

April 22, 2010

Compliance Bulletin



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Utah and Virginia have passed laws with requirements for the use of E-Verify, the federal electronic system for verifying the work eligibility of new hires. Neither law is as far-reaching as E-Verify laws in Arizona, Mississippi, or South Carolina, which require the use of E-Verify for all employers. But these new laws are one of many developments at the state level. Bills containing E-Verify provisions were recently proposed in Louisiana and Maryland, for example.

The Department of Homeland Security (DHS) announced it would share E-Verify data with the Department of Justice under certain circumstances. ICE, the immigration enforcement arm of DHS, said it has issued NOIs to 180 employers.

TALX clients will hear from two DHS speakers at the client forum in May.

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Utah requires all private employers to use E-Verify or similar system

Utah has passed a law requiring all private employers with more than 15 employees to use E-Verify or a similar system for new hires after July 1. The law as signed by Governor Gary Herbert does not provide for penalties for non-compliance. It does, however, provide protection from certain forms of civil liability for employers who do

comply. The original draft would have denied a license to do business in Utah for failing to comply.

The law requires employers to use a “status verification system,” defined as E-Verify, any federal equivalent to E-Verify, or the Social Security Administration’s Social Security number verification service. The law also allows employers to use an “independent third party system.” This appears to be a reference to designated agents such as TALX, which provides a system with the option to integrate with E-Verify.

The Utah law exempts employers using E-Verify or another “status verification system” from civil liability under state laws governing the hiring of unauthorized aliens. It also exempts employers from liability in civil actions against them for refusing to hire a person if a status verification system indicates that a person is an unauthorized alien.

For a copy of the law, please send an email to moreinfo@talx.com with “Utah E-Verify law” in the subject line.

Virginia mandates E-Verify for state agencies

The State of Virginia has just passed a law mandating participation in the E-Verify program for all state agencies, beginning December 1, 2012. The bill has no language speaking to state contractors, but appears to apply only to the agencies themselves. The bill's original language, which was amended in the state Senate, called for "all agencies of the Commonwealth and localities", and was to be enforced beginning December 1, 2010. However, the version passed and signed by Virginia Governor Robert McDonnell made concessions regarding the date of enforcement, and withdrew any reference to localities.

For a copy of the law, please send an email to moreinfo@talx.com with “Virginia E-Verify law” in the subject line.

Louisiana, Maryland, New Jersey consider bills with E-Verify requirements

Louisiana Senate Bill 67 would mandate use of E-Verify for all employers in order to do business in the state, and would require staffing firms who do business in Louisiana to register with the Louisiana Workforce Commission and provide proof of registration with E-Verify. Failure to comply would result in loss of all business licenses and permits for up to one year and loss contracts to do business with the state for up to 3 years. The proposed bill also provides for criminal sanctions for an employee who knowingly or with reckless disregard violates the law.

A bill was introduced in the New Jersey State Senate to require every employer to use E-Verify. And in Maryland, a bill has been introduced that would require all state and local contractors to use E-Verify.

DHS announces agreement to share data with DOJ

The Department of Homeland Security (DHS) has agreed to start sharing data with the Department of Justice. However the memorandum of understanding, which took effect March 17, appears to be aimed primarily at streamlining the handling of cases in which one agency receives a specific complaint that applies to the other's jurisdiction.

DHS has made it clear in the past it will not permit other agencies unrestricted access to the information submitted to E-Verify by employers. The MOU does not in itself alter that stance. The memorandum limits the information sharing to cases of employment discrimination.

This memorandum says DHS will refer to DOJ information related to matters that may involve "...employment discrimination on the basis of national origin or citizenship status; document abuse or retaliation." Document abuse is defined in the memorandum as the practice of deliberately asking for certain documents in an effort to discriminate on the basis of national origin or citizenship status.

For its part, DOJ will share information with DHS related to "suspected employer or employee misuse, abuse, or fraudulent use of E-Verify."

For a copy of the memorandum, please send us an email at moreinfo@talx.com with "DHS-DOJ memorandum" in the subject line.

DHS also released a training video that explains the rights of employees working for employers who use E-Verify. DHS also announced it would establish a hotline for employees who think their rights may have been violated. Details are available on the DSH Website in [this FAQ](#).

ICE issues NOIs to 180 employers

U.S. Immigration and Customs Enforcement (ICE) announced in a [press release](#) that it is issuing Notices of Inspection (NOIs) to 180 businesses in Louisiana, Mississippi, Alabama, Arkansas and Tennessee.

An ICE audit means employers must, among other things, be prepared to produce copies of I-9s for all its employees within 3 business days. At the discretion of the ICE auditor, the employer may be obliged to produce copies of I-9s for all new hires going back

several years. I-9s must be kept for three years after hire, or 1 year after separation, whichever is later.

TALX recommends that employers purge I-9s that have fulfilled the retention requirements and provides functionality electronic solution, configurable to your requirements, that automates the purging process.

TALX clients to hear from DHS speakers at Client Forum

TALX clients at the upcoming Client Forum will be hearing directly from DHS officials at the Client Forum in May.

Featured speakers at the forum include Jeff Othic, a Senior Special Agent with U.S. Immigration and Customs Enforcement (ICE). In addition to his investigative responsibilities, Mr. Othic also serves as the field coordinator for the ICE Mutual Agreement between Government and Employers (IMAGE) program in the St. Louis area.

Also speaking at the forum will be Francine Hill, who is Deputy Chief of the Outreach Branch, Verification Division, U.S. Citizenship and Immigration Services (USCIS). The Outreach Branch is responsible for educating government, state, public and private employers on the E-Verify and SAVE Programs.

USCIS and ICE are both part of the Department of Homeland Security.

For additional detail, please visit us at www.talx.com/clientforum

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