

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require employers to certify that they have not and will not lay off a large number of employees before they are allowed to employ foreign workers in the United States.

IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.

H. R. 4213

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. SANDERS (for
himself and Mr. GRASSLEY)

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . CERTIFICATION REQUIREMENT.**

3 (a) **SHORT TITLE.**—This section may be cited as the
4 “Employ America Act”.

5 (b) **IN GENERAL.**—The Secretary of Homeland Secu-
6 rity may not approve a petition by an employer for any
7 visa authorizing employment in the United States unless

1 the employer has provided written certification, under pen-
2 alty of perjury, to the Secretary of Labor that—

3 (1) the employer has not provided a notice of
4 a mass layoff pursuant to the Worker Adjustment
5 and Retraining Notification Act (29 U.S.C. 2101 et
6 seq.) during the 12-month period immediately pre-
7 ceding the date on which the alien is scheduled to
8 be hired; and

9 (2) the employer does not intend to provide a
10 notice of a mass layoff pursuant to such Act.

11 (c) EFFECT OF MASS LAYOFF.—If an employer pro-
12 vides a notice of a mass layoff pursuant to the Worker
13 Adjustment and Retraining Notification Act after the ap-
14 proval of a visa described in subsection (b), any visas ap-
15 proved during the most recent 12-month period for such
16 employer shall expire on the date that is 60 days after
17 the date on which such notice is provided. The expiration
18 of a visa under this subsection shall not be subject to judi-
19 cial review.

20 (d) NOTICE REQUIREMENT.—Upon receiving notifi-
21 cation of a mass layoff from an employer, the Secretary
22 of Homeland Security shall inform each employee whose
23 visa is scheduled to expire under subsection (c)—

1 (1) the date on which such individual will no
2 longer be authorized to work in the United States;
3 and

4 (2) the date on which such individual will be re-
5 quired to leave the United States unless the indi-
6 vidual is otherwise authorized to remain in the
7 United States.

8 (e) EXEMPTION.—An employer shall be exempt from
9 the requirements under this section if the employer pro-
10 vides written certification, under penalty of perjury, to the
11 Secretary of Labor that the total number of the employer’s
12 workers who are United States citizens and are working
13 in the United States have not been, and will not be, re-
14 duced as a result of a mass layoff described in subsection
15 (c).

16 (f) RULEMAKING.—Not later than 90 days after the
17 date of the enactment of this Act, the Secretary of Home-
18 land Security and the Secretary of Labor shall promulgate
19 regulations to carry out this section, including a require-
20 ment that employers provide notice to the Secretary of
21 Homeland Security of a mass layoff (as defined in section
22 2 of the Worker Adjustment and Retraining Notification
23 Act (29 U.S.C. 2101)).