



Sen. Javier L. Cervantes

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10300SB1515sam001

LRB103 27647 SPS 58436 a

1 AMENDMENT TO SENATE BILL 1515

2 AMENDMENT NO. _____. Amend Senate Bill 1515 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Right to Privacy in the Workplace Act is
5 amended by changing Section 12 and adding Section 13 as
6 follows:

7 (820 ILCS 55/12)

8 Sec. 12. Use of Employment Eligibility Verification
9 Systems.

10 (a) Prior to enrolling ~~choosing to voluntarily enroll~~ in
11 any Electronic Employment Verification System, including the
12 E-Verify program and the Basic Pilot program, as authorized by
13 8 U.S.C. 1324a, Notes, Pilot Programs for Employment
14 Eligibility Confirmation (enacted by P.L. 104-208, div. C,
15 title IV, subtitle A), employers are urged to consult the
16 Illinois Department of Labor's website for current information

1 on the accuracy of E-Verify and to review and understand an
2 employer's legal responsibilities relating to the use of the
3 ~~voluntary~~ E-Verify program.

4 (a-1) The Illinois Department of Labor (IDOL) shall post
5 on its website information or links to information from the
6 United States Government Accountability Office, Westat, or a
7 similar reliable source independent of the Department of
8 Homeland Security regarding: (1) the accuracy of the E-Verify
9 databases; (2) the approximate financial burden and
10 expenditure of time that use of E-Verify requires from
11 employers; and (3) an overview of an employer's
12 responsibilities under federal and state law relating to the
13 use of E-Verify.

14 (b) Upon initial enrollment in an Employment Eligibility
15 Verification System or within 30 days after the effective date
16 of this amendatory Act of the 96th General Assembly, an
17 employer enrolled in E-Verify or any other Employment
18 Eligibility Verification System must attest, under penalty of
19 perjury, on a form prescribed by the IDOL available on the IDOL
20 website:

21 (1) that the employer has received the Basic Pilot or
22 E-Verify training materials from the Department of
23 Homeland Security (DHS), and that all employees who will
24 administer the program have completed the Basic Pilot or
25 E-Verify Computer Based Tutorial (CBT); and

26 (2) that the employer has posted the notice from DHS

1 indicating that the employer is enrolled in the Basic
2 Pilot or E-Verify program and the anti-discrimination
3 notice issued by the Office of Special Counsel for
4 Immigration-Related Unfair Employment Practices (OSC),
5 Civil Rights Division, U.S. Department of Justice in a
6 prominent place that is clearly visible to both
7 prospective and current employees. The employer must
8 maintain the signed original of the attestation form
9 prescribed by the IDOL, as well as all CBT certificates of
10 completion and make them available for inspection or
11 copying by the IDOL at any reasonable time.

12 (c) It is a violation of this Act for an employer enrolled
13 in an Employment Eligibility Verification System, including
14 the E-Verify program and the Basic Pilot program:

15 (1) to fail to display the notices supplied by DHS and
16 OSC in a prominent place that is clearly visible to both
17 prospective and current employees;

18 (2) to allow any employee to use an Employment
19 Eligibility Verification System prior to having completed
20 CBT;

21 (3) to fail to take reasonable steps to prevent an
22 employee from circumventing the requirement to complete
23 the CBT by assuming another employee's E-Verify or Basic
24 Pilot user identification or password;

25 (4) to use the Employment Eligibility Verification
26 System to verify the employment eligibility of job

1 applicants prior to hiring or to otherwise use the
2 Employment Eligibility Verification System to screen
3 individuals prior to hiring and prior to the completion of
4 a Form I-9;

5 (5) to terminate an employee or take any other adverse
6 employment action against an individual prior to receiving
7 a final nonconfirmation notice from the Social Security
8 Administration or the Department of Homeland Security;

9 (6) to fail to notify an individual, in writing, of
10 the employer's receipt of a tentative nonconfirmation
11 notice, of the individual's right to contest the tentative
12 nonconfirmation notice, and of the contact information for
13 the relevant government agency or agencies that the
14 individual must contact to resolve the tentative
15 nonconfirmation notice;

16 (7) to fail to safeguard the information contained in
17 the Employment Eligibility Verification System, and the
18 means of access to the system (such as passwords and other
19 privacy protections). An employer shall ensure that the
20 System is not used for any purpose other than employment
21 verification of newly hired employees and shall ensure
22 that the information contained in the System and the means
23 of access to the System are not disseminated to any person
24 other than employees who need such information and access
25 to perform the employer's employment verification
26 responsibilities.

1 (c-1) Any claim that an employer refused to hire,
2 segregated, or acted with respect to recruitment, hiring,
3 promotion, renewal or employment, selection for training or
4 apprenticeship, discharge, discipline, tenure or terms,
5 privileges, or conditions of employment without following the
6 procedures of the Employment Eligibility Verification System,
7 including the Basic Pilot and E-Verify programs, may be
8 brought under paragraph (G)(2) of Section 2-102 of the
9 Illinois Human Rights Act.

10 (c-2) It is a violation of this Section for an individual
11 to falsely pose as an employer in order to enroll in an
12 Employment Eligibility Verification System or for an employer
13 to use an Employment Eligibility Verification System to access
14 information regarding an individual who is not an employee of
15 the employer.

16 (d) Preemption. Neither the State nor any of its political
17 subdivisions, nor any unit of local government, including a
18 home rule unit, may require any employer to use an Employment
19 Eligibility Verification System, including under the following
20 circumstances:

21 (1) as a condition of receiving a government contract;

22 (2) as a condition of receiving a business license; or

23 (3) as penalty for violating licensing or other
24 similar laws.

25 This subsection (d) is a denial and limitation of home
26 rule powers and functions under subsection (h) of Section 6 of

1 Article VII of the Illinois Constitution.

2 (Source: P.A. 95-138, eff. 1-1-08; 96-623, eff. 1-1-10;
3 96-1000, eff. 7-2-10.)

4 (820 ILCS 55/13 new)

5 Sec. 13. Restrictions on the use of Employment Eligibility
6 Verification Systems.

7 (a) If an employer receives notification from the Social
8 Security Administration of a discrepancy between an employee's
9 name or social security number and the Social Security
10 Administration's records, and the employer takes any adverse
11 action against the employee, an employer must:

12 (1) provide the employee with:

13 (A) the specific document or documents that are
14 deemed to be deficient and the reason why the document
15 or documents are deemed to be deficient;

16 (B) instructions on how the employee can correct
17 the deficient documents;

18 (C) an explanation of the employee's right to have
19 representation present during the verification or
20 re-verification process; and

21 (D) an explanation of any other rights that the
22 employee may have in connection with the verification
23 or re-verification process; and

24 (2) grant the employee no less than 30 days of unpaid
25 leave to correct any verification discrepancy. If the

1 unpaid leave period has expired and the employee can
2 reasonably demonstrate an ability to remedy the
3 discrepancy, the employer and employee may agree to extend
4 the leave period for an additional 30 days. Only if no
5 agreement is reached or the additional 30 day period has
6 expired, can the employer terminate the employee's
7 employment.

8 (b) When an employer receives notification from any
9 federal or State agency, including, but limited to, the Social
10 Security Administration or Internal Revenue Service, of a
11 discrepancy, the following rights and protections are granted
12 to the employee:

13 (1) to choose which work authorization documents to
14 present to the employer during the verification or
15 re-verification process; and

16 (2) to choose to be represented by counsel or
17 represent his or herself in any meetings, discussions, or
18 proceedings with the employer.

19 (c) If an employer receives notification from any federal
20 or State agency, including, but not limited to, the Social
21 Security Administration or the Internal Revenue Service, of a
22 discrepancy and the discrepancy has been remedied, the
23 employer must:

24 (1) return the employee to his or her former position,
25 without loss of seniority, compensation rate or salary, or
26 benefits; and

1 (2) not consider the discrepancy in future promotion
2 decisions or continued employment considerations.".