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H. R. 4557

To amend the Social Security Act to require the Secretary of Health and Human Services to establish a program to verify employee social security information, and to require employers to use the program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 1994

Mr. CALVERT (for himself, Mr. HALL of Texas, Mr. MCCOLLUM, Mr. TRAFICANT, Mr. BILBRAY, Mr. HOLDEN, Mr. SMITH of Texas, Mr. COLLINS of Georgia, Mr. LEVY, Mr. HUNTER, Mr. MCKEON, Mr. GALLEGLY, Mr. ARCHER, Mr. CUNNINGHAM, Mr. LEHMAN, Mr. SMITH of Oregon, Mr. EMERSON, Mr. ROHRABACHER, Mr. SHAYS, Mr. CANADY, Mr. KIM, Mr. GOSS, Ms. MOLINARI, Mr. GALLO, Mrs. VUCANOVICH, Mr. LEWIS of Florida, Mrs. ROUKEMA, and Mr. MOORHEAD) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Social Security Act to require the Secretary of Health and Human Services to establish a program to verify employee social security information, and to require employers to use the program.

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 “Social Security Ac-
5 count Number Anti-Fraud Act”.

1 **SEC. 2. STATEMENT OF PURPOSE.**

2 The purpose of this Act is to reduce the use of fraud-
3 ulent social security documents for employment purposes.

4 **SEC. 3. SOCIAL SECURITY ACCOUNT NUMBER ANTI-FRAUD**
5 **PROGRAM.**

6 Section 205 of the Social Security Act (42 U.S.C.
7 405) is amended by adding at the end the following new
8 subsection:

9 “Verification of Employee Social Security Account
10 Numbers

11 “(u)(1)(A) Not later than 10 years after the date of
12 the enactment of the Social Security Account Number
13 Anti-Fraud Act, the Secretary, in consultation with the
14 Commissioner of Immigration and Naturalization and the
15 Secretary of Labor, shall establish a program under
16 which—

17 “(i) each American employer, either by tele-
18 phone through use of a toll-free telephone number or
19 by other electronic device—

20 “(I) shall transmit the social security ac-
21 count number and name of each new employee
22 of the employer, and any other information con-
23 cerning the employee that the Secretary re-
24 quires by regulation, to the Secretary within 30
25 days after the commencement of employment of
26 the employee; and

1 “(II) may transmit the social security ac-
2 count number and name of any employee of the
3 employer to whom subclause (I) does not apply,
4 and any other information concerning the em-
5 ployee that the Secretary requires by regula-
6 tion, to the Secretary; and

7 “(ii) notwithstanding any provision of section
8 552a of title 5, United States Code, the Secretary
9 shall, upon receiving the information transmitted
10 under clause (i), instantaneously notify the employer
11 that there is or is not a discrepancy concerning the
12 information, by sending a communication to the
13 same electronic device through which the informa-
14 tion was transmitted to the Secretary.

15 “(B)(i) The Secretary shall give each employer a ver-
16 ification number for each employee social security account
17 number that the employer transmits under the program
18 established under this paragraph.

19 “(ii) The Secretary shall maintain, for at least the
20 amount of time during which prosecution for crimes relat-
21 ing to fraudulent use of a social security account number
22 would be allowable under applicable statutes of limita-
23 tions, records of all contacts that occur under subpara-
24 graph (A) or (D) between the Secretary and an employer.

1 “(C) The Secretary shall establish guidelines to de-
2 scribe the characteristics that constitute a discrepancy
3 concerning a social security account number transmitted
4 to the Secretary under the program established under this
5 paragraph. Under the guidelines, a discrepancy concerning
6 a social security account number shall be indicated if any
7 of the following factors is present regarding the number:

8 “(i) An invalid social security account number.

9 “(ii) A social security account number submit-
10 ted for verification under the program with a name
11 that does not belong to the correct holder of the so-
12 cial security account number.

13 “(iii) Unusually frequent use of a social security
14 account number.

15 “(iv) Use of a social security account number in
16 geographically distant locations within a relatively
17 short period of time.

18 “(v) Any other factor that the Secretary deter-
19 mines to be appropriate.

20 “(D) If a discrepancy concerning the social security
21 account number of an employee is indicated under the pro-
22 gram established under this paragraph—

23 “(i) the Secretary shall notify the Commissioner
24 of Immigration and Naturalization, within 24 hours
25 after the discrepancy is indicated, of—

1 “(I) the fact that a discrepancy has been
2 indicated regarding the employee; and

3 “(II) the nature of the discrepancy;

4 “(ii) the Secretary may not, pursuant to this
5 subsection, notify the employer of the nature of the
6 discrepancy;

7 “(iii) an employer notified of the discrepancy
8 under subparagraph (A)(ii) shall notify the employee
9 that a discrepancy has been indicated within 14 days
10 after the employer receives the notification;

11 “(iv) the employee shall contact an office of the
12 Social Security Administration within 14 days after
13 being notified of the discrepancy under clause (iii);

14 “(v) the Secretary shall notify the employee of
15 the nature of the discrepancy, upon a written re-
16 quest by the employee or a request made by the em-
17 ployee in person at an office of the Social Security
18 Administration;

19 “(vi) the Secretary shall notify the employee,
20 the current employer of the employee, and the Com-
21 missioner of Immigration and Naturalization, in
22 writing, of the resolution or confirmation of the dis-
23 crepancy, within 30 days after the employee contacts
24 the Social Security Administration under clause (iv);

1 “(vii) the current employer of the employee
2 shall reverify the social security account number
3 through the program established under this para-
4 graph within 10 days after the Secretary notifies the
5 employer, under clause (vi), that the discrepancy has
6 been resolved; and

7 “(viii) unless the Secretary notifies the em-
8 ployer, under clause (vi), that the discrepancy has
9 been confirmed, the employer may not take any ac-
10 tion to penalize the employee based on the discrep-
11 ancy.

12 “(E)(i) The Secretary may not charge a fee to any
13 employer or employee in connection with the utilization of
14 the program established under this paragraph.

15 “(ii) No employer may charge a fee to—

16 “(I) an employee of the employer in connection
17 with the utilization of the program; or

18 “(II) a job applicant in connection with, or an-
19 ticipation of, utilization of the program.

20 “(2) The Secretary may by regulation exempt any
21 employer from the obligation to use the program estab-
22 lished under paragraph (1) regarding any employee whose
23 employment with the employer includes only the perform-
24 ance of services described in subparagraph (B) or (C) of

1 section 209(a)(6) for remuneration described in such sub-
2 paragraph.

3 “(3)(A) Failure by an employer to comply with para-
4 graph (1) of this subsection shall be considered to be a
5 violation of section 274A(a)(1)(A) of the Immigration and
6 Naturalization Act (8 U.S.C. 1324a(a)(1)(A)), for pur-
7 poses of section 274A(e) of such Act, as modified by sub-
8 paragraph (B).

9 “(B) For purposes of subparagraph (A), section
10 274A(e) of the Immigration and Naturalization Act (8
11 U.S.C. 1324a(e)) shall be applied by substituting the term
12 ‘employee’ for the term ‘unauthorized alien’ in clause (i)
13 of section 274A(e)(4)(A) of such Act, and for the term
14 ‘alien’ in clauses (ii) and (iii) of such section.

15 “(4)(A) Any person or business who knowingly and
16 willfully requests or obtains any record, or information,
17 from or under the program established under paragraph
18 (1) under false pretenses shall be guilty of an infraction
19 and shall be subject to a fine as provided in title 18,
20 United States Code.

21 “(B) The penalties described in section 552a(i) of
22 title 5, United States Code, shall not apply to an activity
23 that is subject to a penalty under subparagraph (A).

24 “(5) For purposes of this subsection:

1 “(A) The term ‘American employer’ has the
2 meaning given the term in section 210(e), as such
3 section may from time to time be amended, except
4 that the terms ‘State’ and ‘United States’ within
5 such section shall have the meaning given the term
6 ‘United States’ in subparagraph (D) of this para-
7 graph.

8 “(B) The term ‘employee’ has the meaning
9 given the term in section 210(j), as such section may
10 from time to time be amended, and does not include
11 a job applicant.

12 “(C) The term ‘new employee’ means an em-
13 ployee who commences an employment more than 10
14 years after the date of the enactment of the Social
15 Security Account Number Anti-Fraud Act.

16 “(D) The term ‘United States’ has the meaning
17 given the term in section 101(38) of the Immigra-
18 tion and Nationality Act, as such section may from
19 time to time be amended.”.

20 **SEC. 4. IMPLEMENTATION OF SOCIAL SECURITY ACCOUNT**
21 **NUMBER ANTI-FRAUD PROGRAM.**

22 (a) ESTABLISHMENT OF PROGRAM.—Not later than
23 180 days after the date of the enactment of this Act, the
24 Secretary shall implement the Social Security Account

1 Number Anti-Fraud Program on a partial and interim
2 basis, as provided in this section.

3 (b) INITIAL PERIOD.—The Secretary shall make the
4 Social Security Account Number Anti-Fraud Program
5 available for the 18-month period beginning 180 days
6 after the date of the enactment of this Act to each em-
7 ployer that participates in Phase II of the Telephone Ver-
8 ification System administered by the Immigration and
9 Naturalization Service. If fewer than 200 of the employers
10 agree to participate in the program, the Secretary may
11 make the program available to additional employers in the
12 States of California, Florida, Illinois, New York, and
13 Texas until the program is available to 200 employers.

14 (c) REPORT ON INITIAL IMPLEMENTATION.—Not
15 later than 15 months after the beginning of the 18-month
16 period described in subsection (b), the Secretary shall sub-
17 mit to the Congress a report that contains—

18 (1) an evaluation of the effectiveness of the So-
19 cial Security Account Number Anti-Fraud Program
20 as the program is implemented under subsections (a)
21 and (b) of this section; and

22 (2) a description of any cooperation between the
23 Social Security Administration and the Immigration
24 and Naturalization Service regarding the program.

25 (d) 5-YEAR EXPANSION.—

1 (1) REQUIREMENT REGARDING NEW EMPLOY-
2 EES.—

3 (A) IN GENERAL.—Not later than 5 years
4 after the expiration of the 18-month period de-
5 scribed in subsection (b), each employer in the
6 States of California, Florida, Illinois, New
7 York, and Texas shall use the Social Security
8 Account Number Anti-Fraud Program to verify,
9 within 30 days after the commencement of the
10 employment of the employee, the social security
11 account number of each new employee of the
12 employer.

13 (B) EXCEPTION.—Paragraph (1) shall not
14 be construed to require an employer to verify
15 the social security account number of an em-
16 ployee if, under regulations issued under section
17 205(u)(2) of the Social Security Act (as added
18 by this Act), the employer is not required to
19 verify the social security account number of the
20 employee.

21 (2) AVAILABILITY REGARDING OTHER EMPLOY-
22 EES.—Not later than 5 years after the expiration of
23 the 18-month period described in subsection (b), the
24 Secretary shall make the Social Security Account
25 Number Anti-Fraud Program available to each em-

1 ployer in the States of California, Florida, Illinois,
2 New York, and Texas.

3 (e) DEFINITIONS.—For purposes of this section:

4 (1) The term “employee” has the meaning
5 given the term in section 210(j) of the Social Secu-
6 rity Act (42 U.S.C. 410(j)), as such section may
7 from time to time be amended, and does not include
8 a job applicant.

9 (2) The term “new employee” means an em-
10 employee who commences an employment more than 5
11 years after the expiration of the 18-month period de-
12 scribed in subsection (b).

13 (3) The term “Social Security Account Number
14 Anti-Fraud Program” means the program estab-
15 lished under subsection (u) of section 205 of the So-
16 cial Security Act (as added by this Act), but does
17 not include paragraph (1)(A)(i)(I) or (3) of such
18 subsection.

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