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Understanding E-Verify for the Foodservice Operator *from Michael Wildes*

The food service industry is heavily dependent on immigrant labor, for everything from harvesting the crops that will end up on diners' plates to the dishwashers who keep those plates clean. But recent years have seen a steady increase in anti-immigrant legislation on the federal, state, and local levels.

According to Michael Wildes, a New Jersey-based immigration lawyer at Wildes and Weinberg, these laws have cost food-service employers time and money. "All these new laws, especially the ones relating to E-Verify, have added insult to injury

for food service employers, making their food more expensive and increasing the cost of doing business," he says. "With the economy still struggling to recover, that's a cost we just can't afford."

E-Verify is a federal program created in 1996, which allows employers

to check their employees against a government database to ensure that their name matches their Social Security number and other identifying information. When an employer finds a discrepancy for one of their employees, he or she must immediately notify the employee and refer them to

the Social Security Administration or the Department of Homeland Security for further review. "The problem with this process," says Wildes, "is that it forces employers to take on responsibilities that they can't, and shouldn't have to, do. The government needs to understand that they cannot shift the

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burden of immigration enforcement on to employers, who do not have the capability to enforce those laws. That's government's job." As E-Verify use has become a requirement for more and more industries, employers have had to increase the amount of time they spend complying with immigration regulations.

In addition, E-Verify's review process costs employers significant amounts of money. While an employee goes through the review process, an employer cannot fire them, nor can they withhold any pay, benefits, or training. The review process confirms the initial findings roughly 80% of the time—meaning that employers are often paying for workers whose skills they will never put to use. Meanwhile, employees are forced to give up working time to contest government findings that are incorrect one out of every five times.

Immigration issues hit the food service industry particularly hard. This is in part because immigration laws privilege academic success over skills of the type needed to succeed in culinary fields. "Many of the businesses I work with," says Wildes, "come to me to help them retain a talented pastry chef or other kitchen professional. A lot of them have none of the hallmarks of success that the immigration authorities look for, but they're crucial to the continued success of these businesses."

Even more damaging to food service employers has been state-level legislation. Wildes points to immigration crackdowns in states like Alabama and Arizona, saying, "In those states, a lot of chain restaurant operators have decided that it's simply not worth it to them to operate in those states, and instead expand their operations in safer states and cities." On top of that, he notes, the restrictions hit migrant farm workers hard, which has negative repercussions for business owners and customers at every step of the supply chain. "If the blueberries don't get picked in Georgia because there's no one around to pick them,"

Wildes says, "that means higher prices for distributors, for restaurants, and, eventually, for diners as well. That not only hurts the businesses, it hurts the economy as a whole."

The past few years have seen a dramatic uptick in the number of anti-immigrant laws proposed in Congress and in cities and states across the country. Wildes blames bad politicking for the recent spate of anti-immigration laws. "There's certainly a legitimate need to prevent terrorism and to curtail illegal immigration. But a lot of our politicians go weak in the

knees, and fail to adequately explain to their constituents what sorts of laws will solve the problems we currently face." Increasing the use of E-Verify and other restrictive regulations has hurt business much more than it's stopped criminals, says Wildes, "Quality legislation too often takes a backseat to politics." He encourages food industry employers to get involved in the political process through their industry groups.

Last year, the Supreme Court upheld Arizona's strict immigration restrictions, allowing states to enforce immi-

gration laws within their own borders above and beyond federal regulations. This has led to a wave of states toughening their own laws. "The bottom line," Wildes says, "is that this is a mistake." "Government should exist to help businesses build themselves up, not to shut them down for failing to enforce the government's regulatory requirements. Entrepreneurs should be free to worry about their own work, and shouldn't have to worry about policing the work of others."



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