

103^D CONGRESS
1ST SESSION

H. R. 3362

To amend the Immigration and Nationality Act to strengthen sanctions relating to employment of unauthorized aliens.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1993

Mr. MAZZOLI introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to strengthen sanctions relating to employment of unauthorized aliens.

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; TABLE OF CONTENTS; REF-**
4 **ERENCES TO IMMIGRATION AND NATIONAL-**
5 **ITY ACT.**

6 (a) SHORT TITLE.—This Act may be cited as the
7 “Employer Sanctions Improvement Act of 1993”.

8 (b) TABLE OF CONTENTS.—The table of contents of
9 this Act is as follows:

Sec. 1. Short title; table of contents; references to Immigration and Nationality Act.

TITLE I—PROMOTING ENFORCEMENT

- Sec. 101. Removal of Federal preemption from employer sanctions.
- Sec. 102. Creation of private right of action.
- Sec. 103. State immigration assistance and enforcement grants.
- Sec. 104. Requiring State enforcement as a condition of Federal assistance.
- Sec. 105. Permitting complaints other than in writing.
- Sec. 106. Authorizing the Attorney General to seek judicial review of adverse decisions.

TITLE II—IMPROVING THE EMPLOYMENT VERIFICATION SYSTEM

- Sec. 201. Eliminating unnecessary employment verification documents.
- Sec. 202. Authorizing the Attorney General to improve the employment verification system.
- Sec. 203. Report on consolidation of documentation evidencing temporary work authorization.

TITLE III—ADDITIONAL PENALTIES AND INCREASES IN PENALTIES

- Sec. 301. Civil penalties for aliens employed without authorization.
- Sec. 302. Prohibition of adjustment of status for unlawful employment.
- Sec. 303. Increased penalties for violations of employer sanctions.
- Sec. 304. Increase in civil money penalties for document fraud.

1 (c) REFERENCES TO IMMIGRATION AND NATIONAL-
 2 ITY ACT.—Except as otherwise expressly provided, when-
 3 ever in this Act an amendment or repeal is expressed in
 4 terms of an amendment to, or repeal of, a section or other
 5 provision, the reference shall be considered to be made to
 6 a section or other provision of Immigration and National-
 7 ity Act.

8 TITLE I—PROMOTING ENFORCEMENT

9 **SEC. 101. REMOVAL OF FEDERAL PREEMPTION FROM EM-**
 10 **PLOYER SANCTIONS.**

11 (a) IN GENERAL.—Section 274A(h)(2) (8 U.S.C.
 12 1324a(h)(2)) is amended—

13 (1) by striking “PREEMPTION” and inserting
 14 “NO PREEMPTION”,

1 (2) by inserting “do not” after “this section”,
2 and

3 (3) by striking “(other than” and inserting
4 “(including”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall take effect on the date of the enact-
7 ment of this Act.

8 **SEC. 102. CREATION OF PRIVATE RIGHT OF ACTION.**

9 (a) IN GENERAL.—Section 274A (8 U.S.C. 1324a)
10 is amended by striking subsections (i) through (n) and in-
11 serting the following:

12 “(i) PRIVATE RIGHT OF ACTION.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), any person or other entity aggrieved by
15 a violation of subsection (a)(1) or (a)(2), may file a
16 charge respecting such violation with the Attorney
17 General. Charges shall be in writing under oath or
18 affirmation and shall contain such information as
19 the Attorney General requires. The Attorney General
20 by certified mail shall serve a notice of the charge
21 (including the date, place, and circumstances of the
22 alleged violation) on the person or other entity in-
23 volved within 10 days. If the Attorney General, dur-
24 ing the 120-day period after receiving such a charge
25 respecting the unlawful employment of aliens, has

1 not provided notice under subsection (e)(3)(A) or
2 imposed an order described in paragraphs (3), (4),
3 or (5) of subsection (e), and no hearing has been re-
4 quired, the Attorney General shall so notify the
5 person or entity filing the charge and the person or
6 entity may file a complaint directly before an admin-
7 istrative law judge against the person or other entity
8 alleged to have committed the violation within 90
9 days after the date of receipt of the notice. The At-
10 torney General's failure to take any action with re-
11 spect to a charge during such 120-day period shall
12 not affect the right of the Attorney General to inves-
13 tigate the charge, to give notice under subsection
14 (e)(3)(A), or to impose an order regarding the com-
15 plaint during such 90-day period. No complaint may
16 be filed under this paragraph with respect to an al-
17 leged violation occurring more than 180 days prior
18 to the date of the filing of the charge under this
19 paragraph with respect to such violation.

20 “(2) STATES.—Any State aggrieved by a viola-
21 tion of subsection (a)(1) or (a)(2), may file a com-
22 plaint directly before an administrative law judge
23 against the person or other entity alleged to have
24 committed the violation, without filing a charge or

1 otherwise meeting the requirements of paragraph
2 (1).

3 “(3) ORDER.—In the case of a complaint filed
4 under paragraph (1) or (2) before an administrative
5 law judge regarding a person’s or other entity’s vio-
6 lation of subsection (a)(1) or (a)(2), if the judge
7 finds that such person or other entity has committed
8 such a violation, the judge may order the person or
9 other entity—

10 “(A) to pay the complainant liquidated
11 damages of not more than the maximum
12 amount of civil money penalties that may be
13 imposed under subsection (e)(4)(A) or (e)(5)
14 with respect to such violation, plus any attor-
15 ney’s fees under paragraph (4), and

16 “(B) to cease and desist from such viola-
17 tions.

18 “(4) ATTORNEY’S FEES.—In any complaint
19 brought under this subsection, the judge may grant
20 the prevailing party reasonable attorney’s fees if the
21 judge determines that the opposing party’s argu-
22 ment was without reasonable foundation in law and
23 fact.

24 “(5) JUDICIAL REVIEW AND ENFORCEMENT.—
25 The provisions of paragraphs (8) and (9) of sub-

1 section (e) shall apply to a final order under this
2 subsection in the same manner as they apply to a
3 final order under subsection (e), except that any ref-
4 erence in such paragraph (9) to the Attorney Gen-
5 eral is deemed a reference to the complainant.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to violations occurring on or
8 after the date of enactment of this Act.

9 **SEC. 103. STATE IMMIGRATION ASSISTANCE AND ENFORCE-**
10 **MENT GRANTS.**

11 (a) IN GENERAL.—The Attorney General shall pro-
12 vide grants to States to assist the States, and localities
13 in the States—

14 (1) in implementing programs to impose sanc-
15 tions with respect to the employment of unauthor-
16 ized aliens in the State, and

17 (2) in meeting health, education, law enforce-
18 ment and other costs attributable to aliens unlaw-
19 fully present in the State.

20 (b) CONDITION OF ELIGIBILITY.—No State is eligible
21 for a grant under this section unless the State (and its
22 localities) cooperates with (and does not take any actions
23 that impede) the Attorney General in activities and pro-
24 grams designed to prevent or deter the entry of undocu-
25 mented aliens into the United States or to identify, appre-

1 hend, and remove such aliens who are in the United
2 States.

3 (c) AMOUNT OF GRANTS.—The amount of grants to
4 States under this section shall be determined by the Attor-
5 ney General based on a formula established by the Attor-
6 ney General. Such formula shall take into account the
7 needs of qualified States (and localities therein) for the
8 assistance under subsection (a) and the extent of their co-
9 operation with the Attorney General under subsection (b).

10 (d) DISBURSEMENT AND USE OF FUNDS.—

11 (1) Payments of grants under this section shall
12 be made consistent with guidelines established by
13 the Attorney General in consultation with the
14 States.

15 (2) Not more than 5 percent of the funds paid
16 to any State under this section may be used for ad-
17 ministrative purposes.

18 (e) APPLICATION.—No grant shall be provided a
19 State under this section unless the State submits to the
20 Attorney General an application, in such form and manner
21 as the Attorney General may specify, and unless the Attor-
22 ney General approves such application.

23 (f) LIMITATION ON FEDERAL OVERHEAD.—The At-
24 torney General shall provide that not more than 2 percent
25 of the amount of funds disbursed to States under this sec-

1 tion may be used by the Federal Government in the ad-
2 ministration of this section.

3 (g) ANNUAL REPORT.—The Attorney General shall
4 report annually to the Congress on the grants to States
5 provided under this section.

6 (h) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated in each of fiscal years
8 1995, 1996, and 1997, \$100,000,000 to carry out this
9 section.

10 (i) STATE DEFINED.—In this section, the term
11 “State” has the meaning given such term in section
12 101(a)(36) of the Immigration and Nationality Act.

13 **SEC. 104. REQUIRING STATE ENFORCEMENT AS A CONDI-**
14 **TION OF FEDERAL ASSISTANCE.**

15 (a) IN GENERAL.—Section 503(a) of the Omnibus
16 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
17 3753(a)) is amended by adding at the end the following
18 paragraph:

19 “(12) An assurance that the State either—
20 “(A) is actively enforcing the sanctions
21 provided under section 274A of the Immigra-
22 tion and Nationality Act, or
23 “(B) has enacted and is actively enforcing
24 civil or criminal sanctions, or both, designed to

1 deter persons and other entities from knowingly
2 employing unauthorized aliens.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall apply to grants for fiscal years begin-
5 ning with fiscal year 1996.

6 **SEC. 105. PERMITTING COMPLAINTS OTHER THAN IN WRIT-**
7 **ING.**

8 Section 274A(e)(1)(A) (8 U.S.C. 1324a(e)(1)(A)) is
9 amended by striking “to file written, signed complaints re-
10 specting potential” and inserting “to register complaints
11 in person, by toll-free telephone number, or by mail, con-
12 cerning allegations of”.

13 **SEC. 106. AUTHORIZING THE ATTORNEY GENERAL TO SEEK**
14 **JUDICIAL REVIEW OF ADVERSE DECISIONS.**

15 (a) **IN GENERAL.**—Section 274A(e)(8) (8 U.S.C.
16 1324a(e)(8)) is amended by inserting “(including the At-
17 torney General)” after “A person or entity”.

18 (b) **EFFECTIVE DATE.**—The amendment made by
19 subsection (a) shall apply to final orders entered before,
20 on, or after the date of the enactment of this Act.

1 TITLE II—IMPROVING THE EMPLOYMENT
2 VERIFICATION SYSTEM

3 **SEC. 201. ELIMINATING UNNECESSARY EMPLOYMENT VER-**
4 **IFICATION DOCUMENTS.**

5 (a) CHANGES IN ACCEPTABLE DOCUMENTATION.—
6 Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

7 (1) in subparagraph (B)—

8 (A) by striking clauses (ii), (iii), and (iv)
9 and redesignating clause (v) as clause (ii), and

10 (B) in clause (i), by adding at the end
11 “or”;

12 (2) in subparagraph (C)—

13 (A) by inserting “or” after the semicolon
14 at the end of clause (i),

15 (B) by striking “or” at the end of clause
16 (ii) and inserting a period, and

17 (C) by striking clause (iii);

18 (3) in subparagraph (D), by striking “individ-
19 ual’s” and all that follows and inserting the follow-
20 ing: “individual’s driver’s license or similar docu-
21 ment issued for the purpose of identification by a
22 State, if it contains a photograph of the individual
23 or such other personal identifying information relat-
24 ing to the individual as the Attorney General finds,

1 by regulation sufficient for purposes of this sec-
2 tion.”; and

3 (4) by adding at the end the following new sub-
4 paragraph:

5 “(E) NO AUTHORITY FOR ADDITIONAL
6 DOCUMENTS.—Except as provided under sub-
7 section (d), the Attorney General is not author-
8 ized to expand the list of acceptable documents
9 described in subparagraphs (B), (C), and (D).”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply with respect to hiring (or re-
12 cruiting or referring) occurring on or after such date (not
13 later than 180 days after the date of the enactment of
14 this Act) as the Attorney General shall designate.

15 **SEC. 202. AUTHORIZING THE ATTORNEY GENERAL TO IM-**
16 **PROVE THE EMPLOYMENT VERIFICATION**
17 **SYSTEM.**

18 Section 274A(d) (8 U.S.C. 1324a(d)) is amended—

19 (1) by striking “President” and inserting “At-
20 torney General” each place it appears, and

21 (2) in the second sentence of paragraph

22 (3)(A)—

23 (A) by striking “proposes” and inserting “,
24 with the agreement of the Secretary of Health
25 and Human Services, proposes”, and

1 (B) by striking “shall transmit” and in-
2 serting “and such Secretary shall jointly trans-
3 mit”.

4 **SEC. 203. REPORT ON CONSOLIDATION OF DOCUMENTA-**
5 **TION EVIDENCING TEMPORARY WORK AU-**
6 **THORIZATION.**

7 Not later than 90 days after the date of enactment
8 of this Act, the Attorney General shall submit to the Con-
9 gress a report that includes a description of the following:

10 (1) The various types of documents issued (or
11 recognized) by the Immigration and Naturalization
12 Service for purposes of demonstrating an alien’s au-
13 thority to work temporarily in the United States.

14 (2) The Service’s recent efforts to update or
15 otherwise consolidate such documentation into a sin-
16 gle tamper-resistant document.

17 (3) The costs associated with any such efforts.

18 (4) The status of current plans (if any) to fur-
19 ther update and consolidate such documentation.

20 (5) The advisability, feasibility, and cost of
21 eliminating from circulation (or otherwise replacing),
22 within 3 years after the date of the enactment of
23 this Act, the various forms of temporary work au-
24 thorization documentation with a single tamper-re-
25 sistant document.

1 TITLE III—ADDITIONAL PENALTIES AND
2 INCREASES IN PENALTIES

3 **SEC. 301. CIVIL PENALTIES FOR ALIENS EMPLOYED WITH-**
4 **OUT AUTHORIZATION.**

5 (a) IN GENERAL.—Section 274A (8 U.S.C. 1324a),
6 as amended in section 102(a), is amended by adding at
7 the end the following new subsection:

8 “(j) MAKING EMPLOYMENT AS AN UNAUTHORIZED
9 ALIEN UNLAWFUL.—

10 “(1) IN GENERAL.—It is unlawful for an indi-
11 vidual—

12 “(A) to be employed in the United States
13 if such individual is an unauthorized alien with
14 respect to such employment, or

15 “(B) to be self-employed in the United
16 States if such individual is an alien who is not
17 lawfully admitted for permanent residence or
18 otherwise authorized to be self-employed in the
19 United States by this Act or by the Attorney
20 General.

21 “(2) CIVIL MONEY PENALTY.—With respect to
22 a violation of paragraph (1), the individual shall be
23 required to pay a civil penalty in an amount of not
24 less than \$250 and not more than \$2,000.

1 “(3) APPLICATION OF CERTAIN PROCE-
2 DURES.—The procedures described in paragraphs
3 (3), (7), (8), and (9) of subsection (e) for the impo-
4 sition of orders under subsection (e)(4) shall apply
5 to the imposition of a civil penalty under paragraph
6 (2).”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply with respect to employment per-
9 formed on or after the date of enactment of this Act.

10 **SEC. 302. PROHIBITION OF ADJUSTMENT OF STATUS FOR**
11 **UNLAWFUL EMPLOYMENT.**

12 (a) IN GENERAL.—Section 245(c) (8 U.S.C. 1255(c))
13 is amended by striking “(other than an immediate relative
14 as defined in section 201(b) or a special immigrant de-
15 scribed in section 101(a)(27)(H), (J), or (K))”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply with respect to employment per-
18 formed on or after the date of enactment of this Act.

19 **SEC. 303. INCREASED PENALTIES FOR VIOLATIONS OF EM-**
20 **PLOYER SANCTIONS.**

21 (a) UNLAWFUL EMPLOYMENT OF ALIENS.—Section
22 274A(e) (8 U.S.C. 1324a(e)) is amended—

23 (1) in paragraph (4)(A)(i), by striking “\$250
24 and not more than \$2,000” and inserting “\$500 and
25 not more than \$4,000”;

1 (2) in paragraph (4)(A)(ii), by striking “\$2,000
2 and not more than \$5,000” and inserting “\$4,000
3 and not more than \$10,000”;

4 (3) in paragraph (4)(A)(iii), by striking
5 “\$3,000 and not more than \$10,000” and inserting
6 “\$10,000 and not more than \$30,000”; and

7 (4) in paragraph (5), by striking “\$100 and not
8 more than \$1,000” and inserting “\$500 and not
9 more than \$5,000”.

10 (b) PATTERN OR PRACTICE VIOLATIONS.—Section
11 274A(f)(1) (8 U.S.C. 1324a(f)(1)) is amended by striking
12 “not more than” and all that follows through the period
13 and inserting “in accordance with title 18, United States
14 Code, for each unauthorized alien with respect to whom
15 such a violation occurs, imprisoned for not more than 2
16 years for the entire pattern or practice, or both.”.

17 (c) PROHIBITION OF INDEMNITY BONDS.—Section
18 274A(g)(2) (8 U.S.C. 1324a(g)(2)) is amended by striking
19 “\$1,000” and inserting “\$2,000”.

20 (d) DISCRIMINATION.—Section 274B(g)(2)(B)(iv) (8
21 U.S.C. 1324b(g)(2)(B)(iv)) is amended—

22 (1) in subclause (I), by striking “\$250 and not
23 more than \$2,000” and inserting “\$500 and not
24 more than \$4,000”;

1 (2) in subclause (II), by striking “\$2,000 and
2 not more than \$5,000” and inserting “\$4,000 and
3 not more than \$10,000”;

4 (3) in subclause (III), by striking “\$3,000 and
5 not more than \$10,000” and inserting “\$10,000 and
6 not more than \$30,000”; and

7 (4) in subclause (IV), by striking “\$100 and
8 not more than \$1,000” and inserting “\$500 and not
9 more than \$5,000”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to violations occurring on or after
12 the date of the enactment of this Act.

13 **SEC. 304. INCREASE IN CIVIL MONEY PENALTIES FOR DOC-**
14 **UMENT FRAUD.**

15 (a) IN GENERAL.—Section 274C(d)(3) (8 U.S.C.
16 1324c(d)(3)) is amended—

17 (1) in subparagraph (A) by striking “\$250 and
18 not more than \$2,000” and inserting “\$500 and not
19 more than \$4,000”; and

20 (2) in subparagraph (B) by striking “\$2,000
21 and not more than \$5,000” and inserting “\$4,000
22 and not more than \$10,000”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall apply to violations occurring on or
25 after the date of the enactment of this Act.



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