

104TH CONGRESS
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H. R. 502

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

JANUARY 13, 1995

Mr. CALVERT (for himself, Mr. HASTERT, Ms. MOLINARI, Mr. ROHRABACHER, Mr. MANZULLO, Mr. CASTLE, Mr. HUNTER, Mr. CUNNINGHAM, Mr. SAXTON, Mr. CANADY of Florida, Mr. SKEEN, Mr. MOORHEAD, Mr. HOLDEN, Mr. BONO, Mr. MCKEON, and Mr. LAUGHLIN) 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”.

6 **SEC. 2. STATEMENT OF PURPOSE.**

7 The purposes of this Act are—

1 (1) to require the Social Security Administration and
2 the Immigration and Naturalization Service to establish
3 a system that allows employers to verify social security
4 account numbers of employees; and

5 (2) to reduce the use of fraudulent social security
6 documents for employment purposes.

7 **SEC. 3. SOCIAL SECURITY ACCOUNT NUMBER ANTI-FRAUD**
8 **PROGRAM.**

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

12 “Verification of Employee Social Security Account
13 Numbers

14 “(u)(1)(A) Not later than 2 years after the date of
15 the enactment of the Social Security Account Number
16 Anti-Fraud Act, the Secretary, in consultation with the
17 Commissioner of Immigration and Naturalization and the
18 Secretary of Labor, shall establish a program under
19 which—

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

23 “(I) shall transmit the social security ac-
24 count number and name of each new employee
25 of the employer, and any other information con-

1 cerning the employee that the Secretary re-
2 quires by regulation, to the Secretary not later
3 than 72 hours after the commencement of em-
4 ployment of the employee; and

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

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

19 “(B)(i) With respect to each employee social security
20 account number that an employer transmits under the
21 program established under this paragraph, the Secretary
22 shall give the employer—

23 (I) a verification number; and

1 (II) a number indicating whether there is or is
2 not a discrepancy concerning the employee social se-
3 curity account number.

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

10 “(iii) Each employer shall maintain, for at least the
11 amount of time referred to in clause (ii), records of all
12 information (including numbers referred to in clause (i))
13 provided to the employer under this subsection with re-
14 spect to any employee social security account number, or
15 any other employee-related information, submitted pursu-
16 ant to subparagraph (A)(i). The employer shall make such
17 records available, upon request, for inspection by the Sec-
18 retary or the designee of the Secretary for purposes of
19 evaluating the compliance of the employer with this sub-
20 section.

21 “(C) The Secretary shall establish guidelines to de-
22 scribe the characteristics that constitute a discrepancy
23 concerning a social security account number transmitted
24 to the Secretary under the program established under this
25 paragraph. Under the guidelines, a discrepancy concerning

1 a social security account number shall be indicated if any
2 of the following factors is present regarding the number:

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

4 “(ii) A social security account number submit-
5 ted for verification under the program with a name
6 that does not belong to the correct holder of the so-
7 cial security account number.

8 “(iii) Unusually frequent use of a social security
9 account number.

10 “(iv) Use of a social security account number in
11 geographically distant locations within a relatively
12 short period of time.

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

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

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

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

23 “(II) the nature of the discrepancy;

1 “(ii) the Secretary may not, pursuant to this
2 subsection, notify the employer of the nature of the
3 discrepancy;

4 “(iii) an employer notified of the discrepancy
5 under subparagraph (A)(ii) shall notify the employee
6 that a discrepancy has been indicated within 3 days
7 after the employer receives the notification;

8 “(iv) the employee shall contact an office of the
9 Social Security Administration within 3 days after
10 being notified of the discrepancy under clause (iii);

11 “(v) the Secretary shall notify the employee of
12 the nature of the discrepancy, upon request by the
13 employee to the Secretary (including a request made
14 to an office of the Social Security Administration);

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

21 “(vii) the current employer of the employee
22 shall reverify the social security account number
23 through the program established under this para-
24 graph within 10 days after the Secretary notifies the

1 employer, under clause (vi), that the discrepancy has
2 been resolved; and

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

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

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

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

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

16 “(2) The Secretary may by regulation exempt any
17 employer from the obligation to use the program estab-
18 lished under paragraph (1) regarding any employee whose
19 employment with the employer includes only the perform-
20 ance of services described in subparagraph (B) or (C) of
21 section 209(a)(6) for remuneration described in such sub-
22 paragraph.

23 “(3)(A) Failure by an employer to comply with para-
24 graph (1) of this subsection shall be considered to be a
25 violation of section 274A(a)(1)(A) of the Immigration and

1 Naturalization Act (8 U.S.C. 1324a(a)(1)(A)), for pur-
2 poses of section 274A(e) of such Act, as modified by sub-
3 paragraph (B) of this paragraph.

4 “(B) For purposes of subparagraph (A), section
5 274A(e) of the Immigration and Naturalization Act (8
6 U.S.C. 1324a(e)) shall be applied by substituting the term
7 ‘employee’ for the term ‘unauthorized alien’ in clause (i)
8 of section 274A(e)(4)(A) of such Act, and for the term
9 ‘alien’ in clauses (ii) and (iii) of such section.

10 “(4)(A) Any person or business who knowingly and
11 willfully requests or obtains any record, or information,
12 from or under the program established under paragraph
13 (1) under false pretenses shall be guilty of an infraction
14 and shall be subject to a fine as provided in title 18, Unit-
15 ed States Code.

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

19 “(5) The Secretary shall establish by regulation a
20 mechanism (such as the use of a personal identification
21 number or taxpayer identification number) by which the
22 Secretary may verify the identity of each employer trans-
23 mitting and receiving information under this subsection
24 and may ensure that each person who transmits or re-
25 ceives information under this subsection as if such person

1 were an employer is an employer who is legitimately enti-
2 tled to use the program established under this subsection.

3 “(6) The Secretary shall establish a toll-free number
4 through which an employee may contact an office of the
5 Social Security Administration as required by paragraph
6 (1)(D)(iv).

7 “(7) For purposes of this subsection:

8 “(A) The term ‘American employer’ has the
9 meaning given the term in section 210(e), as such
10 section may from time to time be amended, except
11 that the terms ‘State’ and ‘United States’ within
12 such section shall have the meaning given the term
13 ‘United States’ in subparagraph (D) of this para-
14 graph.

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

19 “(C) The term ‘new employee’ means an em-
20 ployee who commences an employment more than 2
21 years after the date of the enactment of the Social
22 Security Account Number Anti-Fraud Act.

23 “(D) The term ‘United States’ has the meaning
24 given the term in section 101(38) of the Immigra-

1 tion and Nationality Act, as such section may from
2 time to time be amended.”.

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

5 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
6 of Health and Human Services shall implement the Social
7 Security Account Number Anti-Fraud Program on a par-
8 tial and interim basis, as provided in this section, for a
9 period beginning not later than 180 days after the date
10 of the enactment of this Act and ending on the nationwide
11 implementation date.

12 (b) AVAILABILITY TO EMPLOYERS.—The Secretary
13 shall make the Social Security Account Number Anti-
14 Fraud Program, as implemented under subsection (a),
15 available to all employers in the States of California, Flor-
16 ida, Illinois, New Jersey, New York, and Texas.

17 (c) REPORT ON INITIAL IMPLEMENTATION.—Not
18 later than 45 days after the expiration of the first 12-
19 month period in which the Social Security Account Num-
20 ber Anti-Fraud Program is implemented under subsection
21 (a), the Secretary shall submit to the Congress a report
22 that contains—

23 (1) an evaluation of the effectiveness of the So-
24 cial Security Account Number Anti-Fraud Program

1 as the program is implemented under subsections (a)
2 and (b) of this section; and

3 (2) a description of any cooperation between the
4 Social Security Administration and the Immigration
5 and Naturalization Service regarding the program.

6 (d) DEFINITIONS.—For purposes of this section:

7 (1) The term “nationwide implementation date”
8 means the date on which the Secretary establishes
9 the program required by subsection (u)(1)(A) of sec-
10 tion 205 of the Social Security Act (as added by this
11 Act).

12 (2) The term “Secretary” means the Secretary
13 of Health and Human Services.

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

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