

Fingerprint time tracking? Check state law

It's a problem as old as punching a time clock: Employees pad their hours by having co-workers clock them in and out. In recent years, employers have seized on biometric technologies such as fingerprint scanning as a way to control the abuse.

Like smartphones that lock and unlock with a fingerprint, time clocks can assure that the person clocking out is actually who he or she claims to be.

But before you rush out to buy the latest in technology, be sure to check with your attorney or your state labor department. Some states have strict rules that limit how and when you can compel workers to use their unique biometric information—such as fingerprints and iris scanning—as a condition of employment.

Example: Almost a decade ago, the Illinois legislature passed the Biometric Information Privacy Act, which requires any private entity that collects biometric identifiers to have a written policy that establishes a retention schedule and guidelines for the permanent destruction of the information. Those whose information is collected must be informed in advance, told the purpose and how long the information will be collected. In addition, the individuals must provide a written release authorizing collection.

Those requirements haven't been obvious to every employer that installed a fingerprint-scanning time clock. Several employers have run afoul of the Illinois law, which mandates at least \$1,000 in penalties for each violation, up to \$5,000 if the violation was intentional or reckless, plus attorneys' fees.

That has spurred at least three federal lawsuits, including one at Peacock Foods, a food packaging company with four plants in Illinois. Employees there claim they are unlawfully required to scan their fingerprints to clock in and out. Similar class-action lawsuits have been filed against the Roundy's supermarket chain and Superior Air-Ground Ambulance Service.

Texas and Washington also have biometric privacy laws. Other states considering similar legislation include Alaska, California, Massachusetts and New Hampshire.