



LEGISLATIVE ACTION UPDATE

Florida Legislature Advances Major Changes for Employers on Immigration Requirements

This week, the Florida Legislature advanced dual measures ([HB 1617/SB 1718](#)) related to state-level immigration requirements through committee. The bills, which were amended to be nearly identical, include a number of provisions, some of which impact businesses. These bills are in response to the federal government's failure to secure our nation's borders and broken legal immigration process for those who wish to become United States citizens, according to proponents.

2023 Immigration Legislation:

The immigration bills filed this year require the use of the federal government's E-Verify system for certain private employers, establish penalties for noncompliance, and include other provisions potentially problematic for Florida businesses. As a Governor Ron DeSantis [priority](#), it's likely that the E-Verify mandate will become law; however, through the advocacy efforts of the Florida Chamber of Commerce and business stakeholders from multiple industries, the current versions of the legislation are a significant improvement over the original House bill.

One change is limiting the scope of who must comply with E-Verify to employers of over 25 employees, which exempts nearly 93 percent of all Florida employers. This provision is important to Florida's small businesses, who generally have less resources or a full-time compliance officer to help comply with the new provisions. Small businesses under 25 employees can continue to use the Form I-9 to verify employment eligibility or choose to take the extra step of using E-Verify, which comes with heightened immunity protections from incidental non-compliance under the legislation.

Additionally, the current version of the bill provides businesses 30 days to cure noncompliance after receiving notice from the Department of Economic Opportunity (DEO) and requires DEO to notify a business prior to issuing penalties for violation of the bill. In addition to the 30-day right to cure, the civil penalties provided for in the bill are less severe and attempt to capture only willful violations of the law.

In the original House bill, if an employer violated the law twice in a 24-month period, regardless of intent, all of their business licenses would have been permanently revoked. In the current legislation, the first violation results in a one-year probationary period with reporting requirements to put a business on a path to compliance prior to any licenses being revoked. Furthermore, the latest bill only

permanently revokes a business license if the business has violated their probationary period and employs more than 50 unauthorized workers. This ensures that accidental, non-willful violations of the law do not result in a business license being revoked or criminal penalties.

Additionally, a Florida Chamber-sought provision was amended on to the bills to allow employers to use the I-9 form if the federal E-Verify system is offline. The E-Verify system is consistently unreliable and Florida employers attempting to hire employees should not be subject to long waiting periods due to the system not working.

Lastly, the bill in its current form takes out a provision in the original House bill that would allow any Floridian to file a complaint against any business claiming they hired an unauthorized worker, which could have allowed frivolous complaints simply because someone was angry at or prejudiced against a business or employer.

The bill also adds requirements on hospitals accepting Medicaid funding to collect immigration status during hospital admissions and emergency room visits and report the deidentified data to the Agency of Health Care Administration (AHCA). AHCA will then be required to report to the Governor and legislature the data compiled and the cost of uncompensated care.

As drafted, both bills apply prospectively to new employees hired after July 1, 2023. The latest version also includes a one-year delay in enforcement, with penalties not going into effect until July 1, 2024.

Background:

It is illegal in the state of Florida to hire unauthorized workers, and there are different requirements for employers to verify they are following the law. In 2019, Florida enacted a new law requiring public employers and private employers contracting with state and local governments or receiving state incentive dollars to use the federal E-Verify system, a web-based system that confirms the eligibility of employees to work in the United States. Originally, this bill would have required all employers to use E-Verify, however a Florida Chamber-led provision was amended on to the bill to add the option for private employers to use the current I-9 employment eligibility form.

What's Next:

SB 1718 is scheduled to be heard by the full Senate on Thursday, and HB 1617 had its last two committees of reference removed and will likely be heard on the House floor next week. While these changes appear likely to pass without further amendment, the Florida Chamber believes a comprehensive immigration solution that includes securing the border is required of the federal government.

If you have questions or would like to learn more about these immigration bills, please contact Chad Kunde, Director of Business Climate and Governance Policy at ckunde@flchamber.com.