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Hire Scrutiny

Arizona gets tougher on employing illegals

Danette Miller, co-owner of Miller Wholesale Lumber in Tempe, Ariz., has worked diligently for the past 15 years to make sure her 24 employees are eligible to work in the U.S. She oversees hiring for the \$30 million company, which supplies lumber to many of the state's builders and contractors.

But Miller now worries that her efforts may not go far enough. On Jan. 1, Arizona began enforcing one of the most draconian of hundreds of state and community laws that deal with undocumented workers. The Legal Arizona Workers Act may permanently revoke the business licenses of companies that have repeatedly hired illegal workers.

No arrests have been made yet. And opponents are suing in the U.S. District Court in Phoenix, which has delayed any prosecutions until March. "State-level, piecemeal immigration enforcement like this is unconstitutional," says Farrell Quinlan, a spokesman for Arizona Employers, one of the groups challenging the law.

With Washington unable to pass a comprehensive immigration reform bill, other states are moving in. "Employers are seen as big players, and there is a sense, whether valid or not, that they are complicit," says Ann Morse, program director for the immigrant policy project at the National Conference of State Legislatures. "State legislatures feel they must do whatever is within their means."

TOUGH PENALTIES

To be sure, Arizona has one of the fastest-growing undocumented immigrant populations in the nation, with an estimated 350,000 in Phoenix alone, according to the Urban Institute, a social and economic policy research organization. And many entrepreneurs and small business organizations support the law. "The vast majority of small business owners were following the law in the first place, and they want to understand how to be compliant," says Joan Koerber-Walker, CEO of the Arizona Small Business Assn. in Phoenix.

Arizona's law goes further than other state moves, including a new Tennessee law that will shutter for one year any business guilty of a second violation of hiring undocumented workers. And Colorado, Georgia, Louisiana, and Oklahoma either prohibit the awarding of state contracts to small businesses that hire undocumented workers—in some cases fining companies that do—or require proof that a company's employees are legal before they can be eligible for contracts.

Under the Arizona law, companies that either "knowingly" or "willingly" hire an undocumented worker can have their business licenses suspended for up to 10 days for a first offense, permanently for a second offense. They can also face three to five years of probation, which requires them to file quarterly affidavits on their employees. Business owners convicted by the state remain open to federal prosecution.

Employers must also make sure information on employees' I-9s—the federal form used to document identity—is valid, as well as on those filed by employees who have left the company in the preceding three years. Arizona is also the first state to require employers to use E-Verify—an online federal database of Social Security numbers of legal workers—to ensure the status of new hires. Both the I-9 and E-Verify processes must be completed within three days of hiring an employee. "This will increase the amount of training and time that has to be devoted to human resources," says corporate immigration attorney Michelle Ausdemore of Ausdemore Law Group in Scottsdale, Ariz.

Even supporters of the law admit it creates more work. Matt Henry, president of DECA Southwest, a \$5.5 million, 40-person commercial lighting company in Mesa, Ariz., has hired only legal workers and paid them up to \$18 an hour, while some of his competitors paid illegal workers \$6 an hour. "That put us in a tough spot," says Henry. Still, because of the new law, his customers now require him to present affidavits of legal work status on all his employees when they hire DECA for a job. At Miller Wholesale Lumber, Miller has deployed her administrative assistant and staff accountant, Melissa Beaudoin, to help. Beaudoin has spent the bulk of the last month making sense of the law and sifting through every I-9 on file. Says Miller: "Entrepreneurs don't like Big Brother syndrome, and that is what this comes down to here."

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