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Stockton study says businesses are being held more responsible to verifying their foreign workers

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Posted: Sunday, May 27, 2012 12:00 am

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Workers at Overdevest Nurseries in Hopewell Township, Cumberland County, load trailers with nursery-grown plants for shipment. The nursery relies on foreign workers for part of the year, and it and other businesses, particularly seasonal ones, are being pushed to take more responsibility for making sure those workers are legally able to work in the United States.



Businesses increasingly are being asked to take on more responsibility in vetting the immigration status of their employees, according to a research paper by the Richard Stockton College of New Jersey.

Associate Political Science Professor Michael Rodriguez said changes to immigration policy especially affect businesses in New Jersey and five other states that serve as “gateways” to many foreign workers.

Southern New Jersey is heavily reliant on foreign workers for jobs in agriculture, tourism and construction.

The H-2A program allows businesses to bring foreign nationals to the United States to fill seasonal and temporary agricultural jobs for which U.S. workers are not available. A similar program addresses a shortfall in temporary workers needed at resorts, landscaping firms and construction companies by allowing 66,000 foreign workers to come temporarily to the United States.

But hiring practices are subject to more intense federal scrutiny since the inception of the U.S. Department of Homeland Security in 2002, Rodriguez said. Employers should recognize that data they submit for employment purposes can be used in national-security investigations. Federal agencies more freely share these records.

Under the Obama administration, immigration officials have moved away from high-profile raids on businesses to identify undocumented workers. Instead, there have been what Rodriguez calls “silent raids,” or immigration audits that target the business more than the suspected illegal workers.

A business owner’s familiarity with policy changes could prevent immigration audits that could disrupt or damage the business.

“My sense is there isn’t a lot of public awareness about these immigration audits,” Rodriguez said. “Businesses need a broader perspective. There’s been a shift from a particular focus on employees to employees and employers.”

Morey’s Piers hired about 700 foreign workers this year to staff its amusement parks in the Wildwoods, human resources director Denise Beckson said. The students, most of them from Europe or Asia, must obtain a J-1 visa, which is considered a cultural exchange rather than strictly an employment program.

The company does most of its hiring in the winter, which gives Morey’s time long before summer to sort out paperwork and resolve any U.S. State Department issues. Morey’s has become adept at navigating the program’s intricacies.

“There are some new regulations, but I don’t find them onerous,” Beckson said. “We feel we’re running a top-class program. The new rules only strengthen the program and make sure its participants are being looked after.”

For example, the rules restrict overnight working hours for student workers and ban certain types of jobs the government deems hazardous, she said.

Overdevest Nurseries in Hopewell Township traditionally relies on dozens of foreign workers for part of the year.

“The Stockton brief points to many of the inconsistencies of current immigration policy,” owner Ed Overdevest said. “For businesses in a variety of industries, the current requirements boil down to a Catch-22 proposition.”

Overdevest said employers are obligated to scrutinize the legitimacy of worker documents under threat of federal sanctions while not crossing the fine line into discrimination under threat of federal sanctions.

“Added to that is the fact that what looks legitimate might not be and what looks illegitimate might also not be,” he said.

He used his well-preserved Social Security card as an example.

“It’s hand-typed on nondescript paper issued in an age when none of this was a concern,” he said. “If I presented this to an employer, they would think it was bogus.”

Businesses that knowingly hire undocumented workers can be fined up to \$2,200 per worker and \$5,000 to \$10,000 per worker for subsequent offenses. But businesses that make an effort to comply with documentation requirements generally can establish a good-faith defense.

Immigration and Customs Enforcement has a program called E-Verify to help businesses vet the employment status of their work force. Last year, 156,000 businesses nationwide took part.

This year the agency is letting foreign workers use E-Verify to determine whether they meet all work-eligibility rules so they can address any mistakes or discrepancies proactively.

“While there is general hope that E-Verify will minimize this difficulty, it needs to be recognized that identity theft readily allows the devious and creative to generate documents that would pass the test,” Overdevest said.


About 1.8 million people, or 1 in 5 New Jersey residents, were born in another country. The nonprofit group Federation for American Immigration Reform, which opposes illegal immigration, estimates that 410,000 undocumented immigrants are living in New Jersey.

“The Stockton brief is right in recommending that New Jersey businesses be aware of policy changes that could add significantly to their employment challenges,” Overdevest said.

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