

New Bill Expands Required Use of E-Verify By North Carolina Employers

All North Carolina employers that employ 25 or more workers will be required to use the federal government's E-Verify system under a new law signed by Governor Perdue on June 23, 2011. Businesses with fewer than 25 employees will be exempt. Employees do not include seasonal temporary workers who are employed for 90 or fewer days during a twelve-consecutive-month period. State agencies, including public universities and community colleges in North Carolina, have been required to use the E-Verify system for the last five years.

The new North Carolina law will take effect at different times based on employers' size or type. The E-Verify requirement becomes effective for county and municipal employers on October 1, 2011; employers that employ 500 or more employees on October 1, 2012; employers of 100 or more but less than 500 employees on January 1, 2013; and employers that employ 25 or more but less than 100 employees on July 1, 2013.

Covered employers will now be required, after properly completing I-9 forms, to then enter employee identity and work status data electronically with E-Verify.

Complaints of violation of the new law may be filed with the North Carolina Department of Labor. Civil penalties include fines of \$10,000 for an employer's failure to file an affidavit of compliance after a first violation and additional subsequent penalties for each employee verification an employer fails to make.

North Carolina is not alone in adopting or expanding E-Verify mandates. According to the National Conference of State Legislatures, 17 states now have some form of E-Verify requirements. North Carolina's neighboring states with some E-Verify requirements include Virginia, South Carolina, Tennessee, and Georgia. Though early in its usage the accuracy of the E-Verify system was challenged, a December 2010 GAO study found that the U.S. Citizenship and Immigration Services (USCIS) has substantially improved the accuracy of the system. USCIS reports that it continues to incorporate tools to combat increasingly sophisticated forms of document and identify fraud.

To participate in E-Verify, an employer must register online at the USCIS-DHS E-Verify webpage and accept the Memorandum of Understanding (MOU) that details the responsibilities of the SSA, USCIS-DHS, and the employer. The link for E-Verify registration may be found at <https://e-verify.uscis.gov/enroll/>.

Should you have any questions about the contents of this alert, please contact Beth Tyner Jones (bjones@wcsr.com; 919-755-8177) or any of Womble Carlyle's [Labor & Employment](#) lawyers.

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