



Labor and Employment *ALERT*

Current Law Developments and Legal Issues

That May Affect You Or Your Business

Lafayette Shreveport

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All Employers Must Begin Using Revised Form I-9 on February 2, 2009

The Department of Homeland Security (DHS) amended its regulations governing the types of acceptable identity and employment authorization documents and receipts that employees may present to their employers for completion of the Form I-9, Employment Eligibility Verification. ALL employers are required to have a completed I-9 Form for each employee hired after November 6, 1986. This revised and updated form becomes effective February 2, 2009, and replaces previously issued forms.

Under the new rule, employers will no longer be able to accept expired documents to verify employment authorization on the Form I-9. This rule also adds a new document to the list of acceptable documents that evidence both identity and employment authorization and makes several technical corrections and updates. The purpose of this rule is to improve the integrity of the employment verification process so that individuals who are unauthorized to work are prevented from obtaining employment in the United States. A copy of the amended Form I-9 reflecting these and other form-related changes can be downloaded from the following link:

www.uscis.gov/files/form/I-9_IFR_02-02-09.pdf

The regulations also include penalties for I-9 noncompliance. According to the I-9 form, "federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form." An employer who hires an unauthorized worker can be fined between \$250 and \$5,500 per worker. In addition, such an employer can be barred from federal government contracts for a year. An employee who knowingly accepts fraudulent documentation can also be criminally prosecuted under other immigration laws.

An employer who fails to keep proper records that I-9s are properly filed can be fined \$100 per missing item for each form, up to \$1000 per form, even if the employee is legally authorized to work in the US.

Employers, translators or preparers who knowingly enter wrong information can be charged with perjury.

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Joan L. Boudreaux

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