

109TH CONGRESS
1ST SESSION

S. _____

To require employers to verify the employment eligibility of their employees,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HAGEL introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To require employers to verify the employment eligibility
of their employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Employment
5 Verification Act of 2005”.

6 **SEC. 2. REQUIREMENTS FOR EMPLOYERS TO CONDUCT EM-**
7 **PLOYMENT ELIGIBILITY VERIFICATION.**

8 (a) REQUIREMENT TO PARTICIPATE IN THE EM-
9 PLOYMENT ELIGIBILITY VERIFICATION PROGRAM.—Sub-
10 title A of title IV of the Illegal Immigration Reform and

1 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
2 note) is amended—

3 (1) in section 401(c)(1)—

4 (A) by striking , “basic pilot program” and
5 inserting “Employment Eligibility Verification
6 System”; and

7 (B) by striking “the program” and insert-
8 ing “the system, on a continuous and perma-
9 nent basis,”;

10 (2) in section 402, by amending subsection (a)
11 to read as follows:

12 “(a) PARTICIPATION IN EMPLOYMENT ELIGIBILITY
13 VERIFICATION PROGRAM.—

14 “(1) IN GENERAL.—Beginning on the date that
15 is 2 years after the date of enactment of the Em-
16 ployment Verification Act of 2005, any person or
17 other entity that hires any individual for employ-
18 ment in the United States shall participate in the
19 Employment Eligibility Verification System.

20 “(2) PHASE-IN PERIOD.—The requirement
21 under paragraph (1) shall only apply—

22 “(A) to persons or entities that employ
23 more than 5,000 individuals in the United
24 States beginning on the later of—

1 “(i) 2 years after the date of enact-
2 ment of the Employment Verification Act
3 of 2005; or

4 “(ii) 60 days after the Secretary of
5 Commerce makes the certification required
6 by section 201(b) of such Act;

7 “(B) to persons or entities that employ
8 more than 1,000 individuals in the United
9 States beginning on the later of—

10 “(i) 3 years after the date of enact-
11 ment of the Employment Verification Act
12 of 2005; or

13 “(ii) 60 days after the Secretary of
14 Commerce makes the certification required
15 by section 201(b) of such Act;

16 “(C) to persons or entities that employ
17 more than 250 individuals in the United States
18 beginning on the later of—

19 “(i) 4 years after the date of enact-
20 ment of the Employment Verification Act
21 of 2005; or

22 “(ii) 60 days after the Secretary of
23 Commerce makes the certification required
24 by section 201(b) of such Act;

1 “(D) to persons or entities that employ
2 more than 1 individual in the United States be-
3 ginning on the later of—

4 “(i) 5 years after the date of enact-
5 ment of the Employment Verification Act
6 of 2005; or

7 “(ii) 60 days after the Secretary of
8 Commerce makes the certification required
9 by section 201(b) of such Act;

10 “(3) VOLUNTARY PARTICIPATION AUTHOR-
11 IZED.—Nothing in this subsection shall be construed
12 to prevent a person or other entity that is not sub-
13 ject to the requirement under paragraph (1) from
14 voluntarily participating in the Employment Eligi-
15 bility Verification System.

16 “(4) EFFECT OF PARTICIPATION.—A person or
17 entity participating in the Employment Eligibility
18 Verification System under this section shall be
19 deemed to be in compliance with section 274A(b) of
20 the Immigration and Nationality Act (8 U.S.C.
21 1324a(b)).

22 “(5) PROTECTION FROM UNAUTHORIZED DIS-
23 CLOSURE BY EMPLOYER.—Each employer partici-
24 pating in the Employment Eligibility Verification
25 System shall—

1 “(A) notify employees and prospective em-
2 ployees of the use of the System and that the
3 System may be used for immigration enforce-
4 ment purposes; and

5 “(B) restrict access to the System and pro-
6 tect from unauthorized disclosure the informa-
7 tion entered into or obtained from the Sys-
8 tem.”; and

9 (3) in section 403(a), by striking “(a)” and all
10 that follows through “agrees to conform” and insert-
11 ing the following:

12 “(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
13 TEM.—A person or other entity that elects to participate
14 in the Employment Eligibility Verification System shall
15 agree to conform”.

16 (b) CERTIFICATION.—The Secretary of Commerce, in
17 consultation with the Secretary of Homeland Security, the
18 Secretary of Labor, the Commissioner of Social Security,
19 and the Special Counsel for Immigration-Related Unfair
20 Employment Practices of the Department of Justice, shall
21 review the impact of the Employment Eligibility
22 Verification System established under subtitle A of title
23 IV of the Illegal Immigration Reform and Immigrant Re-
24 sponsibility Act of 1996 (8 U.S.C. 1324a note) on each
25 class of employers listed in section 402(a)(2) of such Act,

1 as amended by subsection (a), and, when appropriate,
2 shall certify, for each such class, that the System—

3 (1) does not result in increased discrimination
4 or cause reasonable employers to conclude that em-
5 ployees of certain races or ethnicities are more likely
6 to have difficulties when offered employment due to
7 the operation of the system; and

8 (2) does not interfere with or delay the hiring
9 process for employers or cause a waiting period
10 longer than 5 days before a new hire can be con-
11 firmed as eligible to work.

12 (c) PROTECTION FROM DISCRIMINATION.—Title IV
13 of the Illegal Immigration Reform and Immigrant Respon-
14 sibility Act of 1996 (8 U.S.C. 1324a note), as amended
15 by subsection (a), shall be implemented in such a manner
16 to prevent discrimination based on national origin or citi-
17 zenship status under section 274B of the Immigration and
18 Nationality Act (8 U.S.C. 1324b).

19 (d) CONFIDENTIALITY.—

20 (1) ACCESS TO DATABASE.—No officer or em-
21 ployee of any agency or department of the United
22 States, other than individuals responsible for the en-
23 forcement of immigration laws or for the evaluation
24 of the employment verification program at the Social
25 Security Administration, the Department of Home-

1 land Security, and the Department of Labor, may
2 have access to any information contained in the Em-
3 ployment Eligibility Verification System.

4 (2) PROTECTION FROM UNAUTHORIZED DIS-
5 CLOSURE.—Information in the Employment Eligi-
6 bility Verification System shall be adequately pro-
7 tected against unauthorized disclosure for other pur-
8 poses, as provided in regulations established by the
9 Commissioner of Social Security, in consultation
10 with the Secretary of Homeland Security and the
11 Secretary of Labor.

12 (e) IMPROVEMENTS TO DATABASE INTEGRITY.—

13 (1) IN GENERAL.—The Commissioner of Social
14 Security shall identify the sources of false, incorrect,
15 or expired Social Security numbers and take steps to
16 eliminate such numbers from the Social Security
17 system.

18 (2) REPORT.—Not later than 6 months after
19 the date of enactment of this Act, the Commissioner
20 of Social Security shall submit a report to Congress
21 that describes—

22 (A) the sources of false, incorrect, or ex-
23 pired Social Security numbers;

1 (B) the steps taken by the Social Security
2 Administration to identify and eliminate the
3 numbers described in paragraph (1); and

4 (C) how the Social Security Administration
5 plans to complete the removal of the numbers
6 described in paragraph (1) from the Social Se-
7 curity system within 1 year after the date on
8 which the report is submitted.

9 (f) ELECTRONIC FILING.—Any employer partici-
10 pating in the Employment Eligibility Verification System
11 may complete and allow for new hires to complete employ-
12 ment verification documents electronically.

13 (g) INTEGRATION AND ACCURACY OF EMPLOYMENT
14 ELIGIBILITY VERIFICATION SYSTEM.—

15 (1) INTEGRATION.—Not later than the first ef-
16 fective date of any mandatory participation in the
17 Employment Eligibility Verification System (referred
18 to in this subsection as the “System”), the Secretary
19 of Homeland Security shall fully integrate all data-
20 bases and data systems that are used in the System
21 and provide the Social Security Administration with
22 current and immediate access to information in the
23 System.

24 (2) MAINTAINING ACCURACY AND INTEGRITY.—

25 (A) POLICIES AND PROCEDURES.—

1 (i) ESTABLISHMENT.—The Secretary
2 of Homeland Security shall establish rules,
3 guidelines, policies, and operating and au-
4 diting procedures for collecting, removing,
5 adding, and updating data maintained in
6 the System to ensure the accuracy and in-
7 tegrity of the data.

8 (ii) TRAINING.—The Secretary shall
9 develop and implement training on the
10 rules, guidelines, policies, and procedures
11 established under clause (i) for all per-
12 sonnel authorized to access information
13 maintained in the System.

14 (B) DATA MAINTENANCE PROCEDURES.—
15 The Commissioner of Social Security shall es-
16 tablish rules, guidelines, policies, and operating
17 and auditing procedures for collecting, remov-
18 ing, updating, and adding data to the System
19 to ensure the accuracy and integrity of the data
20 and to limit access to the data to authorized
21 personnel.

22 (C) ENUMERATION.—The Secretary of
23 Homeland Security, in consultation with the
24 Secretary of State and the Commissioner of So-
25 cial Security, shall establish such rules, guide-

1 lines, policies, and operating and auditing pro-
2 cedures for collecting, updating, and adding in-
3 formation to the System to ensure the issuance
4 of Social Security numbers to all noncitizens
5 authorized to work in the United States not
6 later than 10 days after lawful admission to the
7 United States or approval of a change of non-
8 immigrant status by the Secretary of Homeland
9 Security.

10 (D) REQUIREMENTS.—The rules, guide-
11 lines, policies, and procedures established under
12 this subsection shall—

13 (i) incorporate a simple and timely
14 method for—

15 (I) correcting errors regarding
16 immigration status, work authoriza-
17 tion, or any other relevant data in a
18 timely and effective manner;

19 (II) determining which Govern-
20 ment official provided the data to as-
21 certain the accuracy of such data; and

22 (III) clarify information known
23 to lead to errors regarding immigra-
24 tion status, work authorization, or
25 misidentification;

1 (ii) include procedures for individuals
2 to—

3 (I) examine their personal record
4 for errors;

5 (II) seek expedited corrections of
6 data contained in the System; and

7 (III) appeal decisions concerning
8 data contained in the System;

9 (iii) strictly limit the agency personnel
10 authorized to input data into the System;
11 and

12 (iv) identify classes of prejudicial in-
13 formation requiring authorization of super-
14 visory personnel before entry into the Sys-
15 tem.

16 (E) CENTRALIZING AND STREAMLINING
17 CORRECTION PROCESS.—

18 (i) IN GENERAL.—The Secretary of
19 Homeland Security shall establish a clear-
20 inghouse bureau to centralize and stream-
21 line the process through which members of
22 the public can seek to correct erroneous or
23 inaccurate information contained in the
24 System that is related to immigration sta-

1 tus or otherwise impedes the issuance of a
2 Social Security number.

3 (ii) TIME SCHEDULES.—The process
4 described in clause (i) shall include specific
5 time schedules for reviewing data correc-
6 tion requests, rendering decisions on such
7 requests, and implementing appropriate
8 correcting action in a timely manner.

9 (h) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary to—

12 (1) carry out the Employment Eligibility
13 Verification System throughout the United States;
14 and

15 (2) sufficiently increase the number of Federal
16 employees dedicated to completing secondary
17 verifications for the Employment Eligibility
18 Verification System to comply with the timeframes
19 established under this section and the amendments
20 made by this section.

1 **SEC. 3. REDUCTION IN DOCUMENTS THAT ESTABLISH**
2 **IDENTITY AND EMPLOYMENT AUTHORIZA-**
3 **TION.**

4 (a) IN GENERAL.—Section 274A(b)(1) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1324a(b)(1)) is
6 amended—

7 (1) in subparagraph (B)—

8 (A) in clause (i), by adding “or” at the
9 end;

10 (B) in clause (ii)(III), by inserting “is ma-
11 chine readable and” before “contains”; and

12 (2) by amending subparagraph (C) to read as
13 follows:

14 “(C) DOCUMENTS EVIDENCING EMPLOY-
15 MENT AUTHORIZATION.—A document that may
16 be presented to establish employment authoriza-
17 tion under this section is—

18 “(i) a Social Security card that com-
19 plies with section 511(a); or

20 “(ii) a machine readable, tamper re-
21 sistant card issued by the United States
22 that explicitly authorizes employment in
23 the United States.”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the date that is 2 years
26 after the date of enactment of this Act.

1 **SEC. 4. PENALTIES FOR UNAUTHORIZED EMPLOYMENT**
2 **AND FALSE CLAIMS OF CITIZENSHIP.**

3 Section 274A of the Immigration and Nationality Act
4 (8 U.S.C. 1324a) is amended—

5 (1) in subsection (b)(2)—

6 (A) by striking “The individual” and in-
7 serting the following:

8 “(A) IN GENERAL.—The individual”; and

9 (B) by adding at the end the following:

10 “(B) PENALTIES.—Any individual who
11 falsely represents that the individual is a citizen
12 for purposes of obtaining employment shall, for
13 each such violation, be subject to a fine of not
14 more than \$5,000 and a term of imprisonment
15 not to exceed 3 years.”;

16 (2) in subsection (e)—

17 (A) in paragraph (4)(A)—

18 (i) in clause (i), by striking “\$250
19 and not more than \$2,000” and inserting
20 “\$500 and not more than \$4,000”;

21 (ii) in clause (ii), by striking “\$2,000
22 and not more than \$5,000” and inserting
23 “\$4,000 and not more than \$10,000”; and

24 (iii) in clause (iii), by striking
25 “\$3,000 and not more than \$10,000” and

1 inserting “\$6,000 and not more than
2 \$20,000”; and

3 (B) in paragraph (5), by striking “\$100
4 and not more than \$1,000” and inserting
5 “\$200 and not more than \$2,000”; and

6 (3) in subsection (f), by striking “\$3,000” and
7 inserting “\$6,000”.

8 **SEC. 5. NEW CRIMINAL PENALTIES FOR MISUSE OF SOCIAL**
9 **SECURITY ACCOUNT NUMBERS.**

10 (a) IN GENERAL.—Section 208(a) of the Social Secu-
11 rity Act (42 U.S.C. 408(a)) is amended—

12 (1) in paragraph (7), by adding after subpara-
13 graph (C) the following:

14 “(D) with intent to deceive, discloses, sells,
15 or transfers his own social security account
16 number, assigned to him by the Commissioner
17 of Social Security (in the exercise of the Com-
18 missioner’s authority under section 205(c)(2) to
19 establish and maintain records), to any person;
20 or”;

21 (2) in paragraph (8), by adding “or” at the
22 end; and

23 (3) by inserting after paragraph (8) the fol-
24 lowing:

1 “(9) without lawful authority, offers, for a fee,
2 to acquire for any individual, or to assist in acquir-
3 ing for any individual, an additional social security
4 account number or a number that purports to be a
5 social security account number; or

6 “(10) being an officer or employee of any exec-
7 utive, legislative, or judicial agency or instrumen-
8 tality of the Federal Government or of a State or
9 political subdivision thereof (or a person acting as
10 an agent of such an agency or instrumentality), will-
11 fully acts or fails to act so as to cause a violation
12 of section 205(c)(2)(C)(xi); or

13 “(11) being an officer or employee of any exec-
14 utive, legislative, or judicial agency or instrumen-
15 tality of the Federal Government or of a State or
16 political subdivision thereof (or a person acting as
17 an agent of such an agency or instrumentality) in
18 possession of any individual’s social security account
19 number (or an officer or employee thereof or a per-
20 son acting as an agent thereof), willfully acts or fails
21 to act so as to cause a violation of clause (vi)(II),
22 (x), (xi), (xii), (xiii), or (xiv) of section 205(c)(2)(C);
23 or

24 “(12) being a trustee appointed in a case under
25 title 11, United States Code (or an officer or em-

1 ployee thereof or a person acting as an agent there-
2 of), willfully acts or fails to act so as to cause a vio-
3 lation of clause (x), (xi), or (xiv) of section
4 205(c)(2)(C);”.

5 (b) EFFECTIVE DATES.—Paragraphs (7)(D), (9),
6 (10), (11), and (12) of section 208(a) of the Social Secu-
7 rity Act, as added by subsection (a)(2), shall apply with
8 respect to each violation occurring after the date of enact-
9 ment of this Act.