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Tennessee businesses preparing for E-Verify law that will track immigration employees

Premium content from Memphis Business Journal by Christopher Sheffield, Staff writer

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This month Tennessee joins a growing list of states tightening requirements for businesses to verify employment eligibility of employees as part of a federal program known as E-Verify.

E-Verify is a free web-based system operated by the Department of Homeland Security that compares information from the employee verification document Form I-9 to data from Homeland Security and the Social Security Administration.

The program has been in place since the Immigration Act in 1996. States started to pass laws mandating it in 2007. To date, about 4,000 Tennessee businesses have signed up.

Tennessee joins Alabama, Georgia and South Carolina in rolling out some form of E-Verify requirements in early 2012, according to LawLogix.com, which tracks I-9, E-Verify and other immigration case law state-by-state.

However, unlike most states adopting E-Verify laws, Tennessee's law is not completely mandatory, says [Todd Photopulos](#), a labor and employment attorney with **Butler, Snow, O'Mara, Stevens & Cannada PLLC**.

At the last minute, Tennessee's E-Verify legislation was amended from requiring employers to adopt E-Verify to allowing them to either enroll in the program or to maintain copies of drivers' licenses, Social Security cards and passports for all new hires, Photopulos says.

Tennessee employment verification provisions are being phased in over 18 months, starting Jan. 1 with all state and local government agencies and private employers with 500 or more employees. By July 1, private employers with 200-499 employees must meet the provisions and by July 1, 2013, private employers with 6-199 employees must meet the provisions, according to LawLogix.com.

Penalties for violating the verification provisions range from \$500 to \$2,500 for the first offense, plus \$500 for each employee on the first offense, to \$2,500 for subsequent offenses. Business licenses can also be suspended for a period of time, according to LawLogix.com.

Immigration attorney [Greg Siskind](#), founder and member of the immigration law firm Siskind Susser, says while Tennessee was among the first states to pass immigration-related laws in 2007, it has historically taken a more moderate position than some neighbors such as Alabama and Mississippi.

The same can be said for the E-Verify bill lawmakers adopted, says Siskind, who recently authored "The Employers Immigration Compliance Desk Reference," a state-by-state analysis of immigration, including E-Verify, for the Society of Human Resource Managers.

[Justin Owen](#), president and CEO of the Nashville-based free-market advocacy group Beacon Center of Tennessee, says Beacon doesn't traditionally get involved in immigration issues and didn't lobby one way or the other on the E-Verify bill.

Still, the final version of the law is a "fitting compromise," Owen says.

On one hand, business was concerned about the amount of regulation and paperwork E-Verify creates and making it responsible for a job the government should handle, Owen says.

"On the other hand, many conservatives believe that the federal government has failed to adequately address illegal immigration, and that businesses should be compelled to verify the status of employees," he says. "The legislation that passed appears to have addressed the concerns of both camps."

[Jim Brown](#), Tennessee state director for the **National Federation of Independent Business**, says about half its membership will be affected by the new E-Verify bill. At present, NFIB simply is involved in answering member questions.

"Which we expect will increase as more small business owners are impacted through 2013," Brown says.

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