or policy, whether written or oral, that limits or otherwise acts in contravention of the Attorney General's ability to enforce the provisions of this chapter.

Section 8. Civil protections for employers using E-Verify.

An employer who terminates an employee in order to comply with the provisions of this chapter shall not be subject to a civil action for wrongful termination of the employee as provided by law.

Section 9. Right of entry and inspection by inspectors.

The Attorney General, his inspectors, agents, or designees, upon proper presentation of credentials to the owner, manager, or agent of the employer, may enter at reasonable times and have the right to question either publicly or privately any employer, owner, manager, or agent and the employees of the private employer and inspect, investigate, reproduce, or photograph original business records relevant to determining compliance with the provisions of this chapter.