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:

Section 1. The labor law is amended by adding a new section 219-b to read as follows:

§ 219-b. Restrictions on use of employment verification system. 1. (a) Except as required by federal law or as a condition of receiving federal funds, it shall be unlawful for an employer, or any other person or entity to use the federal electronic employment verification system known as E-Verify to check the employment authorization status of an existing employee or an applicant who has not been offered employment at a time or in a manner not required under subsection (b) of Section 1324a of Title 8 of the United States Code or not authorized under any federal agency memorandum of understanding governing the use of a federal electronic employment verification system.

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

2. Upon using the federal E-Verify system to check the employment authorization status of a person, if the employer receives a tentative nonconfirmation issued by the social security administration or the 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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information entered in E-Verify did not match federal records, the employer shall comply with the required employee notification procedures under any memorandum of understanding governing the use of the federal E-Verify system. The employer shall furnish to the employee any notification issued by the social security administration or the United States department of homeland security containing information specific to the employee's E-Verify case or any tentative nonconfirmation notice. The notification shall be furnished as soon as practicable.

3. In addition to other remedies available, an employer who violates this section shall be liable for a civil penalty not to exceed ten thousand dollars for each violation of this section. Each unlawful use of the E-Verify system on an employee or applicant shall constitute a separate violation.

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

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

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

§ 3. This act shall take effect immediately.