

Global Immigration Blog

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Enforcement of Tennessee Worker-Verification Law Begins

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The Tennessee Department of Labor has begun enforcement of the Tennessee Lawful Employment Act (TLEA). The TLEA went into effect in January of 2012. (See our article, Tennessee Adopts Worker-Verification Law.) Under the Act, employers with more than six employees must either use E-Verify or make and retain copies of one of 11 documents specified in the Act. The documents include: 1) A Tennessee driver's license, 2) a valid driver's license issued in another state where the issuance requirements are at least as strict as those in Tennessee, 3) a birth certificate issued by a state, jurisdiction or territory, 4) a U.S. government-issued birth certificate, 5) a valid, unexpired U.S. passport, 6) a U.S. certificate of birth abroad (DS-1350 or FS-545), 7) a report of birth abroad of a citizen of the U.S. (FS-240), 8) a certificate of citizenship (N560 or N561), 9) a certificate of naturalization (N550, N570, or N578), 10) a U.S. citizen identification card (I-197 or I-179), and 11) a valid alien registration document or other proof of current immigration registration.

Private employers with 500 or more employees must be in compliance as of January 1, 2012. Those with 200-499 employees must be in compliance as of July 1, 2012. Those employers with 6-199 employees must be in compliance by January 1, 2013. The DOL states that in determining the number of employees, the employer must count ALL employees, regardless of whether or not they are physically in Tennessee.

The state requires employers to retain documents relating to this law for three years after the date of employment or one year from the date of termination, whichever is later. (This mirrors the I-9 retention period.)

Stiff penalties can be imposed against an employer who violates the TLEA. Possible penalties include civil fines of \$500-\$2,500 per unverified employee, depending on whether or not the employer is a repeat offender. In addition, possible suspension of business licenses and inclusion on a DOL-maintained publicly accessible list is likely.

Some uncertainty remains regarding the enforceability of fines under this law in the wake of last year's Supreme Court decision on Arizona's immigration law, but employers should not risk non-compliance.

Any employer with a presence in Tennessee and more than 200 employees needs to comply with this law.

Employers can find further information from the Tennessee Department of Labor (<http://www.tn.gov/labor-wfd/eVerify/index.shtml>) or by contacting your Jackson Lewis attorney.

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