



## **Title 36 – Business License Compliance and Reporting Requirements**

### **Important Legal References**

Per O.C.G.A. §36-60-6 (a) – every private employer with more than ten employees shall register and utilize the federal work authorization program.

Per O.C.G.A. §36-60-6 (c) – Before any county or municipal corporation issues a business license, occupation tax certificate, or other document required to operate a business to any person engaged in a profession or business required to be licensed by the state under Title 43, the person shall provide evidence of such licensure to the appropriate agency of the county or municipal corporation that issues business licenses.

Per O.C.G.A. §36-60-6 (d) – Before any county or municipal corporation issues a business license, occupation tax certificate, or other document required to operate a business to any person, the person shall provide evidence that he or she is authorized to use the federal work authorization program or evidence that the provisions of this Code section do not apply.

Per O.C.G.A. §36-60-6 (f) – A county or municipal corporation shall require each applicant to complete a notarized affidavit attesting whether they have more than 10 employees. If so, they must provide their federal work authorization (E-Verify) number on the form.

Per O.C.G.A. §50-36-4 (d) (4) – The annual immigration report submitted to the Department of Audits and Accounts shall include a listing of each license or certificate issued by a county or municipal corporation to private employers that are required to utilize the federal work authorization program under the provisions of O.C.G.A. §36-60-6 during the annual reporting period, including:

1. The name of the person and business issued a license, and
2. The federal work authorization (E-Verify) number provided at the time of application.

### **What entities are subject to these compliance requirements?**

The provisions of O.C.G.A. §36-60-6 only apply to counties and municipal corporations. The immigration collection system will note that this section is “Not Required” for all other entity types.

### **What are the compliance requirements?**

Every county and municipal corporation that issues business licenses, occupation tax certificates, or other documents required to operate a business must obtain a notarized affidavit from the person applying for such license. The applicant will indicate whether his/her business has more than ten employees. If the business has more than ten employees, the applicant must have a federal work authorization program (E-Verify) number before the license can be issued. The applicant must include the E-Verify number and the date of authorization on the affidavit.

For purposes of this Code Section, "employee" means an individual who is employed to work not less than 35 hours per week and whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099.

A business license should not be issued to any applicant who employs more than ten employees if the applicant has not obtained a federal work authorization number.

### **What are the reporting requirements?**

Per O.C.G.A. §50-36-4 (d) (4), counties and municipal corporations are required to submit an annual immigration report to the Department of Audits and Accounts which includes a listing of each license or certificate issued by the entity to private employers during the reporting period. The report should include the following information:

- The License/Certificate Number
- Name of Person to Whom the License/Certificate was Issued
- Name of Business to Whom the License/Certificate was Issued
- E-Verify Number Reported on Affidavit.

If the applicant was exempt because he/she did not have more than 10 employees, please mark exempt on the report.

The entity is only required to include initial license issuances on the annual report. The entity is not required to report renewals.

### **The Report**

Reports are to be submitted online through the Department of Audits and Accounts Immigration and Reform Act Collection System. All persons completing the report must have an account. If you do not have an account, you may request credentials at the log-in page of the collection system. To access the Department of Audits and Accounts Immigration and Reform Act collection system click this link [Georgia Department of Audits and Accounts](#).

For guidance on accessing, completing, and submitting the report, please review the "Guidelines for Completing the Immigration Compliance Report" document which can be found in the resources section of the Department of Audits and Accounts website. To access this resource page, click this link [Immigration Resource Page - DOAA](#).

The annual report is due to the Department of Audits and Accounts by December 31<sup>st</sup> of each year.

### **Final Comments**

- All counties and municipal corporations are required to submit a report, even if there were no licenses/certificates issued during the reporting period.

- State law set January 1st as the cut-off date for determining exemption due to the number of employees. It is the responsibility of the employer to determine the number of people employed by the business.
- When determining the number of employees, the applicant must consider the number of employees on payroll at all locations owned and operated, not just the location for which the business license is being sought.
- You do not need to submit the affidavits to the Department of Audits and Accounts. However, they should be retained in accordance with your records retention policy.

### **Penalties for Noncompliance**

O.C.G.A. §36-60-6 (j) states that the Attorney General is authorized to conduct an investigation and bring any criminal and civil action he or she deems necessary to ensure compliance with the provisions of this Code Section.

### **Penalties for Failure to Report**

The Department of Audits and Accounts will also consider all entities that do not submit an annual report as noncompliant and would be subject to penalties noted above.

### **Do you need assistance?**

The Department of Audits and Accounts' website includes resources to assist you in complying with the immigration laws and submitting your report. To access these resources, click this link [Immigration Resource Page - DOAA](#).

If you have questions relating to immigration compliance and/or reporting, please send us an email at [immhelp@audits.ga.gov](mailto:immhelp@audits.ga.gov).