

Small Businesses Beware:

South Carolina's Illegal Immigration Crackdown Moves into New Phase

By David Dubberly and Melissa Azallion

Arizona lawmakers have been making a lot of headlines recently due to their new immigration law, which many are now calling "the toughest in the nation." But on July 1st, South Carolina's crackdown on illegal immigrants will enter a new phase, and it has the potential to impact tens of thousands of small businesses.

When the legislature passed the S.C. Illegal Immigration Reform Act in 2008, it initially subjected businesses with 100 or more employees to random audits designed to identify foreign workers who were in the country illegally. Those audits, which began July 1, 2009, have affected about 2,100 companies.

But that number is expected to grow significantly – to 110,000 – when the audits are expanded in July to include companies with fewer than 100 employees. And that could pose a real challenge to small businesses in industries that have a tradition of hiring immigrants, legal or otherwise.

South Carolina has emerged as an attractive destination for immigrants. Between 1990 and 2000, our foreign-born population grew by 132 percent, and from 2000 to 2008 we had the highest growth rate of any state in the nation. As could be expected, there was a parallel increase in the number of undocumented immigrants – which is today estimated to be 80,000 – leading lawmakers to seek tougher hiring standards.

The 2008 act does that, requiring the legal status of new workers to be verified beyond the standard I-9 form. Now, worker eligibility must be further demonstrated either by:

- A driver's license or identification card from South Carolina or one of the 26 states listed on the Department of Labor, Licensing and Regulation (LLR) website; or
- Through an Internet-based federal government system called E-Verify, which matches an employee's identity & work eligibility with various government databases.

Since the law went into effect, LLR has issued nearly 90 citations. Perhaps just as important, however, is that 94 percent of the companies that have been audited have been in compliance.

The number of citations is expected to be higher – and the compliance rate lower – when smaller companies come under the act's umbrella. The broader scope of investigation will likely put a spotlight on employers in businesses that include landscaping, restaurants, hotels, poultry processing, construction, and certain areas of manufacturing.

Any company found in violation of the Illegal Immigration Reform Act faces fines ranging from \$100 to \$1,000 per worker. In cases where employers knowingly or intentionally

hire an unauthorized worker, they could lose their license to employ workers in the state.

So the question is, what can smaller companies do to avoid violating the law?

The obvious answer is to be sure that the appropriate verification records – beyond the required I-9 forms – are up to date and easily accessible for workers hired after July 1. (For those hired before July 1, companies will have to sign a document stating that they neither knowingly nor willingly employed illegal immigrants; failure to do so will result in a random check of all workers, regardless of their native origins or length of service with the company.)

Admittedly, this may mean more paperwork and less productivity. But being prepared, and everything that implies, remains the best defense.

More than that, however, small business owners – especially those in sectors facing the most scrutiny – need to accept the reality of the current climate. Because the question is not “if” they will be audited. The question is “when.”



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