

## About E-Verify and E-Verify States

E-Verify is a web-based system that compares information from an employee’s Form I-9 to data from U.S. Department of Homeland Security and from Social Security Administration records to confirm employment eligibility. E-Verify is operated by the U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security (DHS), and is the government agency that oversees lawful immigration to the United States.

The federal government requires that all federal contractors and sub-contractors use E-Verify to verify that their newly hired workers are legally eligible to work in the United States. In addition, a number of states have enacted laws mandating the use of E-Verify. A table of these states is provided below.

In order to participate in the program, an employer must execute a Memorandum of Understanding (MOU). Background screening firms may also act as an employer’s authorized ‘Designated E-Verify Employer Agent.’

For information on how the E-Verify program operates, visit: [www.dhs.gov/e-verify](http://www.dhs.gov/e-verify).

There has been much debate as to the accuracy and completeness of the databases used, and if a worker is not verified, then there are a number of steps an employer must go through to complete the process. Note that in early 2007, the federal government significantly increased the penalty on employers who employ workers with fake Social Security numbers.

### Revised Form I-9 Available as of 11/14/2016

On Nov. 14, the USCIS released a revised version of Form I-9, Employment Eligibility Verification. The new form is found at <https://www.uscis.gov/i-9>. Employers may continue using Form I-9 with a revision date of 03/08/2013 through Jan. 21, 2017. By Jan. 22, 2017, employers must use the revised form. Employers should continue to follow existing storage and retentions rules for all of their previously completed Forms I-9. Read the USCIS News Release, and visit I-9 Central for more information.

### States Laws and E-Verify Requirements

As mentioned, use of E-Verify is voluntary, other than those employers affected by the federal law mandating use for federal contractors and subcontractors in all states. However, a number several of states have enacted laws mandating the use of E-Verify for all employees. The table below provides details about these state laws. Note this is followed by the short list of states that have passed *laws prohibiting the mandated use of E-Verify*.

#### U.S. States with Laws Requiring Mandatory E-Verify Use as of June 2016

State	E-Verify Law(s)
<b>Alabama</b>	<b>HB 56 – Beason-Hammon Alabama Taxpayer and Citizen Protection Act:</b> Passed in 2011, HB 56 is regarded as many as the nation's toughest immigration enforcement law passed at the state level. HB 56 requires all businesses, public and private, to begin using E-Verify by April 2012. The penalty for businesses not complying with the E-Verify mandate is a suspension of its business license.
<b>Arizona</b>	<b>HB 2779 – Arizona Fair and Legal Employment Act:</b> Passed in 2007, HB 2779 prohibits employers from knowingly hiring undocumented workers and requires all employers to use E-Verify, effective January 1, 2008. This was followed up in 2008 with <b>HB 2745</b> , which prohibits government contracts to any businesses not using E-Verify, effective May 1, 2008.
<b>California</b>	<b>Per AB 622</b> , as of January 1, 2016, California employers may face civil penalties of up to \$10,000 for misusing E-Verify. Most California employers are not required to use E-Verify. As mentioned below, in 2012 it became unlawful in California for the state or a city, county, or special district to require an employer to use an electronic employment verification system, such as E-Verify. However, some California employers, such as those performing work under a federal contract, may be required by federal law to use E-Verify. California’s new E-Verify law is primarily aimed at employers who choose to use E-Verify without being required to do so under federal law or as a condition of receiving federal funds. There are three conditions:

	<ol style="list-style-type: none"> <li>1. It is unlawful for an employer to use E-Verify to check the employment authorization status of an existing employee (unless required by federal law or as a condition of receiving federal funds).</li> <li>2. An employer may use E-Verify to check the employment authorization status of a person who has been offered employment.</li> <li>3. If an employer receives a Tentative Nonconfirmation, the employer must (as soon as practicable) give the employee any TNC or any notification issued by the SSA or Department of Homeland Security containing information specific to the employee's case.</li> </ol>
<b>Colorado</b>	<b>HB 1343:</b> Passed in 2006, HB 1343 prohibits state agencies from entering into contract agreements with contractors who knowingly employ illegal aliens and requires prospective contractors use E-Verify to ensure legal work status of all employees. In 2008, SB 193 was passed requiring contractors with state contracts to use E-Verify. The effective date for SB 193 was August 6, 2008.
<b>Florida</b>	<b>Executive Order 11-02:</b> Executive Order 11-02 requires all Florida state agencies under the direction of the Governor to use E-Verify to confirm the employment eligibility of all current and prospective employees (including subcontractors) assigned to perform work pursuant to a state agency contract, effective January 4, 2011. <b>Executive Order 11-116,</b> issued on May 27, 2011 provides some clarification. The requirement for state contractors to use E-Verify applies to “all contracts for the provision of goods and services to the state in excess of nominal value” in which there is an express requirement for such use.
<b>Georgia</b>	<b>SB 529:</b> Passed in 2006, SB 529 requires public employers, contractors and subcontractors with 500 or more employees to participate in E-Verify for all new employees, effective July 1, 2007. Public employers, contractors and subcontractors with more than 100 employees (but less than 500) must use E-Verify on or before July 1, 2008 and public employers, contractors and subcontractors with fewer than 100 employees must use E-Verify on or before July 1, 2009. <b>HB 87 – The ‘Illegal Immigration Reform and Enforcement Act of 2011’:</b> Passed in 2011, HB 87 requires all private businesses with more than 10 employees to use E-Verify. The phase-in began on July 1, 2011 and runs through July 1, 2013. Two additional laws were passed in 2012 (HB 1027 and HB 742) related to budget and expanded the definition of a business enterprise in the entertainment industry.
<b>Idaho</b>	<b>Executive Orders:</b> In May 2009, Gov. Butch Otter signed <b>Executive Order 2009-10</b> requiring all state agencies and contractors to use E-Verify if they wanted a share of the state's \$1.24 billion from the economic stimulus bill. In December 2006, Governor Jim Risch also issued <b>Executive Order 2006-40</b> , with immediate effect, requiring that state agencies participate in the E-Verify system.
<b>Indiana</b>	<b>SB 590:</b> Passed in 2011, SB 590 requires state and local agencies and state and local contractors to use E-Verify. The bill also requires private employers to use E-Verify in order to qualify for certain tax credits on their state income taxes.
<b>Louisiana</b>	<b>HB 342</b> Passed in 2011, HB 342 requires all state and local contractors to use E-Verify. <b>HB 646</b> requires private employers to either use E-Verify or check multiple forms of identification from the new hire, which must be kept on file. The bill states that employers that chose to use E-Verify to check the status of new hires have acted in “good faith” and are protected from prosecution.
<b>Michigan</b>	<b>HB 5365:</b> Passed in 2012, required mandatory use of E-Verify for contractors and sub-contractors of the Transportation Department for work involving maintenance, engineering, and construction services.
<b>Mississippi</b>	<b>SB 2988:</b> Passed in 2008, SB 2988 requires public and private employers to participate in E-Verify with full participation by July 2011.
<b>Missouri</b>	<b>HB 1549:</b> Passed in 2008, HB 1549 requires all public employers to use E-Verify. If a court finds that a business knowingly employed someone not authorized to work, the company's business permit and licenses shall be suspended for 14 days. Upon the first violation, the state may terminate contracts and bar the company from doing business with the state for 3 years. Upon the second violation, the state may

	permanently debar the company from doing business with the state.
<b>Nebraska</b>	<b>L 403:</b> Passed in 2009, LB403 requires state and local governments and contractors to use E-Verify effective October 1, 2009. The bill also includes incentives for private employers to use E-Verify.
<b>North Carolina</b>	<b>SB 1523:</b> Passed in 2006, SB 1523 requires all state agencies, offices, and universities to use E-Verify. The law applied to all employees hired after January 1, 2007 except for local education agencies which was March 1, 2007. <b>HB 36:</b> Passed in 2011, HB 36 requires all employers with more than 25 employees to use E-Verify, but on a phase in basis starting with employers that employ 500 or more employees. Effective July 1, 2013, HB36 also requires employers with 25 or more employees to use E-Verify to check work authorization for all new hires. Penalties vary and can be from \$1,000 to \$10,000 per violation. Seasonal workers are not required to be verified through E-Verify.
<b>Oklahoma</b>	<b>HB 1804 ‘Oklahoma Taxpayer and Citizen Protection Act’:</b> Passed in 2007 and made effective on November 1, 2007, HB 1804 requires public employers, contractors and subcontractors to participate in E-Verify and requires income tax withholding for independent contractors who do not have valid Social Security numbers.
<b>Pennsylvania</b>	<b>Public Works Employment Verification Act 127 of 2012 (SB627).</b> All public work contractors and subcontractors are required to utilize the Federal Government’s E-Verify system to ensure that all employees performing work on public work projects are authorized to work in the United States. The Department defines a “Public Work” to be construction, reconstruction, demolition, alteration and/or repair work other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body where the estimated cost of the total project is in excess of \$25,000 but shall not include work performed under a rehabilitation or manpower training program. The law was effective January 1, 2013
<b>South Carolina</b>	<b>HB 4400:</b> Passed in 2008, HB 4400 requires the mandatory use of E-Verify for all employers by July 1, 2010. All public employers, private employers with more than 100 employees and public contractors with more than 500 employees were required to comply by January 1, 2009. All private employers must comply by July 1, 2009 and all other all businesses by January 1, 2010.
<b>Tennessee</b>	<b>HB 1378 &amp; SB 374:</b> Passed in 2011, HB 1378 requires all employers with at least 6 employees to use E-Verify. The phase-in begins in January 2012 and runs through January 2013. All private employers with 6 to 199 employees must register and utilize E-Verify or request and maintain one of the above listed identity/employment authorization document from a newly hired employee or non-employee no later than January 1, 2013 <b>On April 21, 2016,</b> the Governor signed into law SB 1965, which requires mandatory E-Verify use for all employers with 50 or more employees effective January 1, 2017.
<b>Texas</b>	<b>Executive Order RP-80 &amp; SB 374 -</b> RP-80 issued in Dec. 2014 by Texas Governor Rick Perry requires E-Verify use by state agencies and contractors (at least for those employees assigned to the contract). In 2015 Texas enacted SB 374, which requires state agencies and institutions of higher education to use E-Verify as of September 1, 2015. The law did not require state contractors to enroll but the Attorney General issued a subsequent finding that it does not negate the related requirement under Gov. Perry’s executive order.
<b>Utah</b>	<b>SB 81:</b> Passed in 2008 and made effective on July 1, 2009, SB 81 requires public employers, public contractors and subcontractors to E-Verify and makes it illegal to discharge a lawful employee while retaining an unauthorized alien in the same job category. <b>SB 251:</b> Passed in 2010, SB 0251 requires all employers with more than 15 employees to begin using E-Verify July 1, 2011. Companies that utilize legal guest workers do not have to use E-Verify. <b>HB116:</b> Passed in 2011 establishes a state guest worker program but also complicates SB 251’s requirements by creating Verify Utah, an alternate verification program. Technically, the requirement for private employers with 15 or

	more employees to use E-Verify still exists, but cannot be considered a hard mandate like in other states since there is no enforcement and the guest worker program, lacking a needed federal waiver, was never established.
<b>Virginia</b>	<b>HB 737:</b> Passed in 2010, HB 737 requires all state agencies to begin using E-Verify by December 1, 2012. <b>HB 1859/SB 1049:</b> Passed in March 2011, the bill requires all state contractors with at least 50 employees and a contract worth at least \$50,000 to use E-Verify.
<b>West Virginia</b>	<b>SB 659:</b> Signed by the governor March 16, 2013, requires new employees hired to work on public grounds to have eligibility confirmed through E-Verify.

### U.S. States with Laws Prohibiting Mandatory E-Verify Use

**Note in 2011, Rhode Island Gov. Lincoln Chafee rescinded previous Gov. Carcieri's executive order requiring E-Verify. Thus while it is not required, it is not prohibited.**

**California:**

- **AB 1236 – The Employment Acceleration Act of 2011:** In October 2011, Governor Jerry Brown signed AB 1236 into law. The law prohibits the state, or a city, county, city and county, or special district, from requiring an employer other than one of those government entities to use an electronic employment verification system except when required by federal law or as a condition of receiving federal funds. The law took effect January 1, 2012. However, a new state law was passed effective January 1, 2016 which allows employers to use E-Verify in certain situations - see above.

**Illinois:**

- **HB 1774:** HB 1744 bars Illinois companies from enrolling in any Employment Eligibility Verification System until accuracy and timeliness issues are resolved.
- **HR 1743:** Illinois also enacted HB 1743, which creates privacy and antidiscrimination protections for workers if employers participating in E-Verify don't follow the program's procedures.
- **S1133:** On August 24, 2009, Illinois enacted S1133 prohibiting the state or localities from requiring employers to use an employment eligibility verification system.