



North Carolina Law Life

E-Verify Mandatory in NC for Governments and Businesses with 25 or More Employees

By: Donna Ray Chmura. *Tuesday, July 5th, 2011*

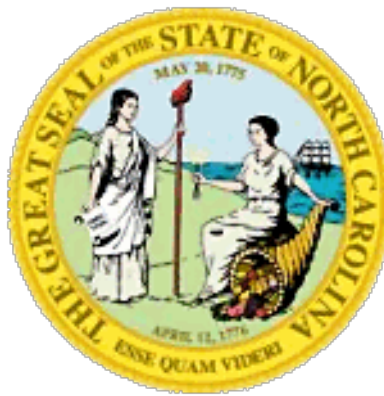


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As of June 23, 2011, all cities, all counties, and private employers with at least 25 employees in North Carolina are required to use the federal government's E-Verify program to verify the work authorization of newly hired employees.

Public universities, community colleges and other North Carolina state agencies are already required to use E-Verify. The new statute applies to municipalities, counties and employers that employ 25 or more employees in North Carolina.

Timeline for employers to register and participate in E-Verify:

- October 1, 2011: municipalities and counties in North Carolina.
- October 1 2012: Employers who employ 500 or more employees in North Carolina.
- January 1, 2013: Employers that employ 100 or more employees in North Carolina
- July 1, 2013: Employers that employ 25 or more employees in North Carolina

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Employers with seasonal temporary employees who work fewer than 90 days in a consecutive 12-month period are excepted from compliance, and the law also does not apply to employers that employ fewer than 25 employees in North Carolina.

An employer covered by the Act will be required to enter a new hire's information reported on the [Form I-9](#), Employment Eligibility Verification, into the [E-Verify program](#) to determine the eligibility of that employee to work in the United States. An employer must retain the records of the verification of the employee's work authorization during the length of that employee's employment and for one year after the end of the employment period.

Any person who has a good faith belief that an employer is violating the requirement to use E-Verify may file a complaint with the [North Carolina Commissioner of Labor](#). The complaint may be anonymous. The commissioner will investigate valid complaints and may issue subpoenas for employment records from the employer as part of this investigation.

For a first violation of the Act, the North Carolina Commissioner of Labor will order the employer to file a sworn affidavit within three business days after the determination that the employer has violated the Act. The employer must swear in the affidavit that it has consulted with the employee and requested a verification through E-Verify. Failure to timely file this affidavit subjects the employer to a \$10,000 civil penalty. A second violation of the Act subjects the employer to an additional \$1,000 civil penalty, and a third violation subjects the employer to a \$2,000 civil penalty for each required employee verification that the employer failed to make. The Act contains a provision allowing an employer to appeal the commissioner's determination that the employer has violated the Act.

For more information about instituting an E-verify program, please call Donna Ray Chmura at 919-706-4200 or dchmura@sandsanderson.com

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