

Florida Mandates E-Verify for Private Employers

Labor & Employment Law Update

By Sara Zorich on May 30, 2023

Florida recently enacted significant legislation relating to employee immigration verification. Senate Bill 1718 (the “Bill”), which Gov. Ron DeSantis signed into law on May 10, 2023, makes using E-Verify mandatory for any private employer with 25 or more employees, imposes penalties for those employing undocumented individuals, and enhances penalties for human trafficking. Previously, only Florida’s public sector employers were required to use E-Verify. Effective July 1, 2023, all private sector employers in Florida with 25 or more employees must use E-Verify to confirm the work authorization status of newly hired employees.

The Bill defines “private employer” as any person or entity that transacts business in Florida, has a license issued by an agency, and employs persons to perform labor or services in Florida in exchange for salary, wages, or other remuneration. Employers that meet this definition and employ at least 25 employees (anywhere, not just in Florida) must use E-Verify and certify compliance on when making contributions to or reimbursing Florida’s unemployment compensation or reemployment assistance system.

ENFORCEMENT

Covered employers must retain copies of documents supporting the verification of employment eligibility for three (3) years. Employers must also provide copies of such records upon request from the Florida Department of Law Enforcement, the Attorney General, the Department of Economic Opportunity (DEO), the statewide prosecutor, or the state attorney for the circuit in which the newly hired employee works. If the DEO determines that an employer failed to use the E-Verify system as required three (3) times in any 24-month period, the department will impose a daily fine of \$1,000.00 until the noncompliance is cured. The DEO may also revoke business licenses and require repayment of any economic development incentive if it finds that an employer knowingly employed an individual who is not eligible for employment in the United States. Penalties will go into effect on July 1, 2024.

PRIVATE EMPLOYERS - NATIONWIDE

Of note, Florida is not the only state to require private employers to use E-Verify. The following states also have E-Verify requirements for private employers:

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- *Alabama*: All employers are required to use E-Verify.
- *Arizona*: All employers are required to use E-Verify.
- *Georgia*: All employers with 10 or more full-time employees are required to use E-Verify.
- *Mississippi*: All employers are required to use E-Verify.
- *North Carolina*: All employers with 25 or more employees are required to use E-Verify.
- *South Carolina*: All employers are required to use E-Verify.
- *Tennessee*: All employers with 35 or more employees under the same FEIN are required to use E-Verify.
- *Utah*: All employers with 150 or more employees are required to use E-Verify.

Employers with only remote workers in one of the above states (and Florida) must determine whether they are a “private employer” under the specific state law and subject to the E-Verify requirements for their remote employees.

KEY TAKEAWAYS

Employers that will be newly covered by the Florida E-Verify requirement should review their obligations as soon as possible. Since July 1, 2023 (the compliance date) is just over a month away, employers should ensure that their hiring processes comply with the new requirements. Further, private employers with remote employees should review any E-Verify requirements in all states in which they have employees and ensure compliance.