

108TH CONGRESS
2D SESSION

H. R. 5111

To enforce restrictions on employment in the United States of unauthorized aliens through the use of improved Social Security cards and an Employment Eligibility Database, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2004

Mr. DREIER (for himself, Mr. REYES, and Mr. ISSA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enforce restrictions on employment in the United States of unauthorized aliens through the use of improved Social Security cards and an Employment Eligibility Database, 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 “Illegal Immigration
5 Enforcement and Social Security Protection Act of 2004”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) The Bonner Plan, as reflected in the terms
4 of this Act, is an appropriate response to the need
5 to improve procedures to preclude unauthorized em-
6 ployment of aliens and prevent the entry of terror-
7 ists into the United States.

8 (2) The economic disparity between the United
9 States and other countries is a prime factor in the
10 desire of foreign nationals to enter the United States
11 illegally.

12 (3) Federal law prohibits the employment of
13 such illegal immigrants in the United States.

14 (4) Nonetheless, illegal immigrants routinely
15 find employment within the United States.

16 (5) Such employment of illegal immigrants un-
17 dermines our system of lawful immigration and has
18 a negative impact on job opportunities for American
19 workers.

20 (6) Employers in the United States currently
21 have difficulty establishing the veracity of the iden-
22 tity documents of prospective employees in order to
23 verify their work eligibility.

24 (7) Pilot programs undertaken by the Federal
25 Government demonstrate that a nationwide employ-
26 ment verification system is feasible.

1 (8) Social Security cards are routinely required
2 to be presented to employers by new employees.

3 (9) Social Security cards remain vulnerable to
4 counterfeiting and fraud.

5 (10) Social Security cards with improved de-
6 fenses against fraudulent use would serve as the best
7 vehicle by which to determine employment eligibility.

8 (11) The Social Security card should not be-
9 come a national identification card.

10 **SEC. 3. AMENDMENTS TO THE SOCIAL SECURITY ACT RE-**
11 **LATING TO IDENTIFICATION OF INDIVID-**
12 **UALS.**

13 (a) ANTIFRAUD MEASURES FOR SOCIAL SECURITY
14 CARDS.—Section 205(c)(2)(G) of the Social Security Act
15 (42 U.S.C. 405(c)(2)(G)) is amended—

16 (1) by inserting “(i)” after “(G)”;

17 (2) by striking “banknote paper” and inserting
18 “durable plastic or similar material”; and

19 (3) by adding at the end the following new
20 clauses:

21 “(ii) Each Social Security card issued under this sub-
22 paragraph shall include an encrypted electronic identifica-
23 tion strip which shall be unique to the individual to whom
24 the card is issued. The Commissioner shall develop such
25 electronic identification strip in consultation with the Sec-

1 retary of Homeland Security, so as to enable employers
2 to use such strip in accordance with section 5(b) of Illegal
3 Immigration Enforcement and Social Security Protection
4 Act of 2004 to obtain access to the Employment Eligibility
5 Database established by such Secretary pursuant to sec-
6 tion 4 of such Act with respect to the individual to whom
7 the card is issued.

8 “(iii) The Commissioner shall provide for the
9 issuance (or reissuance) to each individual who—

10 “(I) has been assigned a Social Security ac-
11 count number under subparagraph (B),

12 “(II) has attained the minimum age applicable,
13 in the jurisdiction in which such individual engages
14 in employment, for legally engaging in such employ-
15 ment, and

16 “(III) files application for such card under this
17 clause in such form and manner as shall be pre-
18 scribed by the Commissioner,

19 a Social Security card which meets the preceding require-
20 ments of this subparagraph and which includes a recent
21 photograph of the individual to whom the card is issued.

22 “(iv) The Commissioner shall maintain an ongoing
23 effort to develop measures in relation to the Social Secu-
24 rity card and the issuance thereof to preclude fraudulent
25 use thereof.”.

1 (b) SHARING OF INFORMATION WITH THE SEC-
2 RETARY OF HOMELAND SECURITY.—Section 205(c)(2) of
3 such Act is amended by adding at the end the following
4 new subparagraph:

5 “(I) Upon the issuance of a Social Security account
6 number under subparagraph (B) to any individual or the
7 issuance of a Social Security card under subparagraph (G)
8 to any individual, the Commissioner of Social Security
9 shall transmit to the Secretary of Homeland Security such
10 information received by the Commissioner in the individ-
11 ual’s application for such number or such card as such
12 Secretary determines necessary and appropriate for ad-
13 ministration of the Illegal Immigration Enforcement and
14 Social Security Protection Act of 2004. Such information
15 shall be used solely for inclusion in the Employment Eligi-
16 bility Database established pursuant to section 4 of the
17 Illegal Immigration Enforcement and Social Security Pro-
18 tection Act of 2004.”.

19 (c) EFFECTIVE DATES.—The amendment made by
20 subsection (a) shall apply with respect to Social Security
21 cards issued after 2 years after the date of the enactment
22 of this Act. The amendment made by subsection (b) shall
23 apply with respect to the issuance of Social Security ac-
24 count numbers and Social Security cards after 2 years
25 after the date of the enactment of this Act.

1 **SEC. 4. EMPLOYMENT ELIGIBILITY DATABASE.**

2 (a) IN GENERAL.—The Secretary of Homeland Secu-
3 rity shall establish and maintain an Employment Eligi-
4 bility Database. The Database shall include data com-
5 prised of the citizenship status of individuals and the work
6 and residency eligibility information (including expiration
7 dates) with respect to individuals who are not citizens or
8 nationals of the United States but are authorized to work
9 in the United States. Such data shall include all such data
10 maintained by the Department of Homeland Security as
11 of the date of the establishment of such database and in-
12 formation obtained from the Commissioner of Social Secu-
13 rity pursuant to section 205(c)(2)(I) of the Social Security
14 Act. The Secretary shall maintain ongoing consultations
15 with the Commissioner to ensure efficient and effective op-
16 eration of the Database.

17 (b) INCORPORATION OF ONGOING PILOT PRO-
18 GRAMS.—To the extent that the Secretary determines ap-
19 propriate in furthering the purposes of subsection (a), the
20 Secretary may incorporate the information, processes, and
21 procedures employed in connection with the Citizen Attes-
22 tation Verification Pilot Program and the Basic Pilot Pro-
23 gram into the operation and maintenance of the Database
24 under subsection (a).

25 (c) CONFIDENTIALITY.—No officer or employee of
26 the Department of Homeland Security shall have access

1 to any information contained in the Database for any pur-
2 pose other than the establishment of a system of records
3 necessary for the effective administration of this Act. The
4 Secretary shall restrict access to such information to offi-
5 cers and employees of the United States whose duties or
6 responsibilities require access for the administration or en-
7 forcement of the provisions of this Act. The Secretary
8 shall provide such other safeguards as the Secretary deter-
9 mines to be necessary or appropriate to protect the con-
10 fidentiality of information contained in the Database.

11 (d) DEADLINE FOR MEETING REQUIREMENTS.—The
12 Secretary shall complete the establishment of the Data-
13 base and provide for the efficient and effective operation
14 of the Database in accordance with this section not later
15 than 2 years after the date of the enactment of this Act.

16 **SEC. 5. REQUIREMENTS RELATING TO INDIVIDUALS COM-**
17 **MENCING WORK IN THE UNITED STATES.**

18 (a) REQUIREMENTS FOR EMPLOYEES.—No indi-
19 vidual may commence employment with an employer in the
20 United States unless such individual has—

21 (1) obtained a Social Security card issued by
22 the Commissioner of Social Security meeting the re-
23 quirements of section 205(c)(2)(G)(iii) of the Social
24 Security Act, and

(2) displayed such card to the employer pursuant to the employer's request for purposes of the verification required under subsection (b).

(b) REQUIREMENTS FOR EMPLOYERS.—

(1) IN GENERAL.—No employer may hire for employment an individual in the United States in any capacity unless such employer verifies under this subsection that such individual has in his or her possession a Social Security card issued to such individual pursuant to section 205(c)(2)(G) of the Social Security Act which bears a photograph of such individual and that such individual is authorized to work in the United States in such capacity. Such verification shall be made in accordance with procedures prescribed by the Secretary for the purposes of ensuring against fraudulent use of the card and accurate and prompt verification of the authorization of such individual to work in the United States in such capacity.

(2) VERIFICATION PROCEDURES.—Such procedures shall include use of—

(A) a phone verification system which shall be established by the Secretary, or

(B) a card-reader device approved by the Secretary as capable of reading the electronic

1 identification strip borne by the card so as to
2 verify the identity of the card holder and the
3 card holder's authorization to work.

4 (3) ACCESS TO DATABASE.—The Secretary
5 shall ensure that, by means of such procedures, the
6 employer will have such access to the Employment
7 Eligibility Database maintained by the Secretary as
8 to enable the employer to obtain information, relat-
9 ing to the citizenship, residency, and work eligibility
10 of the individual seeking employment by the em-
11 ployer in any capacity, which is necessary to inform
12 the employer as to whether the individual is author-
13 ized to work for the employer in the United States
14 in such capacity.

15 (c) EFFECTIVE DATE.—The requirements of this sec-
16 tion shall apply with respect to the employment of any
17 individual in any capacity commencing after 2 years after
18 the date of the enactment of this Act.

19 **SEC. 6. ENFORCEMENT.**

20 (a) CIVIL PENALTIES.—The Secretary may assess a
21 penalty, payable to the Secretary, against any employer
22 who—

23 (1) hires an individual for employment in the
24 United States in any capacity who is known by the

1 employer not to be authorized to work in the United
2 States in such capacity, or

3 (2) fails to comply with the procedures pre-
4 scribed by the Secretary pursuant to section 5 in
5 connection with the employment of any individual.

6 Such penalty shall not exceed \$50,000 for each occurrence
7 of a violation described in paragraph (1) or (2) with re-
8 spect to the individual, plus, in the event of the removal
9 or deportation of such individual from the United States
10 based on findings developed in connection with the assess-
11 ment or collection of such penalty, the costs incurred by
12 the Federal Government in connection with such removal
13 or deportation.

14 (b) ACTIONS BY THE SECRETARY.—If any person is
15 assessed under subsection (a) and fails to pay the assess-
16 ment when due, or any person otherwise fails to meet any
17 requirement of this Act, the Secretary may bring a civil
18 action in any district court of the United States within
19 the jurisdiction of which such person's assets are located
20 or in which such person resides or is found for the recov-
21 ery of the amount of the assessment or for appropriate
22 equitable relief to redress the violation or enforce the pro-
23 visions of this section, and process may be served in any
24 other district. The district courts of the United States
25 shall have jurisdiction over actions brought under this sec-

1 tion by the Secretary without regard to the amount in con-
2 troversy.

3 (c) CRIMINAL PENALTY.—Any person who—

4 (1) hires for employment any individual in the
5 United States in any capacity who such person
6 knows not to be authorized to work in the United
7 States in such capacity, or

8 (2) hires for employment any individual in the
9 United States and fails to comply with the proce-
10 dures prescribed by the Secretary pursuant to sec-
11 tion 5(b) in connection with the hiring of such indi-
12 vidual,

13 shall upon conviction be fined in accordance with title 18,
14 United States Code, or imprisoned for not more than 5
15 years, or both.

16 **SEC. 7. AUTHORIZATIONS OF APPROPRIATIONS.**

17 (a) DEPARTMENT OF HOMELAND SECURITY.—There
18 are authorized to be appropriated to the Department of
19 Homeland Security for each fiscal year beginning on or
20 after October 1, 2004, such sums as are necessary to carry
21 out the provisions of this Act, including not to exceed
22 \$100,000,000 to enforce the provisions of this Act.

23 (b) SOCIAL SECURITY ADMINISTRATION.—There are
24 authorized to be appropriated to the Social Security Ad-
25 ministration for each fiscal year beginning on or after Oc-

1 tober 1, 2004, such sums as are necessary to carry out
2 the amendments made by section 3.

3 **SEC. 8. INTEGRATION OF FINGERPRINTING DATABASES.**

4 The Secretary of Homeland Security and the Attor-
5 ney General of the United States shall jointly undertake
6 to integrate the border-patrol fingerprinting identification
7 system maintained by the Department of Homeland Secu-
8 rity with the fingerprint database maintained by the Fed-
9 eral Bureau of Investigation. The integration of databases
10 pursuant to this section shall be completed not later than
11 2 years after the date of the enactment of this Act.

12 **SEC. 9. ADDITIONAL AUTHORIZATION FOR HIRING OF BOR-**
13 **DER PATROL AGENTS.**

14 In addition to such sums as are otherwise authorized,
15 there is authorized to be appropriated to the Department
16 of Homeland Security for each fiscal year beginning on
17 or after October 1, 2004, \$50,000,000 for employment of
18 border patrol agents.

19 **SEC. 10. RULE OF CONSTRUCTION.**

20 Nothing in this Act shall be construed to establish
21 a national identification card, and it is the policy of the
22 United States that the Social Security card shall not be
23 used as a national identification card.

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