



ATTORNEYS AT LAW

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**NEW E-VERIFY REQUIREMENTS, WHICH BECOME EFFECTIVE  
OCTOBER 1, 2012 FOR SOME EMPLOYERS**

The 2011 North Carolina General Assembly enacted a new law that will require businesses that employ twenty-five (25) or more employees in the state of North Carolina to use the federal E-Verify program to verify the work authorization for new hires. The new law will be phased in over the next two (2) years for employers of different sizes, with employers that employ 500 or more employees being required to comply beginning October 1, 2012. Employers that employ 100 or more (but less than 500) employees will be required to comply by January 1, 2013, and employers that employ 25 or more (but less than 100) employees will be subject to the new law July 1, 2013.

The new law has three main parts: (1) a requirement that employers use the federal E-Verify program, (2) a new system for reporting complaints regarding potential violations, and (3) penalties for non-compliance.

E-Verify is a web-based program operated by the Department of Homeland Security (“DHS”) that is provided to employers free of cost and allows employers to verify electronically the employment authorization of new hires. Employers must retain a record of the work verification received through the E-Verify program for the duration of the employee’s employment and for one (1) year after the employee’s employment ends. The verification requirement only applies to new hires, not existing employees. Further, the verification requirement does not apply to seasonal temporary employees who are employed for 90 days or less during a 12-month period.

Any individual with a good faith belief an employer is not complying with the verification requirement can file a complaint with the North Carolina Commissioner of Labor. The Commissioner will investigate the complaints and may hold a hearing to determine whether the employer complied with the law’s requirements.

For first-time violations, the employer will be required to file a signed sworn affidavit that it has requested a verification of work authorization through E-Verify with the Commissioner. For second-time violations, the employer will be fined \$1,000.00 and be required to file the same affidavit with the Commissioner. For all additional violations, the employer will be fined \$2,000.00 for each employee that the employer failed to screen, in addition to the affidavit requirement.

Employers must still complete I-9 forms, Employment Eligibility Verification, and must continue to comply with applicable laws by not unlawfully discriminating against individuals in hiring practices because of national origin or citizenship status. Please contact Denis Jacobson [(336) 271-5242], Ross Hamilton [(336) 271-5279], Nathan Duggins [(336) 271-5246], Jeff Southerland [(336) 271-5251], Martha Sacrinty [(336) 271-5217], Brandy Mills [(336) 271-5212], or Alan Felts [(336) 271-5215] of the Labor and Employment practice group if you have any questions concerning your compliance with the new law.

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