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E-VERIFY: IMMIGRATION SOLUTION OR PROBLEM?

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E-Verify is the verification system run by the federal government that can be used to determine whether newly-hired employees are eligible to work in the United States. E-Verify is comprised of a large database of information about every eligible worker in the country. To use E-Verify, an employer simply logs onto the Web site and enters relevant information about a new employee into the electronic query system, and the system will immediately provide an eligibility clearance or a "tentative non-confirmation" result. If the result is not clean, the employee must follow up with the Department of Homeland Security (DHS) within eight days to straighten out the problem. If the employee cannot work out the situation, and the system provides the employer with a "final non-confirmation" of eligibility, the employer must either fire the employee or risk employing an undocumented worker and bearing the risk that accompanies that decision.

There are several obvious advantages to using E-Verify. First and foremost, it's quick and easy. Once you enter an employee's name and relevant information, it takes only three to five seconds to receive the results. Moreover, there is a presumption of compliance with federal immigration laws that accompanies E-Verify usage. Any employer using the system who is later found to be unknowingly employing an undocumented worker will be able to employ a tremendous defense to any charges brought against it. Finally, in an effort to convince more employers to sign up, the government has dangled the carrot of offering E-Verify users some additional extensions for foreign national students who are temporarily working in the U.S.

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Unfortunately, as good as E-Verify sounds, there are several reasons why 99 percent of American employers have not signed up for the program. The main reason is that there are serious flaws with the accuracy of the database program. Although E-Verify spits back a "non-confirmation" result about 5 percent of the time, it is believed that the error rate for these results is as high as 4 percent. These false positive reports take time and effort to correct, and can often lead to disastrous results. Several employers have faced wrongful termination lawsuits by employees fired after their names triggered incorrect non-confirmation results on E-Verify. Also, employers who sign up for E-Verify give up some very important rights. In order to use E-Verify, employers must sign a Memorandum of Understanding that allows ICE to enter a workplace to investigate without any prior notice.

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