

2784

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 20, 2015

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Introduced by M. of A. KATZ -- Multi-Sponsored by -- M. of A. FINCH,  
FITZPATRICK, GRAF, HAWLEY, LALOR, McDONOUGH, McLAUGHLIN, NOJAY,  
PALMESANO, SALADINO, TENNEY -- read once and referred to the Committee  
on Labor

AN ACT to amend the labor law, in relation to requiring public and  
private employers to register for and participate in the E-verify  
program for verification of employment eligibility; and to amend the  
tax law, in relation to establishing a tax credit for employers with  
less than fifty employees that register for the E-verify program by a  
certain time

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The labor law is amended by adding a new section 219-b to  
2     read as follows:  
3     S 219-B. EMPLOYER VERIFICATION OF EMPLOYMENT ELIGIBILITY; E-VERIFY  
4     PROGRAM. 1. FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING WORDS SHALL  
5     BE DEFINED AS FOLLOWS:  
6     (A) "EMPLOYER" MEANS ANY PERSON, ENTITY, BUSINESS, CORPORATION, LIMIT-  
7     ED LIABILITY COMPANY, OR ASSOCIATION EMPLOYING ANY INDIVIDUAL IN ANY  
8     OCCUPATION, INDUSTRY, TRADE, BUSINESS OR SERVICE;  
9     (B) "PUBLIC EMPLOYER" MEANS EVERY DEPARTMENT, AGENCY, OR INSTRUMENTAL-  
10    ITY OF THE STATE OR POLITICAL SUBDIVISION OF THE STATE;  
11    (C) "EMPLOYEE" MEANS ANY PERSON OR ENTITY EMPLOYED FOR HIRE BY A  
12    PUBLIC OR PRIVATE EMPLOYER IN ANY EMPLOYMENT; AND  
13    (D) "E-VERIFY PROGRAM" MEANS THE ELECTRONIC EMPLOYMENT VERIFICATION  
14    PROGRAM THAT IS AUTHORIZED BY THE ILLEGAL IMMIGRATION REFORM AND IMMI-  
15    GRATION RESPONSIBILITY ACT OF 1996, PUBLIC LAW 104-208, DIVISION C,  
16    SECTION 403(A); 8 U.S.C. SECTION 1324(A)(H)(3), AND JOINTLY ADMINISTERED  
17    BY THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY AND THE SOCIAL  
18    SECURITY ADMINISTRATION, OR ITS SUCCESSOR PROGRAM.  
19    2. EVERY PUBLIC OR PRIVATE EMPLOYER SHALL REGISTER FOR AND PARTICIPATE  
20    IN THE E-VERIFY PROGRAM, OR ITS SUCCESSOR PROGRAM, FOR THE PURPOSE OF  
21    VERIFYING THE EMPLOYMENT ELIGIBILITY STATUS OF SUCH EMPLOYER'S NEWLY  
22    HIRED EMPLOYEES BY THE FOLLOWING DATES:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 (A) FOR AN EMPLOYER WITH ONE HUNDRED OR MORE EMPLOYEES, NO LATER THAN  
2 JULY FIRST, TWO THOUSAND SIXTEEN;

3 (B) FOR AN EMPLOYER WITH AT LEAST FIFTY EMPLOYEES BUT FEWER THAN ONE  
4 HUNDRED EMPLOYEES, NO LATER THAN JANUARY FIRST, TWO THOUSAND SEVENTEEN;

5 (C) FOR AN EMPLOYER WITH AT LEAST TWENTY-FIVE EMPLOYEES BUT FEWER THAN  
6 FIFTY EMPLOYEES, NO LATER THAN JANUARY FIRST, TWO THOUSAND EIGHTEEN;

7 (D) FOR ALL OTHER EMPLOYERS, NO LATER THAN JANUARY FIRST, TWO THOUSAND  
8 NINETEEN.

9 IF AN EMPLOYER FAILS TO COMPLY WITH THE PROVISIONS OF THIS SUBDIVI-  
10 SION, SUCH EMPLOYER SHALL BE SUBJECT TO THE CIVIL PENALTIES SET FORTH IN  
11 SUBDIVISION FOUR OF THIS SECTION.

12 3. THE COMMISSIONER SHALL PROMULGATE AND ADMINISTER RULES AND REGU-  
13 LATIONS AS HE OR SHE MAY DEEM APPROPRIATE AND NECESSARY TO EFFECTUATE  
14 THE PROVISIONS OF THIS SECTION. THE COMMISSIONER SHALL BE AUTHORIZED TO  
15 INSPECT ANY EMPLOYER'S BUSINESS RECORDS CONCERNING SUCH EMPLOYER'S  
16 REGISTRATION AND PARTICIPATION IN THE E-VERIFY PROGRAM. IF SUCH EMPLOYER  
17 FAILS TO REGISTER OR PARTICIPATE IN SUCH PROGRAM PURSUANT TO SUBDIVISION  
18 TWO OF THIS SECTION, THE COMMISSIONER SHALL BE AUTHORIZED TO IMPOSE THE  
19 CIVIL PENALTIES SET FORTH IN SUBDIVISION FOUR OF THIS SECTION.

20 4. IF AFTER INVESTIGATION THE COMMISSIONER MAKES A FINDING THAT AN  
21 EMPLOYER HAS WILLFULLY OR INTENTIONALLY FAILED TO REGISTER FOR OR  
22 PARTICIPATE IN THE E-VERIFY PROGRAM, AS REQUIRED BY SUBDIVISION TWO OF  
23 THIS SECTION, THE COMMISSIONER SHALL BY AN ORDER WHICH SHALL DESCRIBE  
24 PARTICULARLY THE NATURE OF THE VIOLATION, ASSESS THE EMPLOYER A CIVIL  
25 PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR THE FIRST SUCH  
26 VIOLATION AND NOT MORE THAN TWO THOUSAND DOLLARS FOR A SECOND SUCH  
27 VIOLATION. SUCH PENALTY SHALL BE PAID TO THE COMMISSIONER FOR DEPOSIT IN  
28 THE TREASURY OF THE STATE. UPON A THIRD VIOLATION, AN EMPLOYER SHALL BE  
29 SUBJECT TO THE CANCELLATION OF ANY STATE OR PUBLIC CONTRACT, RESULTING  
30 IN INELIGIBILITY FOR ANY STATE OR PUBLIC CONTRACT FOR UP TO FIVE YEARS;  
31 THE LOSS OF ANY LICENSE, PERMIT, CERTIFICATE OR OTHER DOCUMENT GRANTED  
32 TO THE EMPLOYER BY ANY AGENCY, DEPARTMENT OR GOVERNMENT ENTITY IN THE  
33 STATE OF NEW YORK FOR THE RIGHT TO DO BUSINESS IN NEW YORK FOR UP TO ONE  
34 YEAR, OR BOTH. THE EMPLOYER SHALL BE LIABLE FOR ANY ADDITIONAL COSTS  
35 INCURRED BY THE AGENCIES AND INSTITUTIONS OF THE STATE OF NEW YORK, OR  
36 ANY OF ITS POLITICAL SUBDIVISIONS, BECAUSE OF THE CANCELLATION OF THE  
37 CONTRACT OR LOSS OF ANY LICENSE OR PERMIT TO DO BUSINESS IN THE STATE.

38 S 2. Section 210-B of the tax law is amended by adding a new subdivi-  
39 sion 49 to read as follows:

40 49. CREDIT FOR REGISTRATION FOR E-VERIFY PROGRAM. (A) GENERAL. A  
41 TAXPAYER, WHO HAS FEWER THAN FIFTY EMPLOYEES, SHALL BE ALLOWED A CREDIT  
42 AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR REGISTERING FOR THE E-VERI-  
43 FY PROGRAM, AS DESCRIBED IN SECTION TWO HUNDRED NINETEEN-B OF THE LABOR  
44 LAW, BETWEEN JANUARY FIRST, TWO THOUSAND SIXTEEN AND DECEMBER  
45 THIRTY-FIRST, TWO THOUSAND SIXTEEN.

46 (B) AMOUNT OF CREDIT. A CREDIT SHALL BE ALLOWED IN THE AMOUNT OF TWO  
47 HUNDRED FIFTY DOLLARS FOR THE TAXABLE YEAR IN WHICH SUCH TAXPAYER REGIS-  
48 TERED FOR THE E-VERIFY PROGRAM.

49 (C) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVI-  
50 SION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH TAX  
51 YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND  
52 MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

53 S 3. This act shall take effect immediately.