

What is E-Verify?

E-Verify is an online system in which employers can check their employee's work eligibility. The pilot program was implemented in 1996 as a voluntary program in California, Florida, Illinois, Nebraska, New York and Texas. The E-Verify program has since been repeatedly renewed by Congress and subsequently expanded. E-Verify is now available in all 50 states and is a voluntary program. However, employers with federal contracts or subcontracts that contain the Federal Acquisition Regulation (FAR) E-Verify clause are required to enroll in E-Verify as a condition of federal contracting.

What should an employer know?

In Illinois, the Right to Privacy in the Workplace Act (820 ILCS 55/12) stipulates that prior to choosing to voluntarily enroll in the E-Verify Program, employers are urged to consult the Illinois Department of Labor's website for current information regarding the accuracy of the program. Additionally, employers are encouraged to review and understand their legal responsibilities relating to the use of the E-Verify Program. Furthermore, the Act prohibits the misuse of the Program and places certain training and recordkeeping requirements on the employer.

What should an employee know?

In Illinois, an employer is prohibited from using the E-Verify Program to check the immigration status of current employees or to pre-screen prospective employees that have not been offered a position with the company. The employer may not check on your immigration status before you are offered a job. An employer may not take adverse action when you file a complaint.

What is a violation of state law?

Violations of this Act include the following:

- Failure to display the notices supplied by the Office of Special Counsel for Immigrant-Related Unfair Employment Practices (OSC) and the Department of Homeland Security (DHS) in a place clearly visible to both prospective and current employees. Both of which can be found on the IDOL website.

- When an employer allows an employee to use the E-Verify system prior to having completed the Computer Based Training (CBT) and allow those employees to use the E-Verify program under an employee's user identification or password that has taken the training.
- Use the E-Verify program as a pre-screening mechanism for prospective employees.
- Terminate an employee prior to that employee receiving a final non-confirmation notice from the Social Security Administration or the Department of Homeland Security.
- Failure to notify the employee, in writing, of the employer's receipt of a tentative non-confirmation notice and of the employee's right to contest that tentative non-confirmation letter.
- Failure to safeguard the information contained in the E-Verify program database.

Who should I call to file a complaint or ask questions?

Contact Jason Keller at 217-782-1706 OR you may email him at Jason.keller@illinois.gov

You may also visit the Illinois Department of Labor website for more information:

<https://www2.illinois.gov/idol/Laws-Rules/legal/Pages/privacy-workplace.aspx>

How does the Illinois Department of Labor enforce this law?

Any employee or prospective employee can file a complaint with the Illinois Department of Labor. If the complaint contains enough information for an investigation to proceed, the Department will attempt to resolve the complaint with the employer and employee via conference, conciliation or by analyzing employer records to ascertain the allegation(s) posed. The Department may conduct investigations, visit and inspect the premises, as well as obtain any documentation that is pertinent to the investigation. The Department may request the issuance of a search warrant or to subpoena all records that are pertinent to an investigation.

Where to find participating E-Verify employers?

<https://www.e-verify.gov/about-e-verify/e-verify-data/how-to-find-participating-employers>