

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 622**

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**Introduced by Assembly Member Roger Hernández**

February 24, 2015

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An act to add Section 2814 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 622, as amended, Roger Hernández. Employment: E-Verify ~~Program~~. *system: unlawful business practices.*

The federal E-Verify ~~Program~~, *system*, administered by the United States Citizenship and Immigration Services, the United States Department of Homeland Security, and the United States Social Security Administration, enables participating employers to use the ~~program~~, *system*, on a voluntary basis, to verify that the employees they hire are authorized to work in the United States.

Existing law prohibits the state, or a city, county, city and county, or special district, from requiring an employer, other than one of those government entities, to use an electronic employment verification system, including the ~~E-Verify Program~~, *E-Verify*, except when required by federal law or as a condition of receiving federal funds. Existing law prohibits an employer or any other person or entity from engaging in unfair immigration-related practices, as defined, against any person for the purpose of retaliating against ~~any~~ *the* person for exercising specified rights.

This bill would ~~state the intent of the Legislature to enact legislation that would prohibit employers or employment agencies, except as required by federal law or as a condition of receiving federal funds,~~

~~from using the E-Verify Program for any applicant for employment, and that would expand the definition of an unlawful employment practice to prohibit an employer or employment agency's use of any electronic employment verification system on an applicant. any other person or entity from using the E-Verify system to check the employment authorization status of an employee or applicant, as specified, except as required by federal law or as a condition of receiving federal funds. The bill would also require an employer that uses the E-Verify system to provide to the affected 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 bill would provide for a civil penalty of \$10,000 for an employer for each violation of these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 2814 is added to the Labor Code, to read:
- 2     2814. (a) Except as required by federal law, or as a condition
- 3     of receiving federal funds, it shall be unlawful for an employer,
- 4     or any other person or entity to use the federal electronic
- 5     employment verification system known as E-Verify to check the
- 6     employment authorization status of an employee or applicant at
- 7     a time or in a manner not required under subsection (b) of Section
- 8     1324a of Title 8 of the United States Code, or not authorized under
- 9     any memorandum of understanding governing the use of a federal
- 10    electronic employment verification system.
- 11    (b) Upon using the federal E-Verify system to check the
- 12    employment authorization status of a person, if the employer
- 13    receives a tentative nonconfirmation issued by the Social Security
- 14    Administration or the United States Department of Homeland
- 15    Security, which indicates the information entered in E-Verify did
- 16    not match federal records, the employer shall comply with the
- 17    required employee notification procedures under any memorandum
- 18    of understanding governing the use of the federal E-Verify system.
- 19    The employer shall furnish to the employee any notification issued
- 20    by the Social Security Administration or the United States
- 21    Department of Homeland Security containing information specific

1 to the employee's E-Verify case or any tentative nonconfirmation  
2 notice within the timeframe provided in the Referral Date  
3 Confirmation notice, which is generated by E-Verify after an  
4 employee decides to contest the tentative nonconfirmation notice.

5 (c) In addition to other remedies available, an employer who  
6 violates this section is liable for a civil penalty not to exceed ten  
7 thousand dollars (\$10,000) for each violation of this section. Each  
8 unlawful use of the E-Verify system on an employee or applicant  
9 constitutes a separate violation.

10 ~~SECTION 1. It is the intent of the Legislature to enact~~  
11 ~~legislation that would prohibit employers or employment agencies,~~  
12 ~~except as required by federal law or as a condition of receiving~~  
13 ~~federal funds, from using the E-Verify Program for any applicant~~  
14 ~~for employment, and that would expand the definition of an~~  
15 ~~unlawful employment practice to prohibit an employer or~~  
16 ~~employment agency's use of any electronic employment~~  
17 ~~verification system on an applicant.~~