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by Marc Fleischauer and Bob Dunlevey
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Ohio's New E-Verify Law: What Contractors Need to Do Before the Next Bid * Effective March 20, 2026 *

Ohio's new E-Verify Workforce Integrity Act is about to change how contractors staff and run nonresidential projects in Ohio. It is a straightforward concept, but the details matter, and the penalties for missteps are real.

What the law does and when it hits

House Bill 246 creates a new chapter of the Ohio Revised Code that requires certain construction employers to use the federal E-Verify system and punishes specific hiring and retention practices that involve unauthorized workers. **The Act applies to “nonresidential construction contractors,”** their subcontractors at any tier, and labor brokers (*i.e.*, non-union entities that hire workers and supply labor to contractors or their subs).

A “**nonresidential construction project**” is defined broadly as construction or renovation of any building, highway, bridge, utility, or related infrastructure. Residential buildings, certain agricultural structures, manufactured homes, industrialized units, and mobile homes are carved out, so purely residential contractors fall outside this statute, though they may be covered if they also perform nonresidential work.

The **law takes effect March 20, 2026**, so contractors have a short runway to get procedures in place before they sign new work that comes under the statute.

Who has to do what

The central requirement is simple. If you are a covered nonresidential construction contractor, subcontractor, or labor broker and you hire an “employee” to perform work on a covered project in Ohio, you must run that person through the federal E-Verify program.

The statute uses a traditional employment test. An “employee” is an individual who performs services for you, is under your direction and control as to both how the work is performed and the result, and is paid wages, salary, or other remuneration for those services. A true independent

contractor who is not under that level of control is not an “employee” for this law, but if you misclassify, this new law will add to your exposure.

Each entity is responsible for its own people. A prime contractor runs E-Verify on its employees, each subcontractor runs E-Verify on its own employees, and a labor broker runs E-Verify on the workers it supplies. Those verification records must then be kept for three years after the date of hire or one year after the date of termination, whichever is later.

There is a narrow “**grandfathering**” exception. If you have already used E-Verify for a particular employee and federal law does not require you to verify or reverify that employee again, then you do not have to repeat the E-Verify step for that person under the new statute. The exception depends on both conditions and will be of limited practical use for many field workforces, so it is not a safe harbor for avoiding the obligation for new hires.

The statute also speaks directly to what happens **when E-Verify flags a problem**. If you receive a “final nonconfirmation” for an individual and instructions to close the case, you may not continue to employ that person. In other words, once the E-Verify process is complete and still cannot confirm work authorization, the employment relationship has to end.

How enforcement will work

The Ohio Attorney General is the central enforcer of the statute. That office will be creating a complaint form that anyone can use to report suspected violations. If the Attorney General finds reasonable evidence that a contractor, subcontractor, or labor broker has failed to use E-Verify as required or has kept using an employee after a final nonconfirmation, the office will issue a written **notice of violation**. That notice will require proof from the employer within ten days that the flagged workers are authorized and will set proposed penalties. Repeated or willful violations can result in **disqualification from bidding** on or participating in state contracts for up to two years. Once it receives the notice of violation, the employer will have a short window to request an adjudicatory hearing before the Director of Commerce; if it does not, the notice will become an enforceable order.

Penalties are progressively more severe. For failing to verify new hires as required, the law starts at \$250 per violation, then moves to \$1,000 per violation, and then to \$1,500 per violation if there are prior orders within the preceding three years. For continuing to employ a worker after final nonconfirmation, the numbers jump much higher, starting at \$5,000 per violation, then \$10,000, and finally \$25,000 per violation as prior penalty history builds.

If the employer ignores an enforceable order for thirty days, the Attorney General is required to file a civil action in the appropriate court of common pleas. The court must then order payment of any validly imposed penalties plus an additional \$1,000 for each violation and must bar the contractor, subcontractor, or labor broker from bidding on or participating in state contracts for up to two years. The Director of Administrative Services keeps a list of entities that are ineligible for state contracts and will not remove a company until its fines are paid.

The statute reserves its harshest sanction for **knowing employment of unauthorized aliens**. If the court finds that a nonresidential construction contractor, subcontractor, or labor broker knowingly employed an unauthorized alien, it must order the appropriate agency to revoke licenses. Licenses specific to the business location where the unauthorized work occurred are revoked permanently,

and if the business operates under more general licenses tied to its primary place of business, those licenses can be permanently revoked as well.

State contracts and agency obligations

For industrial contractors that do public work, one other provision of H.B. 246 is critical. Every state agency must include E-Verify compliance provisions in its contracts for the construction or renovation of nonresidential projects. The Attorney General will periodically review agency contracts for compliance and will notify an agency and the Director of Administrative Services if it finds a contract missing the required language.

If an agency is caught out of compliance, it must send all of its nonresidential construction contracts to the Director of Administrative Services for a year so that the Director can confirm that the E-Verify language has been included. For contractors, that means state bid documents and standard contract forms will increasingly build E-Verify obligations directly into the terms and conditions of the job.

What contractors should be doing now

For a contractor used to managing complex safety rules, certified payrolls, and prequalification criteria, H.B. 246 is another compliance system to layer into existing practice. The starting point is to confirm whether your operations fit the statutory definitions and, if so, whether to perform nonresidential work in Ohio on or after March 20, 2026. From there, enrollment in E-Verify, integration of E-Verify case creation into onboarding, training for HR and field management on how to handle tentative and final non-confirmations, and document retention procedures should become part of your standard playbook.

In practice, a contractor that wants to manage its risk should build explicit **compliance language into its subcontracts**. Although H.B. 246 does not mandate specific wording between private parties, including such language helps the contractor allocate risk, push obligations down the chain, and document that it has exercised diligence if the Attorney General ever reviews the project.

Given the combination of monetary fines, potential loss of state work, and the possibility of permanent license revocation for knowing violations, the cost of getting this wrong is significantly higher than the administrative inconvenience of building a compliant process now.

For more information, contact Taft. Certified Specialists in Labor and Employment Law **Bob Dunlevey** (937-641-1743) and **Marc Fleischauer** (937-641-2086) represent employers and trade associations throughout the United States involving NLRB, EEOC, OSHA, DOL, and other federal and state employment matters. They have repeatedly been awarded Best Lawyers in America and Super Lawyer designations in labor and employment law.