

# STATE OF NEW YORK

6812

2019-2020 Regular Sessions

## IN SENATE

October 28, 2019

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the labor law, in relation to prohibiting employers from using the federal electronic employment verification system to check the employment authorization status of an existing employee or an applicant who has not been offered employment; and to amend the general municipal law, in relation to prohibiting municipalities from requiring employers to use the federal electronic employment verification system

The People of the State of New York, represented in Senate and Assembly, 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 § 219-b. Restrictions on use of employment verification system. 1. (a)  
4 Except as required by federal law or as a condition of receiving federal  
5 funds, it shall be unlawful for an employer, or any other person or  
6 entity to use the federal electronic employment verification system  
7 known as E-Verify to check the employment authorization status of an  
8 existing employee or an applicant who has not been offered employment at  
9 a time or in a manner not required under subsection (b) of Section 1324a  
10 of Title 8 of the United States Code or not authorized under any federal  
11 agency memorandum of understanding governing the use of a federal elec-  
12 tronic employment verification system.

13 (b) Nothing in this section shall prohibit an employer from utilizing  
14 the federal E-Verify system, in accordance with federal law, to check  
15 the employment authorization status of a person who has been offered  
16 employment.

17 2. Upon using the federal E-Verify system to check the employment  
18 authorization status of a person, if the employer receives a tentative  
19 nonconfirmation issued by the social security administration or the  
20 United States department of homeland security, which indicates the

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

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1 information entered in E-Verify did not match federal records, the  
2 employer shall comply with the required employee notification procedures  
3 under any memorandum of understanding governing the use of the federal  
4 E-Verify system. The employer shall furnish to the employee any notifi-  
5 cation issued by the social security administration or the United States  
6 department of homeland security containing information specific to the  
7 employee's E-Verify case or any tentative nonconfirmation notice. The  
8 notification shall be furnished as soon as practicable.

9 3. In addition to other remedies available, an employer who violates  
10 this section shall be liable for a civil penalty not to exceed ten thou-  
11 sand dollars for each violation of this section. Each unlawful use of  
12 the E-Verify system on an employee or applicant shall constitute a sepa-  
13 rate violation.

14 4. This section is intended to prevent discrimination in employment  
15 rather than to sanction the potential hiring and employment of persons  
16 who are not authorized for employment under federal law.

17 § 2. The general municipal law is amended by adding a new section 99-x  
18 to read as follows:

19 § 99-x. Use of employment verification system. It shall be unlawful  
20 for the governing board of a city, town or village or any municipal  
21 corporation to adopt a resolution, ordinance or local law requiring  
22 employers to use the federal electronic employment verification system  
23 known as E-Verify; provided, however, that nothing in this section shall  
24 be construed to prohibit an employer from using the federal electronic  
25 employment verification system when required by federal law or as a  
26 condition of receiving federal funds or to check the employment authori-  
27 zation status of a person who has been offered employment.

28 § 3. This act shall take effect immediately.