

Blog Post

Florida's New Immigration Bill: What Employers Need to Know

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By [Paige S. Newman](#)

Florida employers should prepare now to comply with a new law taking effect in July, aimed at ensuring that employers do not allow undocumented immigrants to work in their businesses. Senate Bill 1718 (SB 1718), which became law on May 10, 2023, is an expansive immigration bill enacted in response to the expiration of federal Title 42, which allowed the expulsion of migrants at the border during the COVID-19 pandemic. At its base, SB 1718 prohibits employers from employing, hiring, recruiting, or referring any undocumented immigrant for public or private employment, and from continuing to employ any person after discovering the person is an undocumented immigrant. Beyond that basic prohibition, SB 1718 imposes significant requirements on employers to ensure that they are complying with the law.

Significantly, on July 1, 2023, all private employers in Florida with 25 or more employees must use [E-Verify](#), the Department of Homeland Security's web-based verification system, to verify that all new hires are eligible to work in the United States. Covered employers must complete verification through E-Verify within **three business days** of the employee's start date and maintain a copy of the verification provided and any other documents obtained through E-Verify for **three years**.

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Additionally, covered employers must certify compliance on their first tax return each calendar year when making contributions to or reimbursing the state's unemployment compensation or reemployment assistance system. Employers voluntarily using E-Verify may also make such a certification on its first return each calendar year to document use of E-Verify.

Notably, the only exception to the E-Verify requirement for covered employers is if the system is unavailable, in which case the employer must verify the new hire's eligibility with Form I-9 and provide documentation of the unavailability of E-Verify. If an employer who has complied with these requirements is found to have hired an undocumented immigrant, the employer is entitled to an evidentiary presumption that it did not do so unlawfully. Employers using E-Verify must also notify job applicants of their participation in E-Verify by clearly displaying Notice of E-Verify Participation and Right to Work posters in English and Spanish.

Employers who do not comply with these requirements may face costly repercussions. Beginning on July 1, 2024, if the Department of Economic Opportunity determines that an employer failed to use the E-Verify system to verify the employment eligibility of employees as required under SB 1718, the department must notify the employer of the department's determination of noncompliance and provide the employer with thirty days to cure the noncompliance. If the Department of Economic Opportunity determines that an employer failed to use the E-Verify system as required under this section three times in any 24-month period, the department must impose a fine of \$1,000 per day until the employer provides sufficient proof to the department that the noncompliance is cured.

In addition to Florida, 22 other states mandate employment eligibility verification, whether through

the use of E-Verify or an alternate verification system. State laws differ as to whether private employers, public employers, or both are covered by the applicable employment eligibility verification laws. For employers operating in multiple states, it is important to be aware of the nuances in state law and ensure compliance with each applicable law governing verification of employment eligibility, to avoid the costly penalties of non-compliance. For assistance with understanding the employment verification laws that apply to your company, please contact your Akerman attorney.

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