

Calendar No. 595

110TH CONGRESS
2D SESSION

S. 2710

To authorize the Department of Homeland Security to use an employer's failure to timely resolve discrepancies with the Social Security Administration after receiving a "no match" notice as evidence that the employer violated section 274A of the Immigration and Nationality Act.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2008

Mr. SESSIONS introduced the following bill; which was read the first time

MARCH 6, 2008

Read the second time and placed on the calendar

A BILL

To authorize the Department of Homeland Security to use an employer's failure to timely resolve discrepancies with the Social Security Administration after receiving a "no match" notice as evidence that the employer violated section 274A of the Immigration and Nationality Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CONSTRUCTIVE KNOWLEDGE THAT EMPLOYEE**
 2 **IS AN UNAUTHORIZED ALIEN.**

3 Section 274A(a) of the Immigration and Nationality
 4 Act (8 U.S.C. 1324a(a)) is amended—

5 (1) in paragraph (1)(A), by inserting “, or hav-
 6 ing constructive knowledge that,” after “knowing”;

7 (2) in paragraph (2), by inserting “, or having
 8 constructive knowledge that,” after “knowing”; and

9 (3) by adding at the end the following:

10 “(8) CONSTRUCTIVE KNOWLEDGE DEFINED.—

11 In this subsection, ‘constructive knowledge’ is
 12 deemed to have been obtained by an employer that—

13 “(A) receives a social security no-match
 14 letter notifying the employer that the Social Se-
 15 curity Administration has been unable to match
 16 the employee’s name with the Social Security
 17 number provided by the employer; and

18 “(B) fails to take the corrective action sug-
 19 gested by the Social Security Administration or
 20 the Department of Homeland Security within
 21 90 days of receiving the letter described in sub-
 22 paragraph (A).”.

1 **SEC. 2. TERMINATION OF EMPLOYEES BASED ON CON-**
2 **STRUCTIVE KNOWLEDGE THAT EMPLOYEES**
3 **ARE UNAUTHORIZED ALIENS IS NOT AN UN-**
4 **FAIR IMMIGRATION-RELATED EMPLOYMENT**
5 **PRACTICE.**

6 Section 274B(a)(2) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1324b(a)(2)) is amended—

8 (1) in subparagraph (A), by striking the comma
9 at the end and inserting a semicolon;

10 (2) in subparagraph (B), by striking “, or” and
11 inserting a semicolon;

12 (3) in subparagraph (C), by striking the period
13 at the end and inserting “; or”; and

14 (4) by adding at the end the following:

15 “(D) the firing of an employee by an em-
16 ployer that has constructive knowledge that the
17 employee is not authorized to work in the
18 United States based on the receipt of notice
19 from the Social Security Administration that
20 the name and number provided by the employee
21 do not match, and can not be corrected to
22 match, the records of the Social Security Ad-
23 ministration.”.

24 **SEC. 3. RULEMAKING.**

25 The Secretary of Homeland Security shall promul-
26 gate regulations to—

1 (1) carry out the amendment made by section
2 1; and

3 (2) interpret the exception contained in the
4 amendment made by section 2.

5 **SEC. 4. DISCLOSURE OF NO MATCH LETTERS.**

6 Section 6103(l) of the Internal Revenue Code of 1986
7 is amended by adding at the end the following new para-
8 graph:

9 “(21) DISCLOSURE OF CERTAIN TAXPAYER
10 IDENTITY INFORMATION BY SOCIAL SECURITY AD-
11 MINISTRATION TO DEPARTMENT OF HOMELAND SE-
12 CURITY.—From taxpayer identity information which
13 has been disclosed to the Social Security Administra-
14 tion, the Commissioner of Social Security shall dis-
15 close directly to officers and employees of the De-
16 partment of Homeland Security—

17 “(A) the taxpayer identity information of
18 each person who has filed in information return
19 required by reason section 6051, which contains
20 more than 10 names and taxpayer identifying
21 numbers of employees (within the meaning of
22 such section)—

23 “(i) that did not match the records
24 maintained by the Commissioner of Social
25 Security, or

1 “(ii) with the same taxpayer identi-
2 fication number, and
3 “(B) the number of employees described in
4 clauses (i) and (ii) of subparagraph (A).”.

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