

# ALERT: Louisiana Enacts New e-Verify Laws

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On July 1, 2011, Louisiana enacted two E-verify laws, both designed to deter employers from employing workers who do not hold the proper immigration or citizenship status to work in the United States.

Effective August 15, 2011, Louisiana Revised Statute section 23:995 penalizes any person who employs, hires, recruits, or refers for employment an alien without legal authority to work in the United States. To avoid this result, employers in Louisiana (regardless of size) must verify the citizenship or work authorization status EITHER by using E-verify for all employees OR by retaining picture identification and a copy of a U.S. birth certificate, a naturalization or other certificate of U.S. citizenship, or an I-94 Form with employment authorized stamp for all employees. The law incentivizes employers to use E-verify by providing that employers who use the E-verify method rather than the written documentation method are presumed to be in good faith if they are later found to have employed an unauthorized worker.

Monetary penalties are discretionary with the Louisiana Workforce Commission and are capped at \$500 per undocumented worker for a first offense, and \$1,000 per undocumented worker for a second offense. Upon a third offense, the law provides a mandatory revocation of the offender's permits or licenses to do business in the state.

An additional new law applies to employers that bid on or enter into contracts with Louisiana public entities after January 1, 2012. Louisiana Revised Statute section 38:2212.10 requires bidding employers to provide a sworn affidavit verifying that the employer and all of its subcontractors on the job will be registered with and will participate in the E-verify system throughout the duration of the contract. Failure to comply enables the State to cancel any of the employer's public contracts and revoke its eligibility to bid on public contracts for a period of no more than three years and to charge the offending employer for any additional costs incurred by the public entity due to the cancellation of the contract.

The E-verify system is an electronic database operated by the federal government that connects a worker's name and biographical data to a status that permits legal employment in the United States. In particular, a worker's identity data is matched against information held by the Social Security Administration and Homeland

Security. If the entered information matches the government's records, the employer receives a confirmation. If not, the employer receives a "tentative nonconfirmation" or TNC. Employers must offer the workers eight business days to correct the record if there is an error, and cannot take adverse action against the worker during that time period. If the error is not corrected, the employer will receive a final nonconfirmation notice, at which point the employer is able to terminate the worker.

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