



## New E-Verify State Laws – Effective January 1, 2012

### Alabama – the Beason-Hammon Alabama Taxpayer and Citizen Protection Act

Alabama's new immigration law, Act No. 2011-535, is widely considered to be the toughest immigration law in the nation. While some parts of the law have drawn legal challenges, most of the provisions relating directly to employers have survived.

Here is what you need to know for E-Verify:

- **Effective January 1, 2012**, as a condition for the award of any state contract, every contractor or subcontractor shall enroll in E-Verify and verify the employment eligibility of its new hires using E-Verify. A first offense of the Act can lead to debarment from state contracts, cancellation of state government grants or incentives and suspension or revocation of business license for up to 60 days. A second offense may lead to permanent revocation of the employer's business license.
- **Effective April 1, 2012, every business entity or employer in the state** is required to enroll in E-Verify and verify the work eligibility of all new hires using E-Verify. A business entity or employer that uses E-Verify to verify the work authorization of an employee shall not be deemed to have violated this section with respect to the employment of that employee.

### Georgia – Illegal Immigration Reform and Enforcement Act of 2011

Georgia's new immigration law, HB 87, is another broad piece of legislation that provides for state and local enforcement of immigration laws. With regards to E-Verify, HB 87 requires all private employers with ten or more employees to use E-Verify to confirm the employment eligibility of all new hires. As with a few other E-Verify mandates, Georgia's HB 87 will be implemented in stages depending on the number of full-time employees (*generally those who work 35 hours or more per week*) within a particular business.

Here are the timelines:

- **Effective January 1, 2012**: all private employers with 500 or more employees are required to enroll in E-Verify and verify the employment eligibility of new hires.
- **Effective July 1, 2012**: all private employers with 100 or more employees but fewer than 500 employees are required to enroll in E-Verify and verify the employment eligibility of new hires.
- **Effective July 1, 2013**: all private employers with more than 10 employees but fewer than 100 employees are required to enroll in E-Verify and verify the employment eligibility of new hires.
- In addition, to enforce HB 87, every business will now have to submit an **affidavit** regarding compliance with E-Verify to its local government **before** that business can obtain or renew its business license or occupational tax certificate.

### Louisiana – Act 376 and Act 402

Louisiana passed two E-Verify related bills in 2011 governing both public and private employers. Here are the basics:

- **Effective January 1, 2012**, Act 376 requires that private employers who bid on a public entity project or enter into a contract agreement with a public entity for the physical performance of services; **confirm in a sworn affidavit that the company uses the E-Verify system** for all new employees within the United States. If the employer is awarded a contract, he or she is required to E-Verify **all new employees in Louisiana hired through the duration of the contract**. The requirement applies to both general contractors and their subcontractors.
- **Effective August 15, 2011**, Act 402 stipulates that all Louisiana employers must confirm the citizenship or work authorization status of new hires through one of two ways. The employer may either: (1) use the E-Verify system; **or** (2) ensure that each employee has provided a picture ID and one of the following documents (a copy of which must also be retained): U.S. birth certificate or certified birth card; Naturalization certificate; Certificate of citizenship; Alien registration receipt card; U.S. immigration form I-94, with employment authorized stamp.

Both laws include a provision stating that any employer who E-Verifies an employee who is later found to be unauthorized will not be penalized, nor will the employer be held civilly or criminally liable due to inaccurate E-Verify reports.

### South Carolina – Act 69

Act 69 amends the South Carolina Illegal Immigration and Reform Act to require **all employers** to register and participate in E-Verify.

Here are the details:

- **Effective January 1, 2012**, all employers must enroll in E-Verify to verify the legal status of all new hires within three days. There will no longer be the option of only hiring employees who possess or qualify for a South Carolina driver's license (or other state license with similarly strict requirements) in lieu of using E-Verify.
  - All private employers in South Carolina shall be imputed a South Carolina employment license, which can be taken away under certain circumstances. For example, a private employer who knowingly or intentionally employs an unauthorized alien violates the private employer's license.
  - There will be a grace period of one year for employers, during which penalties will be probationary. After that, employers can face temporary suspension of their business license for hiring unauthorized workers and reinstatement fees after those workers have been fired. On third offense, an employer's business license can be revoked.

### Tennessee – The Tennessee Lawful Employment Act (H.B.1378)

The Tennessee Lawful Employment Act requires all employers in Tennessee to demonstrate that they are hiring and maintaining a legal workforce either by verifying the employment eligibility of newly hired employees through E-Verify **or** by requesting (and maintaining a copy of) an identity/employment authorization document from all newly hired employees.

The provisions will be phased in as follows:

- **Effective January 1, 2012**, all state and local government agencies must enroll and participate in E-Verify **or** request and maintain an identity/employment authorization document from a newly hired employee
- **Effective January 1, 2012**, all private employers with 500 or more employees must enroll and participate in E-Verify **or** request and maintain an identity / employment authorization document from a newly hired employee
- **Effective July 1, 2012**, all private employers with 200 to 499 employees must enroll and participate in E-Verify **or** request and maintain an identity / employment authorization document from a newly hired employee
- **Effective July 1, 2013**, all private employers with 6 to 199 employees must register and utilize E-Verify **or** request and maintain an identity / employment authorization document from a newly hired employee.

An employer who has been found to have violated the employment verification provisions of the Act will be assessed \$500 for the first violation, \$1,000 for a second violation and \$2,500 for a third or subsequent violation. In addition to these civil penalties, first-time offenders will also be assessed an additional \$500 for each employee or non-employee who was not verified through the E-Verify program or for whom an identity / employment authorization document was not requested. For second and third violations, employers will be fined an additional \$1,000 or \$2,500, respectively, for each employee or non-employee.