

TENNESSEE LAWFUL EMPLOYMENT ACT QUESTIONS AND ANSWERS

Does the Tennessee Lawful Employment Act require me as a Tennessee employer to utilize E-Verify?

No. Participation in E-Verify is not mandatory. What is mandatory is that the employer must obtain and keep a copy of one of the eleven employment/identity documents listed on the home page to the TN Lawful Employment Act (TLEA) for both an employee and “non-employees”, and must comply with the federal I-9 process. A “non-employee” is an individual, other than an employee, who is paid directly by the employer in exchange for the individual’s labor or services.

What is E-Verify?

E-Verify is an internet-based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA). E-Verify works by comparing the information entered on an employee’s Form I-9 electronically with DHS and SSA records to determine the eligibility of that employee to work in the United States. Please go to their homepage at www.uscis.gov/everify for more information.

How can I enroll in E-Verify?

The E-Verify enrollment website is <https://e-verify.uscis.gov/enroll/> or you may call toll-free at 1-888-464-4218. E-Verify offers a comprehensive online tutorial as well as quick-reference guides, user manuals and other publications to assist users. E-Verify customer support is available to provide you with technical and program assistance.

Does use of E-Verify allow me to skip the I-9 process for newly hired employees?

No. Federal laws require all employers to verify the identity and employment eligibility of all new employees. Form I-9 must be completed for all new hires (including U.S. citizens) within three (3) business days of hire. This information can be verified through the E-Verify program once obtained by the employer to ensure the documentation presented is valid.

Does the new law allow me to utilize a third-party agent to conduct the E-Verify process for new hires?

Yes. Any employer can hire a third party agent to conduct E-Verify checks. Employers who can attest to lack of internet access may enter into agreement with the Tennessee Department of Labor and Workforce Development to act as a designated agent to verify new employees through the E-Verify program at no cost to the employer.

What do I need to have if my business is inspected by the department and when?

The employer will be required to provide either a copy of one of the eleven documents shown on the home page to the TLEA or provide a copy of a case verification report obtained from the E-Verify program that shows an employee is authorized to work in accordance with the phase-in period described in the Act, i.e., if he/she was hired after January 1, 2012 for an employer with an aggregate (total employed whether in Tennessee or outside of Tennessee) number of employees of 500 or more, after July 1, 2012, with 200 or more employees, or after January 1, 2013, if the employer has in the aggregate more than six (6) employees.

I understand the I-9 process and federal requirements but what is additionally required under the state law I should be aware of?

In addition to the requirements of the federal I-9 process state law requires the employer to maintain a copy of one of the eleven documents listed on the home page to the TLEA for three years after the documentation is received by the employer or one year after employment ends, whichever is later. State law also requires the employer to obtain and maintain a copy of one of the eleven listed documents for “non-employees” as well.