



ICE Storm: Immigration Compliance Threats To The Hospitality Industry

Insights

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It's no secret that immigration compliance is a priority to the Trump administration, so the recent announcement that it expects the number of worksite investigations to quadruple in coming years should come as no surprise. As Derek Brenner, the acting director for Homeland Security Investigations at Immigrations and Customs Enforcement (ICE), recently stated: "This year, ... you're going to see more and more of these ... large-scale compliance inspections, just for starters. It's not going to be limited to large companies or any particular industry.... It's going to be inclusive of everything that we see out there. We need to make sure that employers are on notice that we are going to come out and ensure that they're being compliant. For those that don't, we're going to take some very aggressive steps in terms of criminal investigations to make sure that we address them and hold them accountable."

Franchisees Are Vulnerable Among Frequently Targeted Hospitality Employers

With an estimated 11 million undocumented individuals living in the United States, virtually every industry employs foreign nationals without proper work authorization. But there is no doubt that the hospitality industry is especially prone to the problems, and the government has long taken notice. In fact, ever since the Obama administration began a new worksite enforcement initiative in 2009, hospitality has been a target industry for immigration compliance investigations.

In addition to the employee base, many hospitality employers are vulnerable due to the franchise model of ownership. Because franchise-based businesses often have standards for immigration compliance that are inconsistent from one location to the next, an employer within the same franchise chain might be subjected to an audit based upon failures of other franchisors.

Owners of 7-Eleven stores learned this lesson the hard way in January of this year. For the second time in five years, ICE raided dozens of stores across the country in search of undocumented workers and the managers who knowingly employ them. The most recent raid targeted 98 stores in 17 states from coast to coast, and resulted in at least 21 arrests. Because the franchise model of these retail shops is similar to many businesses in the hospitality industry, you should pay attention to what happened in the 7-Eleven raids and learn from their mistakes.

Lessons Learned From Recent Raids

In conjunction with the raids, ICE announced its new worksite enforcement strategy, with which all hospitality employers should immediately familiarize themselves, especially those that are part of a

franchise chain. ICE's strategy incorporates a three-pronged approach to conduct worksite enforcement: (1) I-9 inspections, civil fines, and referrals for debarment; (2) enforcement through the arrest of employers who knowingly hire undocumented workers along with those unauthorized workers; and (3) outreach to instill a culture of compliance and accountability.

The increased frequency of investigations was compounded by raising penalties, which nearly doubled in the past year. Civil penalties for I-9 violations can be as much as \$2,191 per violation and up to \$21,916 for knowingly hiring an undocumented worker, while criminal penalties for managers and business owners found harboring, smuggling, concealing, or transporting undocumented workers could mean a sentence of 10 years in prison and/or a \$250,000 fine.

Conclusion

Immigration compliance might seem like a daunting task, especially in today's political atmosphere, but it can be manageable. We recommend that all employers conduct an internal audit of their Form I-9s and any related processes and procedures. Further, you should provide annual training to any employee responsible for maintaining Form I-9s to keep up with any changes in the law. Finally, we suggest you contact a member of the Fisher Phillips [Global Immigration Practice Group](#) to assist with your compliance efforts.

For more information, contact the author at DBae@fisherphillips.com or 206.693.5060.

Related People



Davis C. Bae
Regional Managing Partner
206.693.5060
Email

Service Focus

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