

VERIFICATION/RECORD KEEPING REQUIREMENTS

The Senate bill provided that employers with four or more employees, but not recruiters or referrers, must comply with various verification requirements. It required that a person employing four or more persons must verify that he/she has examined documents which establish both 1) employment authorization and 2) identity (showing that the individual is not presenting documents relating to another individual). A U.S. passport, certificate of U.S. citizenship, certificate of naturalization, or certain resident alien cards would establish both. Otherwise, one document of each type would be presented. Employment authorization documents would include the Social Security card or birth certificate. Identity documents would include: drivers's license, other State-issued card, or, under certain circumstances, other documentation approved by the Attorney General. The Senate bill also provided that the attestation forms signed by the employer and employee must be retained for specified periods.

The Senate bill did not impose civil fines for failure to satisfy the above requirements. Instead, it provided that if an employer did not meet them, the employer was presumed to have knowingly hired the alien. The presumption could have been rebutted by "clear and convincing evidence" to the contrary.

The House amendment required employers to verify all new hires by examining either 1) a U.S. passport, or 2) a U.S. birth certificate or Social Security card and a driver's license, state issued I.D. card, or an alien identification document, ^{and} Required each employer to attest, in writing, under penalty of perjury, that he/she has seen the documentation mentioned above. It also required the employee to attest in writing that he/she is authorized to work in the U.S. It also required the employer to retain the attestation forms for such periods as may be specified by the Attorney General. Failure to follow these verification/record keeping requirement would have subjected the offending party to a civil fine of between \$250 - \$1000.

The House amendment also provided that nothing in this section of the legislation was to be construed as authorizing, directly or indirectly, the creation of a national identification card.

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The Conference substitute adopts the House provisions on coverage for, and the mandatory nature of, the verification/record keeping requirements. It adopts the Senate provisions on the documents to be used during the verification process and the time periods for retaining the attestation forms. It provides a minimum civil fine of \$100 for violations of these requirements in lieu of the

\$250 minimum fine in the House amendment. The Conference substitute also provides that violations of the hiring prohibition in the bill shall be considered in assessing the level of the civil fine to be imposed. It also includes the House provision that "nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card."

