



LEGAL ALERT

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COMPLYING WITH ARIZONA'S NEW IMMIGRATION LAW

Although Arizona's new immigration law (The Legal Arizona Workers' Act) won't formally take effect until January 1, 2008, employers would be well-advised to begin preparations now for complying with this new law which is generally viewed as the toughest in the nation. These preparations should include not only an internal audit of the company's I-9s and registering for the Basic Pilot program, but also ensuring that you have the infrastructure in place to ensure that you can take full advantage of all of the defenses demonstrating that you are not intentionally or knowingly hiring undocumented workers. Training of your supervisors and key support staff will be critical in making sure that your employees are not inadvertently creating liability for your company since even simple mistakes can lead to severe penalties including permanent loss of your business license.

The new law applies to nearly every employer who does business in Arizona. It covers any employer that (1) transacts business in Arizona; (2) has a license issued by an Arizona agency; and (3) employs one or more individuals who perform employment services in Arizona. The licenses subject to suspension or revocation include virtually all licenses with the exception of professional and certain environmental licenses.

An employer covered by the new law faces various sanctions depending on whether the employer "knowingly" or "intentionally" hires an unauthorized worker. The state law specifically references federal immigration law in defining the term "knowingly." Federal immigration law recognizes the concept of "constructive knowledge" that could be used to demonstrate a "knowing" violation. Thus, it



is very important that each company carefully examine what information it has that could be viewed as giving it constructive knowledge of undocumented workers on its staff. Under some circumstances the receipt of “no-match” letters from the Social Security Administration could be used to demonstrate constructive knowledge. Every company should have a policy or procedure on how to handle such “no match” letters.

If a company is found to have knowingly violated the new state law, the employer must terminate the worker, sign an affidavit that it will not knowingly or intentionally hire unauthorized workers, and file quarterly reports for a 3 year probationary period. A court may also suspend

the employer’s business license for not more than 10 business days. The “intentional” hiring of an unauthorized worker extends the probation period from 3 years to 5 years and requires mandatory suspension of the employer’s business license for at least 10 days. Repeat offenders face permanent revocation of their business license.

While some employers and employer groups are already making plans to challenge the new law, all Arizona employers should begin taking steps to ensure that they are in a position to fully comply with the law on January 1, 2008.

If you need assistance with this new law please contact Rebecca Winterscheidt (602-382-6343) or Manny Cairo (602-382-6534) at Snell & Wilmer.

Snell & Wilmer presents Arizona’s New Immigration Law:

Governor Napolitano recently signed new legislation targeting employers of undocumented workers which she characterized as “the most aggressive action in the country.” Arizona employers and companies with employees in Arizona will soon face severe penalties for failing to comply. In fact, a simple mistake by a hiring supervisor can have devastating consequences on a company. Are you prepared? Do you understand your duties and obligations under the new law?

Join Snell & Wilmer’s Employment Law attorneys for a complimentary breakfast seminar that will explore the legal and practical ramifications of the law and

the key issues to consider in developing your hiring practice compliance strategy.

Date: July 18, 2007

Time: 7:30 a.m.–8:00 a.m. Breakfast/Registration
8:00 a.m.–9:00 a.m. Program

Location: Snell & Wilmer, One Arizona Center,
400 E. Van Buren, Phoenix, AZ 85004

Parking validated at the Arizona Center parking garage at the corner of 5th Street and Fillmore.

RSVP to Raquel Holder at 602.382.6599, or
rsvp@swlaw.com.



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