



# THE KULLMAN FIRM

A PROFESSIONAL LAW CORPORATION

CLIENT E-NEWSLETTER

## SPECIAL BULLETIN

### **Louisiana Cracks Down on Illegal Immigrant Hiring**

Effective August 15, 2011, Louisiana joins the parade of states cracking down on illegal immigration. Governor Bobby Jindal recently signed two separate bills into law addressing the employment of illegal aliens.

House Bill 646, Act 402 amended La. Rev. Stat. § 23:995, and prohibits all employers from hiring, employing, recruiting, or referring illegal workers. The law offers a defense to civil penalties on a showing that the employer either used E-Verify, or retained a copy of the employee's picture ID and one of the following official documents:

- A United States birth certificate or certified birth card
- Naturalization certificate
- Certificate of citizenship
- Alien registration receipt card
- United States immigration form I-94 (with employment authorized stamp).

E-Verify is an internet based employment eligibility verification system. It confirms employment eligibility by comparing an employee's I-9 information with the Social Security Administration and the Department of Homeland Security.

There is some confusion created by the drafting of the statute because although it allows an employer to avoid penalties by using either method, it particularly encourages the use of E-Verify (and not the picture ID method) by expressly creating a presumption of good faith for an employer who relies on the accuracy of the E-Verify system.

Penalties for any violation range from \$500 per worker for a first offense, to \$1,000 for the second offense, to a suspension of the business license and a fine of \$2,500 per worker. Certain healthcare related entities and facilities are carved out of the penalty sections and directed to follow licensing procedures of the Department of Health and Hospitals.

In addition, House Bill 342, Act 376 enacted La. Rev. Stat. § 38:2212.10, (entitled "Verification of employees involved in public contract work"). This bill is directed at all private companies that contract with state and local entities, and requires them to use the E-Verify System for all employees to verify that the employees are either U.S. citizens or legal aliens. Before a company may bid on a public contract in Louisiana, the bidder is required to sign a sworn affidavit that it has used E-verify on all new and existing employees and will continue to do so throughout the duration of the contract. All subcontractors are required to comply as well. The law creates a defense for employers found to have hired an illegal worker if the employer complied with the law and utilized the E-Verify system. It further protects the employer from civil or criminal liability for refusal to hire a potential employee if the E-Verify system indicates the person is not legal.

*Continued from page 1*

Penalties for failing to comply may include cancellation of the contract, a ban on bidding on any further public contracts for up to three years, and costs associated with cancellation of the contract (such as re-bidding). This law applies to all contracts entered into or bids offered on or after January 1, 2012.

As a result of these recently enacted state employment and immigration laws, all employers should review their hiring and recordkeeping practices to ensure compliance. If you need assistance in handling your hiring and screening practices, please contact the Kullman Firm attorney with whom you regularly correspond.



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