

105TH CONGRESS
1ST SESSION

H. R. 470

To curtail illegal immigration through increased enforcement of the employer sanctions provisions in the Immigration and Nationality Act and related laws.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 1997

Mr. FILNER introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, 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 curtail illegal immigration through increased enforcement of the employer sanctions provisions in the Immigration and Nationality Act and related laws.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Eliminate the Magnet for Illegal Immigration Act of
6 1997”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Increase in INS investigators to enforce employer sanctions.
 Sec. 3. Increase in Department of Labor investigators to enforce labor standards.
 Sec. 4. Increase in investigators in Office of Special Counsel for Immigration-Related Unfair Employment Practices to enforce antidiscrimination provisions.
 Sec. 5. Subpoena and related authority.
 Sec. 6. Reducing the number of employment verification documents.
 Sec. 7. Increasing penalties for document fraud.
 Sec. 8. Joint targeted efforts by the INS and the Department of Labor to investigate employer sanctions and labor standards.
 Sec. 9. Employer education.
 Sec. 10. Increasing civil money penalties for hiring, recruiting, and referral violations.
 Sec. 11. Increasing penalties for repeated or willful violations of labor standards.
 Sec. 12. Increasing civil money penalties for unfair immigration-related employment practices.
 Sec. 13. Immigration-related discrimination.
 Sec. 14. Definitions.

1 **SEC. 2. INCREASE IN INS INVESTIGATORS TO ENFORCE EM-**
 2 **PLOYER SANCTIONS.**

3 (a) IN GENERAL.—In addition to such amounts as
 4 are otherwise authorized to be appropriated, there are au-
 5 thorized to be appropriated for each of the fiscal years
 6 1998 and 1999 for hiring, training, salaries and expenses
 7 of personnel of the Immigration and Naturalization Serv-
 8 ice such amounts as may be necessary—

9 (1) to provide for an increase each year in the
 10 number of investigators of such Service by 365 full-
 11 time equivalent investigator positions above the
 12 number of such positions authorized as of October 1,
 13 1996; and

14 (2) to provide such personnel and resources as
 15 are necessary to assist the additional investigators in

1 the enforcement of employer sanctions (as defined in
2 section 14(1)).

3 (b) DUTIES.—The additional investigators provided
4 for in subsection (a) shall be assigned to investigate viola-
5 tions of employer sanctions with priority given to areas
6 where there are high concentrations of unauthorized aliens
7 (as defined in section 14(4)) who are employed.

8 **SEC. 3. INCREASE IN DEPARTMENT OF LABOR INVESTIGA-**
9 **TORS TO ENFORCE LABOR STANDARDS.**

10 (a) IN GENERAL.—In addition to such amounts as
11 are otherwise authorized to be appropriated, there are au-
12 thorized to be appropriated for each of the fiscal years
13 1998 and 1999 for hiring, training, salaries, and expenses
14 of personnel of the Employment Standards Administration
15 of the Department of Labor such amounts as may be nec-
16 essary—

17 (1) to provide for an increase each year in the
18 number of investigators of such Administration by
19 300 full-time equivalent investigator positions above
20 the number of such positions authorized as of Octo-
21 ber 1, 1996; and

22 (2) to provide such support personnel and re-
23 sources as are necessary to assist the additional in-
24 vestigators in the enforcement of labor standards (as
25 defined in section 14(3)).

1 (b) DUTIES.—The additional investigators provided
2 for in subsection (a) shall be assigned to investigate viola-
3 tions of labor standards with priority given to areas where
4 there are high concentrations of unauthorized aliens who
5 are employed.

6 **SEC. 4. INCREASE IN INVESTIGATORS IN OFFICE OF SPE-**
7 **CIAL COUNSEL FOR IMMIGRATION-RELATED**
8 **UNFAIR EMPLOYMENT PRACTICES TO EN-**
9 **FORCE ANTIDISCRIMINATION PROVISIONS.**

10 (a) IN GENERAL.—In addition to such amounts as
11 are otherwise authorized to be appropriated, there are au-
12 thorized to be appropriated for each of the fiscal years
13 1998 and 1999 for hiring, training, salaries, and expenses
14 of personnel of the Office of Special Counsel for Immigra-
15 tion-Related Unfair Employment Practices in the Depart-
16 ment of Justice such amounts as may be necessary—

17 (1) to provide for an increase in the number of
18 investigators of such Office by 50 full-time equiva-
19 lent investigator positions above the number of such
20 positions authorized as of October 1, 1996; and

21 (2) to provide such support personnel and re-
22 sources as are necessary to assist the additional in-
23 vestigators in the enforcement of immigration-relat-
24 ed antidiscrimination provisions (as defined in sec-
25 tion 12(2)).

1 (b) DUTIES.—The additional investigators provided
2 for in subsection (a) shall be assigned to investigate and
3 prosecute violations of immigration-related antidiscrimina-
4 tion provisions.

5 **SEC. 5. SUBPOENA AND RELATED AUTHORITY.**

6 (a) SUBPOENA AUTHORITY FOR DESIGNATED IMMI-
7 GRATION OFFICERS.—Sections 274A(e)(2) and
8 274C(d)(1) of the Immigration and Nationality Act (8
9 U.S.C. 1324a(e)(2), 1324c(d)(1)) are each amended—

10 (1) in subparagraph (A), by striking “and” at
11 the end;

12 (2) in subparagraph (B), by striking the period
13 and inserting “, and”; and

14 (3) by inserting after subparagraph (B) the fol-
15 lowing new subparagraph:

16 “(C) immigration officers designated by
17 the Commissioner may compel by subpoena the
18 attendance of witnesses and the production of
19 evidence at any designated place prior to the
20 date notice of an intention to impose an order
21 under this subsection is provided.”.

22 (b) SECRETARY OF LABOR AUTHORITY.—

23 (1) IN GENERAL.—Title II of the Immigration
24 and Nationality Act is amended by adding at the
25 end the following new section:

1 “SECRETARY OF LABOR AUTHORITY

2 “SEC. 294. (a) SUBPOENA AUTHORITY.—The Sec-
3 retary of Labor may issue subpoenas requiring the attend-
4 ance and testimony of witnesses or the production of any
5 records, books, papers, or documents in connection with
6 any investigation or hearing conducted in the enforcement
7 of any immigration program for which the Secretary of
8 Labor has been delegated enforcement authority under
9 this title.

10 “(b) AUTHORITY IN HEARINGS.—In such a hearing,
11 the Secretary of Labor may administer oaths, examine
12 witnesses, and receive evidence.

13 “(c) ENFORCEMENT FOR SUBPOENAS.—In case of
14 contumacy or refusal to obey a subpoena lawfully issued
15 under this section and upon application of the Secretary
16 of Labor, an appropriate district court of the United
17 States may issue an order requiring compliance with such
18 subpoena and any failure to obey such order may be pun-
19 ished by such court as a contempt thereof.”.

20 (2) CLERICAL AMENDMENT.—The table of con-
21 tents of such Act is amended by inserting after the
22 item relating to section 293 the following:

“Sec. 294. Secretary of Labor authority.”.

1 **SEC. 6. REDUCING THE NUMBER OF EMPLOYMENT VER-**
2 **IFICATION DOCUMENTS.**

3 (a) IN GENERAL.—Subparagraph (B) of section
4 274A(b)(1) of the Immigration and Nationality Act (8
5 U.S.C. 1324a(b)(1)) is amended—

6 (1) in clause (i), by adding “or” at the end;

7 (2) in clause (v), by striking “or other alien
8 registration card, if the card—” and inserting “alien
9 registration card, or other documentation designated
10 by regulation by the Attorney General, if the docu-
11 ment—”;

12 (3) in clause (v), by inserting “and contains ap-
13 propriate security features” before the period;

14 (4) by striking clauses (ii), (iii), and (iv); and

15 (5) by redesignating clause (v) as clause (ii).

16 (b) EFFECTIVE DATE.—The amendments made by
17 subsection (a) shall apply with respect to hiring, recruit-
18 ing, or referring that occurs after such date (not later
19 than 2 years after the date of the enactment of this Act)
20 as the Attorney General shall specify.

21 **SEC. 7. INCREASING PENALTIES FOR DOCUMENT FRAUD.**

22 (a) CRIMINAL PENALTIES.—

23 (1) FRAUD AND MISUSE OF GOVERNMENT-IS-
24 SUED IDENTIFICATION DOCUMENTS.—Section
25 1028(b)(1) of title 18, United States Code, is
26 amended by striking “five years” and inserting “10

1 years” and by adding at the end the following new
2 provision:

3 “Notwithstanding any other provision of this title, the
4 maximum term of imprisonment that may be imposed for
5 an offense under this section—

6 “(1) if committed to facilitate a drug traffick-
7 ing crime (as defined in section 929(a)) is 15 years;
8 and

9 “(2) if committed to facilitate an act of inter-
10 national terrorism (as defined in section 2331) is 20
11 years.”.

12 (2) CHANGES TO THE SENTENCING LEVELS.—
13 Pursuant to section 994 of title 28, United States
14 Code, and section 21 of the Sentencing Act of 1987,
15 the United States Sentencing Commission shall
16 promptly promulgate guidelines, or amend existing
17 guidelines, to make appropriate increases in the base
18 offense levels for offenses under section 1028(a) of
19 title 18, United States Code.

20 (b) CIVIL PENALTIES.—

21 (1) ACTIVITIES PROHIBITED.—Section 274C(a)
22 of the Immigration and Nationality Act (8 U.S.C.
23 1324c(a)) is amended—

24 (A) in paragraph (3), by striking “or” at
25 the end;

1 (B) in paragraph (4), by striking the pe-
2 riod and inserting “, or”; and

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

4 “(5) to present before boarding a common car-
5 rier for the purpose of coming to the United States
6 a document that relates to the alien’s eligibility to
7 enter the United States and to fail to present such
8 document to an immigration officer upon arrival at
9 a United States port of entry, or

10 “(6) in reckless disregard of the fact that the
11 information is false or does not relate to the appli-
12 cant, to prepare, to file, or to assist another in pre-
13 paring or filing, documents which are falsely made
14 for the purpose of satisfying a requirement of this
15 Act.

16 The Attorney General may waive the penalties of this sec-
17 tion with respect to an alien who knowingly violates para-
18 graph (5) if the alien is subsequently granted asylum
19 under section 208 or withholding of deportation under sec-
20 tion 243(h). For the purposes of this section, a document
21 relating to an individual shall be considered to be ‘falsely’
22 made if the document was prepared with knowledge or in
23 reckless disregard of the fact that the document contains

1 false, fictitious, or fraudulent information or material mis-
2 representation, or fails to include a material fact pertain-
3 ing to the individual.”.

4 (2) CONFORMING AMENDMENTS.—Section
5 274C(d)(3) of such Act (8 U.S.C. 1324c(d)(3)) is
6 amended by striking “each document used, accepted,
7 or created and each instance of use, acceptance, or
8 recreation” each place it appears in subparagraphs
9 (A) and (B) and inserting “each document that is
10 the subject of a violation under subsection (a)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 subsections (a) and (b) shall apply with respect to viola-
13 tions that occur on or after the end of the 6-month period
14 beginning on the date of the enactment of this Act.

15 **SEC. 8. JOINT TARGETED EFFORTS BY THE INS AND THE**
16 **DEPARTMENT OF LABOR TO INVESTIGATE**
17 **EMPLOYER SANCTIONS AND LABOR STAND-**
18 **ARDS.**

19 (a) IN GENERAL.—The Secretary of Labor shall es-
20 tablish, in consultation with the Commissioner of Immi-
21 gration and Naturalization and not later than 3 months
22 after the date of the enactment of this Act, programs for
23 the Immigration and Naturalization Service and Depart-
24 ment of Labor to jointly investigate violations of employer
25 sanctions and labor standards and target areas where

1 there are high concentrations of unauthorized aliens who
2 are employed.

3 (b) PERFORMANCE REVIEW.—Not later than 6
4 months after the date the Secretary of Labor and the
5 Commissioner of Immigration and Naturalization have es-
6 tablished the programs referred to in subsection (a), the
7 National Performance Review in the Office of the Vice-
8 President shall assess the programs and identify the best
9 strategies for targeting industries likely to violate both em-
10 ployer sanctions and labor standards.

11 **SEC. 9. EMPLOYER EDUCATION.**

12 The Attorney General, in consultation with the Sec-
13 retary of Labor, the Small Business Administrator, and
14 the Commissioner of Internal Revenue, shall conduct a na-
15 tionwide program to inform employers about their respon-
16 sibilities concerning employer sanctions, labor standards,
17 and immigration-related antidiscrimination provisions.

18 **SEC. 10. INCREASING CIVIL MONEY PENALTIES FOR HIR-**
19 **ING, RECRUITING, AND REFERRAL VIOLA-**
20 **TIONS.**

21 (a) IN GENERAL.—Subparagraph (A) of section
22 274A(e)(4) of the Immigration and Nationality Act (8
23 U.S.C. 1324a(e)(4)) is amended—

1 (1) in clause (i), by striking “\$250 and not
2 more than \$2,000” and inserting “\$1,000 and not
3 more than \$3,000”;

4 (2) in clause (ii), by striking “\$2,000 and not
5 more than \$5,000” and inserting “\$3,000 and not
6 more than \$8,000”; and

7 (3) in clause (iii), by striking “3,000 and not
8 more than \$10,000” and inserting “\$10,000 and not
9 more than \$25,000”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply with respect to violations that
12 occur on or after the end of the 6-month period beginning
13 on the date of the enactment of this Act.

14 **SEC. 11. INCREASING PENALTIES FOR REPEATED OR WILL-**
15 **FUL VIOLATIONS OF LABOR STANDARDS.**

16 (a) IN GENERAL.—Section 274A(h) of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1324a(h)) is amended
18 by adding at the end the following new paragraph:

19 “(4) INCREASED PENALTIES.—In the case of a
20 person or entity that has been found through a final
21 administrative determination or determination by a
22 court (which finding has not been reversed) to have
23 willfully or repeatedly violated one or more labor
24 standards with respect to an unauthorized alien who

1 is employed, each dollar amount specified in sub-
2 sections (e)(4), (e)(5), and (g)(2) shall be twice the
3 dollar amount otherwise specified for violation occur-
4 ring during the 10-year period beginning on the date
5 of such determination.”.

6 (b) CONFORMING AMENDMENTS.—Section 274A of
7 such Act (8 U.S.C. 1324a) is amended—

8 (1) in paragraphs (4)(A) and (5) of subsection
9 (e), by inserting “(subject to subsection (h)(4))”
10 after “in an amount”; and

11 (2) in subsection (g)(2), by striking “of
12 \$1,000” and inserting “in an amount (subject to
13 subsection (h)(4)) equal to \$1,000”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to violations of em-
16 ployer sanctions that occur on or after the end of the 6-
17 month period beginning on the date of the enactment of
18 this Act, but shall not apply to violations of labor stand-
19 ards occurring before the date of the enactment of this
20 Act.

1 **SEC. 12. INCREASING CIVIL MONEY PENALTIES FOR UN-**
2 **FAIR IMMIGRATION-RELATED EMPLOYMENT**
3 **PRACTICES.**

4 (a) **IN GENERAL.**—Clause (iv) of section
5 274B(g)(2)(B) of the Immigration and Nationality Act (8
6 U.S.C. 1324b(g)(2)(B)) is amended—

7 (1) in subclause (I), by striking “\$250 and not
8 more than \$2,000” and inserting “\$1,000 and not
9 more than \$3,000”;

10 (2) in subclause (II), by striking “\$2,000 and
11 not more than \$5,000” and inserting “\$3,000 and
12 not more than \$8,000”;

13 (3) in subclause (III), by striking “3,000 and
14 not more than \$10,000” and inserting “\$10,000 and
15 not more than \$25,000”; and

16 (4) in subclause (IV), by striking “100 and not
17 more than \$1,000” and inserting “\$200 and not
18 more than \$5,000”.

19 (b) **EFFECTIVE DATE.**—The amendments made by
20 subsection (a) shall apply with respect to violations that
21 occur on or after the end of the 6-month period beginning
22 on the date of the enactment of this Act.

23 **SEC. 13. IMMIGRATION-RELATED DISCRIMINATION.**

24 (a) **STUDY.**—The Attorney General shall provide for
25 a study on the effect increased enforcement of employer

1 sanctions has on discrimination in the workplace based on
2 national origin or citizenship since 1989.

3 (b) REPORT.—Not later than 2 years after the date
4 of the enactment of this Act, the Attorney General shall
5 submit to Congress a report on the study under subsection
6 (a). Such report shall include recommendations regarding
7 how such discrimination may be prevented.

8 **SEC. 14. DEFINITIONS.**

9 For purposes of this Act:

10 (1) EMPLOYER SANCTIONS.—The term “em-
11 ployer sanctions” means the requirements of section
12 274A of the Immigration and Nationality Act (8
13 U.S.C. 1324a).

14 (2) IMMIGRATION-RELATED ANTIDISCRIMINA-
15 TION PROVISIONS.—The term “immigration-related
16 antidiscrimination provisions” means the provisions
17 of section 274B of the Immigration and Nationality
18 Act (8 U.S.C. 1324b).

19 (3) LABOR STANDARDS.—The term “labor
20 standards” includes requirements of the Fair Labor
21 Standards Act of 1938 (29 U.S.C. 201 et seq.), the
22 Migrant and Seasonal Agricultural Worker Protec-
23 tion Act (29 U.S.C. 1801 et seq.), and the Family
24 and Medical Leave Act of 1993 (29 U.S.C. 2601 et
25 seq.).

1 (4) UNAUTHORIZED ALIEN.—The term “unau-
2 thorized alien” has the meaning given such term in
3 section 274A(h)(3) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1324a(h)(3)).

○