



Missouri Enacts Tough New Immigration Law, Targets Employers

Insights

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Missouri Governor Matt Blunt has signed into law [H.R. 1549](#), a stringent new bill targeting illegal immigration. As of January 1, 2009, employers of unauthorized workers will face potential loss of state contracts and/or tax breaks, suspension or even revocation of their right to do business in the state, and possibly a civil trial in Missouri state court.

Mandatory E-Verify for Employers with State Contracts or Subsidies

The law requires any Missouri employer to enroll in E-Verify if it:

1. has any state contract or grant worth more than \$5,000; or
2. receives any state-administered or subsidized tax credit, tax abatement, or loan.

E-Verify is a web-based program run by the federal government and is used to verify employment authorization of newly-hired workers. (Click [here](#) for more information about the E-Verify program.)

Any employer matching the above criteria found to have *knowingly* hired, employed, or continued to employ, an unauthorized worker faces potential cancellation of existing state contracts and a three-year bar on receiving future state contracts. Subsequent violations may permanently bar the employer from doing business with the state.

Enforcement Provisions Affecting All Missouri Employers

The law also establishes the following unique procedure for prosecuting any employer who knowingly hires an unauthorized alien:

1. Any state official, business entity, or state resident may file a sworn allegation with the Attorney General's (AG) office alleging that an employer has *knowingly* hired an unauthorized employee;
2. Within 15 days the AG will request information from the company about the allegedly unauthorized employee. If the employer does not come forth with the requested information during the 15-day period, its business license and/or exemptions will be suspended until it is compliant;
3. The AG will then check the employee's work authorization status through E-Verify; and
4. If E-Verify indicates that the worker is unauthorized, the AG may then file a civil action in Cole County against the company if the AG reasonably believes the employer hired the worker

county against the company if the AG reasonably believes the employer hired the worker knowing of his or her illegal status.

If the court finds that the employer hired the worker *knowing* he or she lacked authorization to work, the court shall order suspension of the employer's business licenses or exemptions for at least 14 days. The suspension ends only when the employer either terminates the employee or provides proof of the worker's legal status. Penalties for subsequent violations include a one-year suspension and eventually permanent revocation of the employer's business license or exemption.

Any employer who voluntarily enrolls in E-Verify will have an affirmative defense against a civil action brought by the AG for knowingly hiring an unauthorized worker. The effect of this provision is to strongly encourage all Missouri employers to use E-Verify for new employees by January 1, 2009.

"Public Works" Employers

The law also includes a provision relating specifically to private employers engaged in "public works" with the state (public works is defined as all fixed works constructed for public use or paid for by any public funds). The provision prohibits such employers from misclassifying employees as "independent contractors." Penalties for violation of this provision will include injunctive relief to reclassify the employee and a fine of \$50 per day for each employee, up to a maximum of \$50,000.

How Employers Can Become Compliant

At this time, we recommend that employers determine whether they currently have any contracts with the State of Missouri or expect to have such contracts at any time in the future. Employers should also determine whether they receive any state-administered or subsidized tax credits, tax abatements, or loans from the State of Missouri. If either of these is answered in the affirmative, the employer should seek assistance with enrollment in E-Verify. Additionally, all employers, regardless of whether they have the prerequisite contractual or other relationship with the State of Missouri, should consider enrolling in E-Verify. Finally, we highly recommend that all employers conduct an audit of the company's current Form I-9 completion and retention procedures, and of all Form I-9's held for current employees.

For more information contact your Fisher Phillips attorney or any attorney in our Global Immigration Practice.