

State E-Verify and I-9 Laws – 2010 Updates

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The Illinois Right to Privacy in the Workplace Act places statutory obligations on employers within the state that use E-Verify. Effective January 1, 2010, employers must complete an attestation at the time of E-Verify enrollment (or by January 30, 2010, if already enrolled) confirming that responsible employees have completed the Department of Homeland Security (DHS) E-Verify tutorial. Employers also must attest that they have posted applicable E-Verify and Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) notices at the workplace. Consistent with the DHS' Memorandum of Understanding (MOU) entered into by E-Verify participants, employers are prohibited from terminating employees prior to receiving a final nonconfirmation of employment authorization from E-Verify and from using E-Verify to pre-screen employment applicants. However, the Illinois law allows injured employees to file a claim against the employer pursuant to the Illinois Human Rights Act. Visit the Illinois Department of Labor website or the [January 11 issue](#) of the *Illinois eAuthority* for more information on the law.

South Carolina continues to phase in an employment verification law for employers within the state. The South Carolina Illegal Immigration Reform Act requires employers to **either** use E-Verify **or** review a

qualifying driver's license. As of January 1, 2010, all public contractors and private employers with 100 or more employees are subject to the law. On July 1, 2010, remaining employers (private employers with less than 100 employees) will also need to meet the E-Verify or driver's license requirement.

The Mississippi Employment Protection Act (S.B. 2988) phases in a requirement on employers to participate in E-Verify. On July 1, 2008, all Mississippi agencies and political subdivisions, all public contractors, and private employers with 250 or more employees became subject to the E-Verify requirement. On July 1, 2009, private employers with 100 or more employees also became subject to the requirement. By July 1, 2011, all Mississippi employers will be required to use E-Verify.

The states noted above have the most far-reaching laws affecting I-9 employment verification and E-Verify. Several other states purport to require E-Verify of public employers and/or government contractors, including Georgia, Minnesota and Missouri. In the absence of a comprehensive federal system, employers are thus forced to track the various requirements concerning I-9 and E-Verify at both the federal and state levels.

TOPICS

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