



Indiana Gets Tough On Employers Of Illegal Aliens

Insights

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On May 10, 2011, Governor Daniels signed a new law imposing significant consequences on Indiana employers who employ unauthorized workers. The law goes into effect on July 1, 2011.

Under the law, the State may sue employers, who do not use E-Verify, to recover unemployment insurance benefits paid to a worker employed on or after July 1, 2011, who the employer knew was not authorized to work in the U.S. If the State prevails in this civil action, it also may recover reasonable attorneys' fees and costs. This law also includes adverse tax consequences for employers of illegal aliens, if the employers are not using E-Verify.

Starting July 1, 2011, State agencies and political subdivisions must use E-Verify for all new hires. These entities will be prohibited from entering into (or renewing) contracts with a contractor unless the contractor (and any subcontractors) participates in E-Verify and signs an affidavit certifying that it does not knowingly employ unauthorized aliens. The same restrictions will apply to businesses receiving State grants of \$1,000 or more. If a contractor violates the law, the State must give the contractor 30 days to remedy the violation. Failure to remedy the violation within 30 days or to challenge the violation within 20 days of receiving notice will result in termination of the contract and possible damages (for example, if completion of the project by a new contractor results in higher costs). Contractors who use E-verify will have a rebuttable presumption that they did not knowingly employ an unauthorized alien.

Day laborers who are age 18 or older must attest to their employment authorization on Form I-9 before starting work. In addition, knowingly or intentionally transporting, harboring or concealing an illegal alien for commercial advantage or financial gain will be a Class A misdemeanor. Such conduct involving nine or more illegal aliens will be a Class D felony. Law enforcement officers must impound motor vehicles used to commit transporting, harboring or concealing violations.

We expect to see immediate legal challenges to the law and blocks by a court of some of the more controversial provisions, especially those that impose criminal sanctions and authorize law enforcement officers to verify immigration status. It is likely that the E-Verify provisions will withstand a challenge. This law provides strong incentive for Indiana employers to enroll and participate in E-Verify. For more information contact your local Fisher Phillips attorney or any member of our Global Immigration Practice Group.

This Global Immigration Alert provides an overview of a specific new law. It is not intended to, and should not be construed as, legal advice on any particular fact situation.