

February 12, 2008

United States Senate
Washington, DC 20510

United States House of Representatives
Washington, DC 20515

Dear Majority Leader Reid, Minority Leader McConnell and Members of the U.S. Senate, Speaker Pelosi, Minority Leader Boehner and Members of the House of Representatives:

As members of the Essential Worker Immigration Coalition (“EWIC”) representing employers both small and large, we write to voice our strong concerns with H.R. 4088 and S. 2368, the Secure America through Verification and Enforcement Act (“SAVE” Act). For close to a decade, EWIC has advocated for sensible reform of our nation’s immigration laws to better serve both the economic and national security needs of the United States. This legislation, introduced by Representatives Heath Shuler, Brian Bilbray and Senator Mark Pryor, does not provide the adequate framework. EWIC supports enforcement and a fast, accurate and reliable employment verification system, but within the context of comprehensive immigration reform.

The status quo is clearly unacceptable, exposing employers to unfair liability and worker shortages under a dysfunctional system and a growing patchwork of state and local laws. The SAVE Act addresses only the enforcement side of the immigration equation and, with respect to worksite enforcement provisions, we have serious concerns including:

- Immediate addition of at least one million employers and about a third of the workforce into the Basic Pilot/E-Verify program no later than one year after enactment (this includes federal contractors, federal agencies, and employers with over 250 employees), without any testing or revamping of the program.
- Re-verification of entire existing workforce within four years of enactment, which will be an enormous administrative burden on employers and employees. These employees have already been found to be authorized to work under current law.
- A new requirement that the Social Security Administration (SSA) must issue a “nomatch” letter to every employer with one or more employees that have provided information which does not correspond with information in the SSA database. Upon receipt of an SSA no-match letter, employees only have 10 business days to resolve issues before the employer must terminate the worker—even the Department of Homeland Security (DHS) final rule gave 90 days after receipt to correct a problem. This provision presumes the employee guilty before innocent despite the well-known inaccuracies that have been documented in the SSA database, and the common reasons for a no-match letter such as a typo, name change, or mistake.

- There are no benchmarking provisions to ensure that DHS and SSA assess the accuracy of their databases and correct problems before or even during the rollout out of the program.
- There is no timeframe given for DHS to give a final non-confirmation/confirmation of employment eligibility to employers. Employers could find out a year or more after the hire date that their employee is unauthorized after training and investing in them, and would have to immediately fire them.
- No liability protection is included from discrimination lawsuits for an employer who relies on E-Verify information and does not hire or fires a current employee, in the event that the future or current employee is later found eligible to work in the United States.
- Preemption is not addressed in the legislation, except in terms of not allowing states to opt out of E-Verify. Immigration is a federal issue and business cannot work successfully in a country with patchwork state and local laws that can often contradict each other.

Congress needs to fix our immigration system to recognize the ongoing need of the American economy for workers when no American workers are available, and to separate those who wish to harm our nation from those who wish to help build it. The current system does not work for anyone, and Congress needs to address the issue in a coherent manner that serves both our national security and economic interests rather than taking a piecemeal approach.

Respectfully,

Alliance for Security and Trade

American Hotel & Lodging Association

American Immigration Lawyers Association

American Meat Institute

American Nursery & Landscape Association

American Staffing Association

American Subcontractors Association, Inc.

Associated Builders and Contractors

Associated General Contractors

California Landscape Contractors Association

California Professional Association of Specialty Contractors (CALPASC)

Chicagoland Chamber of Commerce

Colorado Employers for Immigration Reform

Federation of Employers and Workers of America

Florida Employers for Immigration Reform

Georgia Employers for Immigration Reform

Golf Course Superintendents Association of America

International Association of Amusement Parks and Attractions

International Foodservice Distributors Association

International Franchise Association

Mason Contractors Association of America

National Association of Home Builders

National Christmas Tree Association

National Club Association

National Chicken Council
National Council of Chain Restaurants
National Restaurant Association
National Roofing Contractors Association
Nevada Restaurant Association
North Carolina Christmas Tree Association
North Carolina Green Industry Council
Outdoor Amusement Business Association, Inc.
Plumbing Heating Cooling Contractors Association
Professional Landcare Network
Small Business & Entrepreneurship Council
Society of American Florists
Texas Association of Business
Texas Employers for Immigration Reform
Texas Nursery & Landscape Association
Tree Care Industry Association
Virginia Poultry Federation
US Chamber of Commerce
United Fresh Produce Association
United States Hispanic Chamber of Commerce