



## IMMIGRATION LAW UPDATE

CLARK HILL  
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An Update from Clark Hill's Immigration Law Professionals

January 30, 2008

Hello,

### IMMIGRATION LAW UPDATE:

#### Michigan Attorney General Changes Driver's License Requirements and The Secretary of State Implements

The Michigan Attorney General has issued a ruling which, on its face, appears to say that only green card holders can get driver's licenses in Michigan. In his recent Opinion, entitled "[Permanent Residency Requirement for Driver's Licenses](#)," Attorney General Mike Cox specifically declared that "[o]nly a resident of Michigan may be issued a Michigan driver's license. A person who is not a lawful resident of the United States cannot be a resident of this State for purposes of obtaining a driver's license under sections 51a and 303(1)(h) of the Michigan Vehicle Code, MCL 257.51a and MCL 257.303(1)(h)."

Effective Tuesday, January 22, 2008, Secretary of State Terri Lynn Land announced that first-time applicants for a Michigan driver's license or identification card must provide documentation of (1) a valid Social Security number or ineligibility for one; (2) legal and permanent presence in the United States; (3) their identity (legal name and date of birth); and (4) Michigan residency.

There are thousands of lawfully present nonresident aliens in Michigan. The Attorney General's Opinion appears to prevent these lawfully present noncitizens from receiving a Michigan driver's license. Our office has been very involved with this matter, and is taking all steps we can to minimize the impact. We are also working with the legislators to draft new legislation. If you would like to know more regarding this matter, please contact us.

#### Visa Priority Dates - February Visa Bulletin

The February Visa Bulletin has been posted, and despite two retrogressions of the India Employment-based Second preference cut-off date in the past months, the number of adjustment of status cases has remained extremely high in recent months. Consequently, "the annual limit for the India Employment-based Second preference category has been reached, and the category has become "unavailable" effective immediately." For a copy of the February Visa Bulletin, visit the [Department of State \(DOS\) website](#). For a summary of [priority dates](#), and the issues that have arisen with the [Visa Bulletin](#) recently, please visit our

[previous Immigration Updates.](#)

### **Arizona Officials Agree to Postpone Enforcement of Challenged Workplace Law Until March 2008**

[The Legal Arizona Workers Act](#), which was scheduled to take effect in Arizona on January 1, 2008, has two important features for employees in that state. First, the Act imposes a business license penalty against employers who knowingly hire unauthorized employees. An employer who violates this act may be subject to a 10-day suspension of its business license (together with a three-year probationary period) for the first infraction or permanent revocation of its business license for any subsequent violations. Secondly, the Act requires all employers in Arizona to enroll in the USCIS's [Employment Eligibility Verification Program](#) to confirm the work eligibility of all new hires.

### **No More Oral Declarations of Citizenship**

Effective January 31, 2008, U.S. Customs and Border Protection (CBP) Officers will [no longer rely on an oral declaration](#), but will require all travelers, including those claiming to be US, Canadian or Bermudian citizens arriving by land and sea, to present some form of documentation to prove his or her identity and citizenship. For more on applying for a US passport, see our [previous Immigration Update](#).

### **Increase in Application Fees for US Nonimmigrant Visas**

[Effective January 1, 2008, the application fee for US nonimmigrant visas increased from \\$100 to \\$131.](#) Applicants who paid the prior \$100 application fee before January 1 will be processed only if they are scheduled to appear for a visa interview before January 31. Applicants who paid the prior \$100 application fee and appear for visa interviews after January 31, 2008 must pay the difference (\$31) before the interview.

### **Illinois Delays Law Prohibiting Use of DHS Employment Verification System**

The Department of Homeland Security initially sought to enjoin the State of Illinois from implementing a law preventing employers from participating in the federal government's [E-Verify Program](#). The law, called the Right to Privacy in the Workplace Act, was scheduled to take effect January 1, 2008, and was intended to bar companies from participating in E-Verify (formerly known as the Basic Pilot program), unless the employer has been notified of the workers' ineligibility within three (3) days. [Illinois officials have agreed to delay enforcement of this controversial law.](#)

USCIS has [issued a statement](#) to Illinois employers who are attempting to comply with the new law.

## USCIS Reaches H-2B Cap For Second Half of Fiscal Year 2008

On January 3, 2008, [USCIS announced that it had received a sufficient number of petitions to reach the H-2B cap](#) mandated by Congress for the second half of Fiscal Year 2008. The public has been notified that January 2, 2008 is the "final receipt date" for new H-2B worker petitions requesting employment start dates prior to October 1, 2008. Petitions seeking start dates prior to October 1, 2008 that arrive after January 2, 2008 will be rejected.

## PERM Labor Certifications Start Expiring January 11, 2008

Consistent with the new Department of Labor regulations on PERM Labor Certifications, as of January 1, 2008, PERM Labor Certifications will start expiring. Employers must have the I-140 Immigration Worker Petition filed within the 180 day window if their PERM case is approved. For more on the new rules regarding PERM Labor Certifications see our [previous Immigration Update](#).

### Contact Listing

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