

108TH CONGRESS  
2D SESSION

**H. R. 3463**

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**AN ACT**

To amend titles III and IV of the Social Security  
Act to improve the administration of unemploy-  
ment taxes and benefits.



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## AN ACT

To amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits.

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. SHORT TITLE.**

2       This Act may be cited as the “SUTA Dumping Pre-  
3 vention Act of 2004”.

4 **SEC. 2. TRANSFER OF UNEMPLOYMENT EXPERIENCE UPON**  
5 **TRANSFER OR ACQUISITION OF A BUSINESS.**

6       (a) IN GENERAL.—Section 303 of the Social Security  
7 Act (42 U.S.C. 503) is amended by adding at the end the  
8 following:

9       “(k)(1) For purposes of subsection (a), the unemploy-  
10 ment compensation law of a State must provide—

11           “(A) that if an employer transfers its business  
12 to another employer, and both employers are (at the  
13 time of transfer) under substantially common owner-  
14 ship, management, or control, then the unemploy-  
15 ment experience attributable to the transferred busi-  
16 ness shall also be transferred to (and combined with  
17 the unemployment experience attributable to) the  
18 employer to whom such business is so transferred,

19           “(B) that unemployment experience shall not,  
20 by virtue of the transfer of a business, be trans-  
21 ferred to the person acquiring such business if—

22           “(i) such person is not otherwise an em-  
23 ployer at the time of such acquisition, and

24           “(ii) the State agency finds that such per-  
25 son acquired the business solely or primarily for

1 the purpose of obtaining a lower rate of con-  
2 tributions,

3 “(C) that unemployment experience shall (or  
4 shall not) be transferred in accordance with such  
5 regulations as the Secretary of Labor may prescribe  
6 to ensure that higher rates of contributions are not  
7 avoided through the transfer or acquisition of a busi-  
8 ness,

9 “(D) that meaningful civil and criminal pen-  
10 alties are imposed with respect to—

11 “(i) persons that knowingly violate or at-  
12 tempt to violate those provisions of the State  
13 law which implement subparagraph (A) or (B)  
14 or regulations under subparagraph (C), and

15 “(ii) persons that knowingly advise another  
16 person to violate those provisions of the State  
17 law which implement subparagraph (A) or (B)  
18 or regulations under subparagraph (C), and

19 “(E) for the establishment of procedures to  
20 identify the transfer or acquisition of a business for  
21 purposes of this subsection.

22 “(2) For purposes of this subsection—

23 “(A) the term ‘unemployment experience’, with  
24 respect to any person, refers to such person’s experi-  
25 ence with respect to unemployment or other factors

1 bearing a direct relation to such person's unemploy-  
2 ment risk;

3 “(B) the term ‘employer’ means an employer as  
4 defined under the State law;

5 “(C) the term ‘business’ means a trade or busi-  
6 ness (or a part thereof);

7 “(D) the term ‘contributions’ has the meaning  
8 given such term by section 3306(g) of the Internal  
9 Revenue Code of 1986;

10 “(E) the term ‘knowingly’ means having actual  
11 knowledge of or acting with deliberate ignorance of  
12 or reckless disregard for the prohibition involved;  
13 and

14 “(F) the term ‘person’ has the meaning given  
15 such term by section 7701(a)(1) of the Internal Rev-  
16 enue Code of 1986.”.

17 (b) STUDY AND REPORTING REQUIREMENTS.—

18 (1) STUDY.—The Secretary of Labor shall con-  
19 duct a study of the implementation of the provisions  
20 of section 303(k) of the Social Security Act (as  
21 added by subsection (a)) to assess the status and ap-  
22 propriateness of State actions to meet the require-  
23 ments of such provisions.

24 (2) REPORT.—Not later than July 15, 2007,  
25 the Secretary of Labor shall submit to the Congress

1 a report that contains the findings of the study re-  
2 quired by paragraph (1) and recommendations for  
3 any Congressional action that the Secretary con-  
4 siderers necessary to improve the effectiveness of sec-  
5 tion 303(k) of the Social Security Act.

6 (c) EFFECTIVE DATE.—The amendment made by  
7 subsection (a) shall, with respect to a State, apply to cer-  
8 tifications for payments (under section 302(a) of the So-  
9 cial Security Act) in rate years beginning after the end  
10 of the 26-week period beginning on the first day of the  
11 first regularly scheduled session of the State legislature  
12 beginning on or after the date of the enactment of this  
13 Act.

14 (d) DEFINITIONS.—For purposes of this section—

15 (1) the term “State” includes the District of  
16 Columbia, the Commonwealth of Puerto Rico, and  
17 the Virgin Islands;

18 (2) the term “rate year” means the rate year  
19 as defined in the applicable State law; and

20 (3) the term “State law” means the unemploy-  
21 ment compensation law of the State, approved by  
22 the Secretary of Labor under section 3304 of the In-  
23 ternal Revenue Code of 1986.

1 **SEC. 3. USE OF NEW HIRE INFORMATION TO ASSIST IN AD-**  
2 **MINISTRATION OF UNEMPLOYMENT COM-**  
3 **PENSATION PROGRAMS.**

4 Section 453(j) of the Social Security Act (42 U.S.C.  
5 653(j)) is amended by adding at the end the following:

6 “(8) INFORMATION COMPARISONS AND DISCLO-  
7 SURE TO ASSIST IN ADMINISTRATION OF UNEMPLOY-  
8 MENT COMPENSATION PROGRAMS.—

9 “(A) IN GENERAL.—If, for purposes of ad-  
10 ministering an unemployment compensation  
11 program under Federal or State law, a State  
12 agency responsible for the administration of  
13 such program transmits to the Secretary the  
14 names and social security account numbers of  
15 individuals, the Secretary shall disclose to such  
16 State agency information on such individuals  
17 and their employers maintained in the National  
18 Directory of New Hires, subject to this para-  
19 graph.

20 “(B) CONDITION ON DISCLOSURE BY THE  
21 SECRETARY.—The Secretary shall make a dis-  
22 closure under subparagraph (A) only to the ex-  
23 tent that the Secretary determines that the dis-  
24 closure would not interfere with the effective  
25 operation of the program under this part.



1           “(C) USE AND DISCLOSURE OF INFORMA-  
2           TION BY STATE AGENCIES.—

3           “(i) IN GENERAL.—A State agency  
4           may not use or disclose information pro-  
5           vided under this paragraph except for pur-  
6           poses of administering a program referred  
7           to in subparagraph (A).

8           “(ii) INFORMATION SECURITY.—The  
9           State agency shall have in effect data secu-  
10          rity and control policies that the Secretary  
11          finds adequate to ensure the security of in-  
12          formation obtained under this paragraph  
13          and to ensure that access to such informa-  
14          tion is restricted to authorized persons for  
15          purposes of authorized uses and disclo-  
16          sures.

17          “(iii) PENALTY FOR MISUSE OF IN-  
18          FORMATION.—An officer or employee of  
19          the State agency who fails to comply with  
20          this subparagraph shall be subject to the  
21          sanctions under subsection (l)(2) to the  
22          same extent as if such officer or employee  
23          was an officer or employee of the United  
24          States.

1                   “(D)   PROCEDURAL   REQUIREMENTS.—  
2                   State agencies requesting information under  
3                   this paragraph shall adhere to uniform proce-  
4                   dures established by the Secretary governing in-  
5                   formation requests and data matching under  
6                   this paragraph.

7                   “(E)   REIMBURSEMENT   OF   COSTS.—The  
8                   State agency shall reimburse the Secretary, in  
9                   accordance with subsection (k)(3), for the costs  
10                  incurred by the Secretary in furnishing the in-  
11                  formation requested under this paragraph.”.

Passed the House of Representatives July 14, 2004.

Attest:

*Clerk.*