



## THE “NOT SO UNITED STATES” ON IMMIGRATION LAWS

While the federal government continues to debate various immigration bills, individual states have been very busy passing immigration laws on topics such as education, health care, public benefits and, of course, employment.

It is no longer sufficient to know only the federal immigration law, Immigration Reform and Control Act (“IRCA”), because some laws passed by certain states are not consistent with IRCA. For example, IRCA does not require employers to retain copies of the documents an employee submits for verification in the I-9 process and does not allow employers to choose which documents employees submit for verification purposes. However, Louisiana employers may only utilize a good faith defense to a charge of employing an illegal alien if the employers keep photocopies of documents, and only certain documents will entitle the employer to this defense. Similarly, there is currently no federal requirement that private employers (except federal contractors and subcontractors) use E-Verify to review whether their employees are authorized to work. However, some states, such as Mississippi and Arizona, require all employers to do so. Other states have laws that are consistent with IRCA, but impose greater penalties for non-compliance.

### *From Sea to Shining Sea: Highlights of the Recently Enacted State Laws*

A full copy of all of the state laws enacted during the first part of this year may be accessed online at <http://www.ncsl.org/LinkClick.aspx?fileticket=loB809F6cGQ%3d&tabid=20881>.

Here are some of the laws that may affect you:

- Georgia, S. 447: requires private contractors on public projects to participate in E-Verify
- Hawaii, H. 2925: revokes or suspends the license of a construction contractor for knowingly or intentionally employing unauthorized aliens
- Kansas, H. 2668: criminalizes knowingly hiring an undocumented worker
- Nebraska, L. 563: mandates that any contract between the state or political subdivision and a contractor require that the employer complete an I-9 form and have no reasonable belief to think any individual is an undocumented worker.
- Utah, S. 251: requires employers to use E-Verify
- Virginia, H. 3301: requires employers to use E-Verify

To read our previous E\*Bulletins on E-Verify, please review either our [October 2009](#) or [June 2008](#) issues.



*Sweet Land of Liberty*

So, remember, if you want to ensure compliance with the plethora of immigration laws, make sure to check not only the federal law requirements, but also the state and local laws as well. And then, audit, audit, audit. It is better to know what issues you have (and to correct them) before the government lands on your doorstep.

—[Laurie M. Chess](#) and [Mary Ellen B. Jordan](#)



*Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:*

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