

109TH CONGRESS  
1ST SESSION

# S. 1917

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

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IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 2005

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

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## 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; and

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; and

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 acquiring  
3           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 executive,  
7           legislative, or judicial agency or instrumentality of the Federal Government or of a State or  
8           political subdivision thereof (or a person acting as  
9           an agent of such an agency or instrumentality), willfully acts or fails to act so as to cause a violation  
10          of section 205(c)(2)(C)(xi); or

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

○