

AMENDED IN ASSEMBLY APRIL 15, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 622

Introduced by Assembly Member Roger Hernández

February 24, 2015

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 system: unlawful business practices.

The federal E-Verify 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 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 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 the person for exercising specified rights.

This bill would expand the definition of an unlawful employment practice to prohibit an employer or 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. *The bill would include a statement of intent.*

Vote: majority. Appropriation: no. Fiscal committee: 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 a
7 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
22 to the employee's E-Verify case or any tentative nonconfirmation
23 ~~notice within the notice.~~ *The notification shall be furnished*
24 *promptly but not exceed the timeframe provided in the Referral*
25 *Date Confirmation notice, which is generated by E-Verify after*

1 an employee—~~decides~~ *chooses* to contest the tentative
2 nonconfirmation notice.

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

8 (d) *This section is intended to prevent discrimination in*
9 *employment rather than to sanction the potential hiring and*
10 *employment of persons who are not authorized for employment*
11 *under federal law.*

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