

Employer Fines for Undocumented Workers Increase; or, If you are not part of the solution, you will have problems!

-Fred Antoun 3-21-08

Higher fines for employer violations of the Immigration and Nationality Act of 1952 and the Immigration Reform and Control Act of 1986 go into effect on March 27, 2008.

For knowingly hiring or unlawfully employing an undocumented worker, civil fines for employers are:

- \$375-\$3,200 for each undocumented individual;
- \$3,200-\$6,500 for each undocumented individual, if the employer has previously been in violation; and
- \$4,300-\$16,000 for each undocumented individual, if the employer was subject to more than one cease and desist order.

There are also criminal penalties: Employers that have a pattern or practice of knowingly hiring unauthorized aliens may, if convicted, be fined up to \$3,000 per unauthorized employee and/or receive a prison sentence of up to six months.

For knowing use of fraudulent identification documents (someone else's identity documents or false certifications to meet employment eligibility verification requirements) violators (including company officers) may be fined \$375-\$3,200 for each fraudulent document, and \$3,200-\$6,500 for each fraudulent document where the person or entity charged was previously subject to a cease and desist order, AND/OR imprisoned for up to five years.

US Immigration and Customs Enforcement (ICE) says it will be stepping up investigations of employer violations.

Employers can also be subject to civil fines for unfair employment practices related to immigrants. These practices include discrimination against job applicants or employees based on nationality or citizenship status, and refusing to accept documents allowed by law to be used by an employee or potential employee to comply with the Form I 9 requirements. The law allows the employee or potential employee to file a charge against the employer with The Office of Special Counsel for Immigration-Related Unfair Employment Practices.

This is only a summary of applicable changes to regulations, and is not legal advice—each employer should become familiar with the immigration requirements, and its obligations.

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