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Migrants lose jobs as hiring law nears

Employers verifying status fire hundreds, attorneys say

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Hundreds, perhaps thousands, of undocumented workers have been fired as a result of Arizona businesses reviewing the work-eligibility forms of their employees as the state's new employer-sanctions law draws near.

The fired workers couldn't provide missing information uncovered during the reviews or confessed to being in the country illegally, say attorneys involved in the reviews.

The number of firings could grow significantly once the law goes into effect Jan. 1 as employers scramble to make sure they are in compliance. Under the law, repeat violators will lose their business licenses.

The law, signed by Gov. Janet Napolitano in July, is aimed at clamping down on illegal immigration in Arizona by pulling the plug on the job magnet that has drawn undocumented immigrants to the state by the tens of thousands over the past decade.

Businesses groups, however, asked a federal judge Wednesday to toss out the law, arguing that it is unconstitutional and invites racial profiling.

They favor a federal solution that allows more foreign workers to enter legally to fill gaps in the labor market.

Reviews lead to firings

Federal law requires employers to ask all new employees for proof that they are eligible to work in the U.S., such as a driver's license, a green card or a Social Security card. Employers are required to record the information on forms known as I-9s.

Internal reviews of those forms by businesses have led to the firing of "many hundreds of workers, and perhaps thousands," said Julie Pace, a Phoenix lawyer who is performing I-9 audits for companies. She also represents business groups that filed suit against the state seeking to have the sanctions law thrown out.

Employers are not allowed to directly ask whether a worker is legal, Pace said. And many illegal workers could still slip through the audits if they presented fake documents that appeared real when they were hired and they filled out the I-9 correctly. But in many instances, employers are finding that the I-9s were not filled out properly. Upon questioning, employees are admitting that they are in the country illegally, or they can't provide the missing information.

"A lot of employees are coming forward and saying, 'I know you didn't know this, but I'm illegal. Can you help me?' " said Rebecca Winterscheidt, a Phoenix immigration lawyer.

When that happens, employers have no choice but to fire the worker, Winterscheidt said. Keeping them on would violate the law's provision against "knowingly" employing illegal workers.

"That's the sad part of this. A lot of these are really, really long-term and very good employees," Winterscheidt said.

She agreed that at least hundreds of workers already have lost their jobs as a result of the audits.

"Many hundreds, I think, would be very conservative," she said.

Eligio Medina Roldan, 44, is one of those workers who lost his job. The undocumented immigrant from Mexico City had been working at a Phoenix warehouse for the past four years using fake documents. Earlier this month, a supervisor from the company's corporate headquarters in Texas questioned him about some of the information he provided on the I-9 form. Medina Roldan said he was given eight days to prove he was legally eligible to work in the U.S. or he would lose his job.

"I don't have papers that show I can work legally, so I won't be able to work," he said. "And I can't work, then I've lost the reason for being here. My only option is to go back" to Mexico.

Tight labor market

The dismissals come at a time when the state's winter-tourism industry is kicking into high gear and businesses already are struggling to find workers because of very low unemployment rates.

"All of our hotels need workers. Our industry is experiencing a huge labor shortage," said David Nance, vice president of membership for the Arizona Hotel and Lodging Association and the Valley Hotel and Resort Association.

In October, Arizona's unemployment rate rose slightly to 3.5 percent after falling to 3.3 percent in September, a 40-year low. The unemployment rate in the Phoenix area rose to 3 percent from 2.8 percent in September. An unemployment rate below 5 percent is considered full employment.

Some economists think the sanctions law could wreak havoc on the state's economy by exacerbating labor shortages and scaring away companies from locating here.

But a new study by the Center for Immigration Studies, a research organization in Washington, D.C., that favors reductions in immigration, suggests that there are plenty of Americans who could step in to replace illegal workers.

The study estimates that there are 340,000 illegal workers in Arizona, 12 percent of the state's workforce. If all were to

leave, they could be replaced by some of the 710,000 Arizonans who are currently outside the state's labor pool because they are not actively looking for work, according to the study.

The 710,000 include 196,000 teenagers and 514,000 adults with no more than a high-school education.

"The question is, is there enough labor to replace the illegals? Yes," said Steven Camarota, the center's research director.

Dawn McLaren, a research economist at Arizona State University, doubted those findings.

She said Camarota is counting people who have made the decision not to work and therefore are not considered part of the labor pool.

Some may be students living with parents, she said. Some may be disabled. Others may be staying home with children.

"If they haven't joined the labor force thus far, they are paying for their livelihood some other way," McLaren said.

Coaxing those people into the labor market would require significantly raising the often low wages paid to immigrants doing manual labor or other low-skilled jobs, she said. But that could lead to businesses closing, higher prices for consumers, and higher inflation, she added.

"Someone has got to want the job an employer is offering, and the employer has got to want that person to work for them," McLaren said.

Understanding the law

The sanctions law was passed amid enormous public pressure on local officials to do something about illegal immigration. With 500,000 illegal immigrants, Arizona has the highest share of illegal immigrants of any state in the nation. It also has the highest number of illegal crossings of any border state.

Businesses caught knowingly or intentionally employing illegal workers under the law face a 10-day business license suspension for a first offense and having their licenses revoked permanently for a second offense.

Other companies are getting prepared.

As of Tuesday, 4,460 out of about 150,000 Arizona employers had signed up to use a federal database to electronically verify the employment eligibility of new employees. The sanctions law requires employers to use the database or risk punishment if caught knowingly employing illegal workers.

Only 433 employers had signed up to use the program before the sanctions law was signed.

Many businesses have been conducting internal audits.

Congress passed a federal employer-sanctions law in 1986 that required the I-9 forms and created fines for employers who knowingly hired illegal workers.

Until recently, however, the federal government has been lax about enforcing the law and punishing violators.

As a result, "employers got the message that the I-9 was not something to take too seriously," Camarota said.

Arizona's new sanctions law, however, is putting pressure on employers to make sure their I-9s are in order to avoid having their license revoked or suspended.

Yuvixa Koren, owner of Aguilas Radio Taxi, plans to do an audit in December.

"I want to make sure the (forms) are in compliance," Koren said.

Koren said she is afraid her company will be targeted because many of her workers and drivers are Latino immigrants. But she said only 17 of her workers are official employees. The company's 100 drivers are considered independent contractors, so they are exempt from filling out the I-9 form, Koren said.

Nancy-Jo Merritt, a Phoenix lawyer who specializes in immigration compliance, said many other employers are conducting I-9 audits.

"We've been doing dozens of I-9 audits for the last several months," she said. "More than dozens."