

Upholding E-Verify In Arizona

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The U.S. Supreme Court recently upheld Arizona's 2007 immigration law that requires all employers to use E-Verify for all new hires and permits the revocation of a company's business license as a penalty for employing unauthorized workers. This decision resulted from a challenge to the Legal Arizona Workers Act of 2007, not to be confused with the 2010 controversial Arizona "Support Our Law Enforcement and Safe Neighborhoods Act."

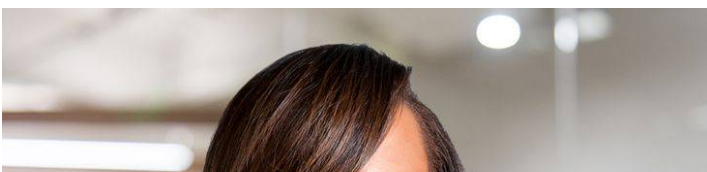
In July 2007, Arizona enacted the Legal Arizona Workers Act, which prohibits Arizona employers from knowingly or intentionally employing individuals unauthorized to work in the U.S. Under the act, any person may submit a complaint alleging that an employer employs unauthorized workers. Once the complaint is investigated and determined not to be false, the state will initiate legal action against the employer. The act also requires all employers in Arizona to use the federal E-Verify system to verify the employment eligibility for all new hires. Interestingly the act does not provide any penalties for failing to use E-Verify but it does provide a safe-harbor.

Arizona employers should ensure that they are in compliance with the Legal Arizona Workers Acts including the use of the E-Verify system to confirm the employment eligibility for all new hires. Arizona employers in violation of this law will face serious penalties. If found to have violated the provision regarding knowingly employing an unauthorized worker, the employer will be ordered to terminate the employment of all unauthorized workers and file quarterly reports on all new hires for a probationary period of three years.

This case has implications for employers outside of Arizona. Already, states are adopting similar legislation and we expect to see an increase in the number of states that mandate the use of E-Verify. Employers, especially those operating in multiple states, should ensure they are familiar with and complying with state-specific immigration laws.

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Jessica T. Cook
Partner
404.240.4151
Email