

News Illinois Laws taking effect on January 1, 2010.

### **Transportation**

**No Texting While Driving, PA 96-0130** – Provides that a person may not operate a motor vehicle on a roadway while using an electronic communication device to compose, send, or read an electronic message. GPS devices may still be used and a person can use an electronic communication device while the vehicle is parked on the shoulder of the roadway and when the vehicle is stopped due to normal traffic being obstructed and the driver has the motor vehicle transmission in neutral or park.

**Cell Phone Usage in School Zones, PA 96-0131** – Prohibits the use of a cell phone while in a school or construction zone, however, cell phone may be used if it is in “voice-activated mode”.

**65 mph Speed Limit for Trucks, PA 96-0524** – Increases the interstate speed limit for trucks to 65 miles per hour. Provides that a vehicle designed or used for the carrying of a gross weight of 8,001 pounds or more is 65 miles per hour on any interstate highway (rather than 55). The vehicle must be operating outside of urban areas and must not be in the counties of Cook, DuPage, Kane, Lake, McHenry, and Will.

### **Human Resources**

**Order of Protection Status, PA 96-0447** – Amends the Illinois Human Rights Act to prohibit the discrimination of persons who have “order of protection status”.

**Tuition for State Sponsored Employee Training, PA 96-0548** – Authorizes the state to charge businesses, non-governmental entities, non-for-profit groups or organizations with 50 or more employees tuition for classes conducted in the State’s Institute for Training and Development.

### **Changes to E-Verify**

**E-Verify, PA 96-0623** - Provides that employers are urged to consult the Illinois Department of Labor's website for current information on the accuracy of E-Verify and to review and understand an employer's legal responsibilities relating to the use of the voluntary E-Verify program.

More employers are using the Federal E-Verify system to determine the eligibility of employees to work in the United States. If you are an Illinois employer using this verification system either voluntarily or because of the mandate for Federal contractors, you must comply with the amendments to the Illinois Right to Privacy in the Workplace Act (the Act).

The Act provides that as of January 1, 2010, employers choosing to VOLUNTARILY enroll in E-Verify "are urged" to consult the Illinois Department of Labor website, which shall contain information regarding the accuracy of the E-Verify program, the estimated

financial burden on employers using the program, and the employers' responsibilities when using the program.

The Act also has several mandatory components, and it is not clear that these requirements apply only to those who voluntarily enroll in E-Verify. Thus, these requirements may apply to federal contractors who are now required to use E-Verify. The mandatory components are attestation, posting, training, and limits on when to use the program and how the employer can use the information. The remedies for violations include the employee's or applicant's right to bring a claim under the Illinois Human Rights Act and the Department of Labor authority to seek penalties, back pay, attorney fees, and costs. Violations are considered a petty criminal offense.

### **Attestation Requirements**

The new statute states that upon initial enrollment in the E-Verify system, or by January 31, 2010, whichever is later, the employer shall complete an "E-Verify Employer Attestation Form" verifying:

“The company has received the E-Verify training materials from the Department of Homeland Security (DHS) and all employer personnel administering the E-Verify system have completed the Computer-Based Tutorial (CBT); and The employer has posted in a prominent place that is clearly visible to prospective and current employees: the notice from DHS indicating that the employer is enrolled in E-Verify; and the antidiscrimination notice issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.”

You can locate a copy of the form by clicking the following link:

<http://www.state.il.us/agency/idol/Forms/PDFs/attest.pdf>.

The employer must maintain the signed original of the attestation form as well as all CBT certificates of completion and make them available for inspection or copying by the IDOL at any reasonable time.

### **Posting and Training**

Employers violate the Act by failing to post the required notice and allowing employees to use the E-Verify system prior to having completed the Computer-Based Tutorial. Employers also violate the Act by failing to take "reasonable steps" to prevent an employee from circumventing the requirement to complete the CBT by assuming another employee's E-Verify or Basic Pilot user identification or password.

### **When the Employer Can Use the E-Verify System, and How It Can Use the Information**

The Act prohibits employers from using the E-Verify system to verify the employment eligibility of job applicants prior to hiring or to otherwise use the system to screen individuals prior to hiring and prior to the completion of a Form I 9.

The Act further states that employers shall not terminate an employee or take any other adverse employment action against an individual prior to receiving a final nonconfirmation notice from the Social Security Administration or the Department of Homeland Security.

The Act requires employers to notify an individual, in writing, of the employer's receipt of a tentative nonconfirmation notice, of the individual's right to contest the tentative nonconfirmation notice, and of the contact information for the relevant government agency or agencies that the individual must contact to resolve the tentative nonconfirmation notice.

Finally, the Act requires employers to safeguard the information contained in the Employment Eligibility Verification System, as well as the means of access to the system (such as passwords and other privacy protections). An employer shall ensure that the system is not used for any purpose other than employment verification of newly hired employees and that the information contained in the system and the means of access to the system are not disseminated to any people other than employees who need such information and access to perform the employer's employment verification responsibilities.

### **Facilities**

**Vacant Buildings, PA 96-0755** – Provides that a taxing district may abate its property tax for up to two years on any vacant building that becomes occupied by a business. The building must have been vacant for at least two years prior to the business occupying the building. The value of the abatement can not exceed \$4 million and it takes a majority vote of the governing board of the taxing district to approve the abatement.