

Feds crackdown on companies that hire illegal immigrants

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In the past year, U.S. Immigration and Customs Enforcement has charged 13 employers in New Jersey with not properly guaranteeing their employees were authorized to work in the United States. The fines, totaling about \$640,000 according to the ICE office in Newark, are about 14 times the amount levied last year, when the fines totaled less than \$45,000.

The Obama administration is carrying out silent raids and targeting employers instead of employees to prevent businesses from hiring illegal immigrants. Strict civil penalties can be imposed on an employer who doesn't properly verify the status of its employees, said David Rich, an employment attorney based in New York and Englewood Cliffs.

Rich graduated from Columbia University School of Law in 1994 and represents small and midsized employers.

Rich spoke with The Record about how New Jersey businesses can avoid hiring illegal immigrants. The following was edited for length and clarity:

Q: What are businesses in New Jersey required to do to prove an employee is authorized to work in the U.S.?

They're required to complete an I-9 form for every new employee to confirm their identity and authorization. Within three days after the employee's first day of employment, the employer's representative has to look at the original certification documents to avoid possible fraud. The employer signs and completes the section that says the employee is authorized to work in the United States. The employer has to keep the records on file for three years from the date of hire or one year after termination, whichever is later.

Q: What are common mistakes employers run into with employee verification?

One typical mistake is reviewing photocopies of an employee's documents instead of the originals. In addition, employers will have one representative review the documents and another one certify, and that's improper. The person who looks at the documents has to be the same one certifying that they are in order. Just because documents are presented doesn't mean you automatically sign. You have to look at them and do a visual inspection to see if they look like the person in the picture.

Q: What is the obligation of the company to ensure the documents are legitimate?

It's a standard of reasonableness. The employer is not required to be a detective agency and to root

out all evidence of possible fraud on identification documents. They're supposed to act like a reasonable person, but if a reasonable person would believe the documents are false, then they're supposed to reject them.

Q: What should an employer do if it discovers one of its employees is an illegal immigrant?

An employer should always verify with the federal government before making an employment decision based on that information. If after checking with the federal government and giving the employee a chance to explain himself, it turns out the employee is an illegal immigrant, he should be terminated.

Q: What types of businesses have a higher chance of running into illegal immigration issues?

Some of the typical target industries are agriculture, construction, food processing, hospitality and textiles.

Q: What are the penalties if a company is caught hiring illegal immigrants?

The penalties for first offenses are civil fines of \$375 to \$3,200 for each unauthorized worker. Second offenses include fines of \$3,200 to \$6,500, and every offense after the second offense includes civil fines of \$4,300 to \$16,000. If an employer has engaged in apparent practice of knowingly hiring or continuing to employ unauthorized workers, then criminal penalties are provided.

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