



Tennessee Governor Signs Immigration Enforcement Law

Insights

6.10.11

Tennessee employers soon will be required to take several actions under a new immigration law. The Tennessee Lawful Employment Act requires employers to use E-Verify, or to maintain documentation of legal residency or valid U.S. work authorization for all employees hired after the effective date. The law takes effect for governmental entities and private employers with 500 or more employees on January 1, 2012. On July 1, 2012, the law will apply to private employers with 200-499 employees and all employers with more than six employees will be covered as of January 1, 2013. Employers will also be required to maintain documentation of legal residence or valid U.S. work authorization for non-employees providing labor or services.

In order to comply with the law, employers will be required to maintain the E-Verify query results or the alternative documentation for three years after the date of hire or one year after termination, whichever is later. Documentation of legal residency or valid U.S. work authorization is defined to include a valid driver's license or photo ID issued by the state of Tennessee or another state with the same strict issuance requirements, an official birth certificate issued by a U.S. state, jurisdiction, or territory, an unexpired U.S. Passport, a certificate of citizenship, a certificate of naturalization, or other proof of legal status.

Only employers who chose the E-Verify option will have full legal protection. The Tennessee State Department of Labor may review an employer's compliance with this law: 1) in conjunction with any other labor or workers' compensation investigation or inspection; or 2) based on a complaint by a lawful resident of Tennessee accompanied by "satisfactory evidence of a violation."

Penalties for a first violation range from a warning (if the violation was not a knowing violation) to fines of \$500 plus \$500 for each employee or non-employee who was not verified. Fines for a second violation are \$1000 plus \$1000 for each employee or non-employee not verified. For a third or subsequent violation, the employer will be fined \$2,500 for the violation plus \$2,500 for each employee or non-employee who was not verified. Once found to be in violation of the law, the employer will be required to provide evidence of compliance within 60 days of a final order or have its business license suspended. This law provides strong incentive for Tennessee 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.