

109TH CONGRESS  
1ST SESSION

# H. R. 1770

To require employers at critical infrastructure sites to participate in the pilot program for employment eligibility verification, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2005

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

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## A BILL

To require employers at critical infrastructure sites to participate in the pilot program for employment eligibility verification, 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. REQUIRING CERTAIN EMPLOYERS TO PARTICI-**  
4       **PATE IN PILOT PROGRAM.**

5       (a) IN GENERAL.—Section 402(e)(1) of the Illegal  
6       Immigration Reform and Immigrant Responsibility Act of  
7       1996 (8 U.S.C. 1324a note) is amended by adding at the  
8       end the following:

9                       “(C) EMPLOYERS AT CRITICAL INFRA-  
10                      STRUCTURE SITES.—

1           “(i) IN GENERAL.—Any employer de-  
2           scribed in clause (ii) shall elect to partici-  
3           pate in the basic pilot program described  
4           in section 403(a) and shall comply with the  
5           terms and conditions of such election.

6           “(ii) EMPLOYERS DESCRIBED.—An  
7           employer is described in this clause if the  
8           employer employs individuals working in a  
9           location that—

10           “(I) is a Federal, State, or local  
11           government building, a military base,  
12           a nuclear energy site, a weapon site,  
13           or an airport; or

14           “(II) contains critical infrastruc-  
15           ture (as defined in section 1016(e) of  
16           the Critical Infrastructure Protection  
17           Act of 2001 (42 U.S.C. 5195c(e))), as  
18           determined by the Secretary of Home-  
19           land Security in regulations.

20           “(iii) REGULATIONS.—The Secretary  
21           of Homeland Security shall promulgate  
22           regulations to assist employers in deter-  
23           mining whether they are described in  
24           clause (ii)(I).

1                   “(iv) SPECIAL RULE FOR CONTINUING  
2                   ACCESS TO CRITICAL INFRASTRUCTURE.—

3                   “(I) IN GENERAL.—It is unlawful  
4                   for an employer described in clause  
5                   (ii), after hiring an alien for employ-  
6                   ment in accordance with clause (i)—

7                   “(aa) to authorize, or to  
8                   continue to authorize, the alien’s  
9                   access to critical infrastructure  
10                  after having received a notifica-  
11                  tion of nonconfirmation from the  
12                  Commissioner of Social Security  
13                  under subsection (e); or

14                  “(bb) to fail to notify any  
15                  other person who, or entity that,  
16                  has issued, or may issue, to the  
17                  alien documentation authorizing  
18                  such access that the employer  
19                  has received such notification.

20                  “(II) ENFORCEMENT.—In the  
21                  case of an employer who violates sub-  
22                  clause (I), such violation shall be  
23                  treated as a violation of section  
24                  274A(a)(2) of the Immigration and  
25                  Nationality Act (8 U.S.C.

1 1324a(a)(2)) for purposes of applying  
2 the compliance investigation and en-  
3 forcement procedures described in sec-  
4 tion 274A(e) of such Act (8 U.S.C.  
5 1324a(e)).

6 “(III) RESUMPTION OF AUTHOR-  
7 ITY TO PROVIDE ACCESS.—Subclause  
8 (I)(aa) shall cease to apply to an alien  
9 when the employer has received satis-  
10 factory verification (as determined by  
11 the Secretary of Homeland Security in  
12 regulations) that the alien is not an  
13 unauthorized alien (as defined in sec-  
14 tion 274A(h)(3) of the Immigration  
15 and Nationality Act (8 U.S.C.  
16 1324a(h)(3))) with respect to the em-  
17 ployment. Upon the receipt of such  
18 satisfactory verification, the employer  
19 shall notify any person or entity pre-  
20 viously notified under subclause  
21 (I)(bb) of such receipt.”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall take effect one year after the date of  
24 the enactment of this Act.

1 **SEC. 2. AUTHORIZING ADDITIONAL USES OF EMPLOYMENT**  
2 **ELIGIBILITY CONFIRMATION SYSTEM.**

3 Section 404(h) of the Illegal Immigration Reform and  
4 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a  
5 note) is amended—

6 (1) in paragraph (1), by striking “for any other  
7 purpose” and all that follows through the period at  
8 the end and inserting the following:

9 “for any purpose other than—

10 “(A) as provided for under this subtitle,  
11 including paragraph (2);

12 “(B) for enforcement of the Immigration  
13 and Nationality Act (8 U.S.C. 1101 et seq.)  
14 and sections 1001, 1028, 1546, and 1621 of  
15 title 18, United States Code;

16 “(C) for enforcement of the Social Security  
17 Act (42 U.S.C. 301 et seq.).”

18 (2) by redesignating paragraph (2) as para-  
19 graph (3); and

20 (3) by inserting after paragraph (1) the fol-  
21 lowing:

22 “(2) PROTECTION OF CRITICAL INFRASTRUC-  
23 TURE.—

24 “(A) IN GENERAL.—Notwithstanding any  
25 other provision of this section, the Secretary of  
26 Homeland Security may authorize or require

1 any person or entity responsible for granting  
2 access to, protecting, securing, operating, ad-  
3 ministering, or regulating critical infrastructure  
4 (as defined in section 1016(e) of the Critical In-  
5 frastructure Protection Act of 2001 (42 U.S.C.  
6 5195c(e))) to use the confirmation system to  
7 verify the citizenship or immigration status of  
8 an individual requesting documentation author-  
9 izing access to such infrastructure, to the ex-  
10 tent that the Secretary determines that such  
11 use will assist in the protection of such infra-  
12 structure.

13 “(B) ENFORCEMENT.—In the case of a  
14 person or entity subject to a requirement im-  
15 posed by the Secretary under subparagraph  
16 (A), if the person or entity fails to comply with  
17 such requirement, such failure shall be treated  
18 as a violation of section 274A(a)(1)(B) of the  
19 Immigration and Nationality Act (8 U.S.C.  
20 1324a(a)(1)(B)) for purposes of applying the  
21 compliance investigation and enforcement pro-  
22 cedures described in section 274A(e) of such  
23 Act (8 U.S.C. 1324a(e)).”

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