

Why it's so easy for illegal workers to stay here

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Workers who are in the country illegally continue to find jobs in Beaufort County — and likely across South Carolina — despite a nearly decade-long state effort to stop it.

Few businesses are audited each year to ensure they're checking the immigration status of new employees. About 1 percent of Beaufort County's employers are audited each year by the S.C. Department of Labor, Licensing and Regulation, according to state data.

It's a similar scene statewide. About 2 percent of South Carolina's employers are audited. Since 2012, about 11 percent of employers have been checked.

The few number of audits paired with various other problems at the state and federal level have some saying South Carolina is wasting its time and money.

“You're just getting another form of bureaucracy that doesn't do what it's supposed to do.” said [Alex Nowrasteh](#), an immigration policy analyst at the libertarian think tank, [Cato Institute](#) based in Washington D.C. “E-Verify is states pretending to enforce immigration laws while looking the other way.”

Under state law, S.C. employers must ensure that new hires are eligible to work in the United States by running new employees' Social Security numbers or other government-required records through E-Verify, a federal electronic database. Passed in 2008, S.C. lawmakers said the E-Verify requirement would deny jobs to workers who weren't in the country legally and push them out of the state.

But an unknown number of workers and businesses are finding ways around the mandate, say Beaufort County leaders. Specifically:

- State law exempts farm workers and a few other classes of employees from being E-Verified by their employers.
- The E-Verify system doesn't catch all workers who are unauthorized to work. Identity theft remains one way around it.

- S.C. businesses face no fines if they fail to E-Verify employees. Some businesses have been placed on probation for a year for failing to E-Verify — nearly 13 percent of audited businesses last year. But none has had their business license suspended.

“Look at the restaurant kitchens in Hilton Head and you know E-Verify isn’t working. They’re filled with Hispanics,” said George Kanuck, co-chairman of The Lowcountry Immigration Coalition, an advocacy group for the Hispanic community. “They are here working, helping us all and helping to maintain our paradise. We couldn’t exist without the immigrants here in our area.”

Grappling with a shortage of tourism workers, several Hilton Head Island business owners contacted by The Island Packet and The Beaufort Gazette said they’re thankful for the loopholes, which are allowing employers to connect with much-needed workers, even if they’re unauthorized.

“They don’t want to say it, but many businesses continue to utilize these employees,” said Kanuck.

Some in the county point out that those unauthorized workers — estimated to number about 5,000 by Kanuck’s organization — are costing taxpayers.

Most notably, the county’s growing Hispanic population, an unknown portion of which is in the county illegally, is impacting the Beaufort County School District, they say. About one in four district students is Hispanic, according to 2016 school district data. That’s up from 17 percent in 2007.

Federal rules prevent the district from knowing which of its students and parents are undocumented. But local leaders agree that some portion is and county taxpayers are footing the bill.

“The No. 1 cost to the local taxpayer is schools,” said Paul Sommerville, chairman of Beaufort County Council. “It cost \$13,000 to \$15,000 to educate a student. With ESOL kids, it costs more. That falls back on the taxpayer.”

ESOL students, or those whose first language is not English, receive additional instruction in learning the language, so they cost more to educate. The number of ESOL students has jumped to nearly 4,500 — an 85 percent increase since 2007, according to district data.

A second cost is prenatal and postnatal care for women in the country illegally who have children, Sommerville said.

“Medicaid picks up some of those bills,” he said.

“But what actions could we take as a county to really fix these issues?” he asked. “The answer is nothing.”

Getting around E-Verify

While the S.C. Department of Labor, Licensing and Regulation receives just \$250,000 annually and has only three employees to run the state's E-Verify program, more money to conduct more audits isn't the solution, said Nowrasteh of the Cato Institute.

That's because workers can use Social Security cards of legal workers to pass E-Verify checks. Workers may also use identities stolen from strangers or give a name and number borrowed from a friend.

Additionally, some businesses are likely paying workers in cash, said Beaufort County Sheriff P.J. Tanner.

"That's been common over the years for day laborers," Tanner said, adding that contractors used to be aware of locations both north of the Broad and south of the Broad where they could swing by to pick up a few workers to help with sheetrock work, landscaping and other jobs.

And some illegal workers have Individual Tax Identification Numbers assigned to them by the IRS in order to pay Social Security state and other taxes, Kanuck said. Some employers wrongly assume that an employee with an ITIN is legally allowed to work. And with so few audits conducted each year, businesses are unlikely to be corrected.

The same is true if workers present fraudulent driver's licenses, I-9 forms or other documents to unknowing employers.

The problem is further compounded by federal rules and loopholes in the state law, which S.C. legislators revised in 2012 following a U.S. Supreme Court decision. For example:

- S.C. farm workers, private maids, nannies, fishermen and members of the clergy do not have to be E-Verified by their employers. The S.C. Farm Bureau convinced lawmakers that the E-Verify requirement could scare off migrant workers needed to harvest crops.
- The Supreme Court ruling prohibited states from fining businesses that fail to E-Verify new employees. Now, the maximum punishment LLR, the state agency, can dole out is suspending a business' operation for 10 to 30 days. But that has never happened.
- Under federal rules, only new hires — not current employees — can be E-Verified.

The fix would be a federal database of eligible workers' fingerprints that would be checked each time a person is hired, said Nowrasteh, the immigration policy analyst.

Short of that, states would need to send inspectors to job sites and check employees' IDs and I-9 forms, federal documents that verify workers' identity and employment authorization, Nowrasteh said. But that would be very expensive, time-consuming and ultimately have a consequence that many South Carolinians don't want.

"To do so would be very pricey, and it would require (state lawmakers) to punish these businesses. And I don't see state legislatures shutting down thousands of businesses," he said. "There is no way to really enforce this without destroying small businesses."

Only three other states — Arizona, Alabama and Mississippi — have mandatory E-Verify for nearly all employers. Other states either don't use the program or require it only for large employers or those who receive government contracts.

But LLR defends E-Verify as an effective tool. The agency points to the high rate of E-Verify compliance by S.C. businesses as proof that most businesses are following the law. Nearly 13 percent of audited S.C. employers were cited last year for failing to E-Verify new employees. Cited businesses are placed on probation for one year and must submit quarterly reports, showing that they have E-Verified new hires.

“The fact that we're finding 86 percent compliance (among businesses that we audit) shows that we've done a great job of educating employers in our state that they have to E-Verify,” said Emily Farr, LLR's director. “Our program has shown that people are in fact using E-Verify as the law requires, and, when they're found not to be, they come into compliance right away.”

LLR also points to studies, including ones by the Migration Policy Institute, that show a decrease in the number of Hispanics working illegally in South Carolina compared with neighboring states that do not have an E-Verify mandate for all employers.

“The number of illegal immigrants is declining and we're in much better shape than our neighbors in Georgia and North Carolina,” said Jim Knight of LLR.

But Nowrasteh points out that LLR is only checking to see that businesses E-Verify new employees — not whether these workers are legally allowed to work in the country.

What's next

No efforts are underway in South Carolina to improve the state's E-Verify program or replace it.

“In Columbia, it's considered to be a settled matter since we passed E-Verify,” said state Sen. Tom Davis, R-Beaufort.

Local leaders including Tanner say they don't fault LLR for failing to halt the influx.

“(E-Verify) was formed for a good reason and designed appropriately,” he said. “But it's underfunded and understaffed, so they can't appropriately enforce it. When the decreased level (of interest in enforcing immigration laws) happened at the federal level (during President Barack Obama's administration), there wasn't anything at the state or local level to do about it. It's federal law. So we're left to do the best that we can.”

But that tide may be changing, Davis speculates, with the election of President Donald Trump, who has made immigration reform a priority, and efforts by Tanner to restart the county's 287(g) program that would use specially trained county deputies to enforce federal immigration laws.

The Lowcountry Immigration Coalition and others protested Tanner's proposal earlier this month.

If illegal workers remain a problem, Davis said the state has a role to play in fixing it because of local school and medical costs.

“If there is evidence that (E-Verify) hasn’t solved the problem or that it’s easy to get around the E-Verify requirement ... then I think we as lawmakers need to know that and we should take another look.”