



## Legal Alert: Arizona Governor Signs Law Amending Employer Immigration Sanctions Law

5/13/2008

On May 1, 2008, Arizona Governor Napolitano signed into law an amendment of the Legal Arizona Workers Act (LAWA). Under the LAWA, which took effect January 1, 2008, a business found guilty of “knowingly” or “intentionally” hiring undocumented workers faces suspension or revocation of its business license and is placed on probationary status for a period of time.

The amendment to the LAWA is effective immediately and was designed to clarify certain provisions of the law. The amendment:

- Clarifies that sanctions against employers who hire illegal workers apply only to employees hired after December 31, 2007.
- Clarifies that the suspension or revocation of a business license of an employer who knowingly or intentionally hires an unauthorized worker applies only to the business location at which the unauthorized individual performed work. However, if the employer does not hold a license specific to the business location at which the unauthorized alien performed work, all of the licenses held by the employer at the employer’s primary place of business are subject to suspension or revocation.
- Imposes fines of up to \$5,000 on employers who have two or more employees who are paid in cash and fail to comply with certain reporting and income tax withholding laws.
- Requires the attorney general to prescribe a complaint form for individuals to allege violations of the LAWA and mandates that complaints on the prescribed form be investigated. The amendment permits complaints to be made on a form other than the prescribed form, but states that such complaint “may” be investigated, rather than “shall” be investigated.
- Permits allegations of violations of the LAWA to be made anonymously.
- Provides that complaints based solely on race, color or national origin will not be investigated.
- Clarifies that employers who can show they have complied in good faith with the federal work verification requirements have an affirmative defense to an allegation they knowingly or intentionally hired unauthorized aliens. The amendment also states that an employer is considered to have complied with the federal work verification requirements notwithstanding an isolated,

sporadic or accidental technical or procedural failure to meet the requirements, if there is a good faith attempt to comply with the requirements.

- Requires every employer in Arizona who hires an employee after December 31, 2007 to verify the employment eligibility of the employee through the E-Verify program.
- States that proof that the employer has verified the employee's work authorization through the E-Verify system creates a rebuttable presumption that the employer did not knowingly or intentionally employ an unauthorized alien.
- Requires that before an employer receives an "economic development incentive," such as a grant, loan or performance-based incentive, from a government entity, the employer must provide proof to the government entity that the employer is registered with and is participating in the E-Verify program. This provision applies to any economic development incentive awarded after September 30, 2008.
- Provides that every three months the attorney general shall obtain a list from the U.S. Department of Homeland Security of employers in Arizona that are registered with the E-Verify program and shall make that list available on the attorney general's web site.

Other provisions in the amendment address independent contractors, identity theft, and trafficking unauthorized workers.

If you have any questions regarding this law or other labor or employment related issues, please contact Troy Foster, a partner in our Phoenix, Arizona office at [tfoster@fordharrison.com](mailto:tfoster@fordharrison.com) or 602-627-3504 or the Ford & Harrison attorney with whom you usually work.