



New Arizona Immigration Law May Impact Workplaces Nationwide

Insights

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Arizona's new immigration law, enacted on April 23, makes it a state crime for anyone in the U.S. illegally to be in the state of Arizona, and it requires police to arrest anyone who cannot produce proof of U.S. citizenship or authorization to be in this country. Although this law reflects current federal immigration law, it has generated considerable controversy.

Arizona's law, of course, applies only in Arizona. But employers everywhere must be prepared for the effects of the overwhelming amount of media coverage Arizona's law has received, the further media coverage it will receive when the law goes into effect on July 29, and the media attention likely to result as other jurisdictions debate whether to enact similar legislation. This is because the Arizona law and the media coverage it has generated have placed into focus the hotly controversial issue of this country's immigration policy and the number of immigrants who are here illegally.

Keep Things Cool

Be on the alert for debates or discussions of this issue in the workplace that might be deemed by some employees to be harassing, especially when debates involve insults and slurs. Employees may complain of harassment if they overhear slurs such as "wetback" or "beaner" even if such slurs are not directed at them. Taunting and teasing of employees, such as telling a Hispanic employee that "Immigration is looking for you" is problematic too. Strong statements that do not contain insults and slurs, such as "All of the illegals should be rounded up and sent back" may be deemed offensive, particularly if made by a member of management. Therefore you should consider taking the following steps:

- Remind all employees that the company's policy against harassment applies to insults, slurs and joking regarding employees' national origin and that such language regarding illegal immigrants can lead to discipline or termination. Employees also should be reminded to promptly report any harassing conduct to Human Resources or other management.
- Conduct training of managers and supervisors to remind them to use care in their own discussions of the immigration issue not to make anti-immigrant statements that other employees may find offensive. They also should be directed to be alert for comments or conduct

on the part of employees, customers and vendors that might be deemed harassing. Managers should be instructed regarding what steps they should take if they hear comments or observe conduct that violates the policy against harassment.

The debate over immigration may also place new emphasis on "English only" policies in the workplace. Anti-immigrant fervor may cause managers or employees to demand that other employees speak only English at work. According to the Equal Employment Opportunity Commission, however, "English-only" policies may be enforced only as to employees who deal directly with customers or where safety or security issues are involved. A requirement that assembly-line employees in a manufacturing company, housekeeping employees in a hotel, or kitchen employees in a restaurant speak only English may be attacked as unlawful discrimination.

Finally, employers must be careful not to insist on over-documentation of new hires when completing the I-9 form. Requiring new employees to produce more forms of identification and proof of authorization to work in the U.S. than are required on the I-9 form is a violation of the Immigration Reform and Control Act.