

119TH CONGRESS
1ST SESSION

S. _____

To require certification of employment eligibility compliance in annual reporting of certain securities issuers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MORENO introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require certification of employment eligibility compliance in annual reporting of certain securities issuers, and for other purposes.

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 “Strengthening Ac-
5 countability for Employers Hiring Individuals and Re-
6 forming Enforcement Act” or the “SAFE HIRE Act”.

1 **SEC. 2. EXECUTIVE CERTIFICATION OF EMPLOYMENT ELI-**
2 **GIBILITY COMPLIANCE.**

3 Section 13 of the Securities Exchange Act of 1934
4 (15 U.S.C. 78m) is amended by adding at the end the
5 following:

6 “(t) CERTIFICATION REQUIREMENTS.—

7 “(1) DEFINITIONS.—In this subsection:

8 “(A) COVERED EMPLOYER.—The term
9 ‘covered employer’ means any issuer of a secu-
10 rity registered under section 12 or person re-
11 quired to file a report under section 15(d).

12 “(B) INTERNAL CONTROLS.—The term ‘in-
13 ternal controls’ means policies, procedures, and
14 systems reasonably designed to—

15 “(i) ensure compliance with employ-
16 ment eligibility verification requirements
17 under Federal law, including section 274A
18 of the Immigration and Nationality Act (8
19 U.S.C. 1324a);

20 “(ii) identify and prevent the use of
21 fraudulent or unauthorized documentation
22 in the hiring process; and

23 “(iii) promptly detect, report, and re-
24 mediate any known violations of such re-
25 quirements.

1 “(C) PRINCIPAL EXECUTIVE OFFICER.—

2 The term ‘principal executive officer’ has the
3 meaning given in section 229.402(a)(3) of title
4 17, Code of Federal Regulations, or any suc-
5 cessor regulation.

6 “(D) PRINCIPAL HUMAN RESOURCES OFFI-

7 CER.—The term ‘principal human resources of-
8 ficer’ means the most senior officer of a covered
9 employer with responsibility for human capital
10 management, including employment eligibility
11 policies and compliance.

12 “(2) CERTIFICATION.—The principal executive
13 officer and the principal human resources officer (or
14 officers performing similar functions) of each cov-
15 ered employer shall submit with each annual report
16 filed under subsection (a) or section 15(d) the fol-
17 lowing:

18 “(A) A certification that—

19 “(i) the certifying officers have re-
20 viewed the report;

21 “(ii) based on the knowledge of the
22 certifying officers, the report does not con-
23 tain any untrue statement of a material
24 fact or omit to state a material fact nec-

1 essary to make the statements made, in
2 light of the circumstances, not misleading;

3 “(iii) based on the knowledge of the
4 certifying officers, the report fairly pre-
5 sents, in all material respects, the employ-
6 ment practices of the issuer, including the
7 number and legal work status of persons
8 employed;

9 “(iv) the certifying officers—

10 “(I) are responsible for estab-
11 lishing and maintaining internal con-
12 trols with respect to employment eligi-
13 bility verification (including Form I-9
14 compliance and E-Verify);

15 “(II) have designed such internal
16 controls to ensure that material infor-
17 mation relating to compliance with
18 section 274A of the Immigration and
19 Nationality Act (8 U.S.C. 1324a) is
20 made known to such officers by others
21 within the company;

22 “(III) have evaluated the effec-
23 tiveness of the internal controls de-
24 scribed in subclause (II) not less than

1 90 days prior to the submission of the
2 report; and

3 “(IV) have presented in the re-
4 port their conclusions about the effec-
5 tiveness of such internal controls
6 based on their evaluation; and

7 “(v) the certifying officers have dis-
8 closed to the Department of Homeland Se-
9 curity and the Department of Justice—

10 “(I) all significant deficiencies in
11 the internal controls of the covered
12 employer which could adversely affect
13 the ability of the covered employer to
14 ensure compliance with Federal em-
15 ployment eligibility requirements; and

16 “(II) any known material viola-
17 tion of section 274A of the Immigra-
18 tion and Nationality Act (8 U.S.C.
19 1324a), including the employment of
20 unauthorized aliens, as defined in sub-
21 section (h) of that section.

22 “(B) A list of all disclosed significant defi-
23 ciencies and known material violations described
24 in subparagraph (A)(v).

1 “(3) CRIMINAL PENALTIES FOR FALSE CERTIFI-
2 CATION.—

3 “(A) IN GENERAL.—It shall be unlawful
4 for a principal executive officer or principal
5 human resources officer (or other officer per-
6 forming similar functions) of a covered em-
7 ployer to—

8 “(i) certify any statement described in
9 paragraph (2)(A) knowing that the report
10 does not comply with the requirements
11 therein; or

12 “(ii) willfully fail to make the certifi-
13 cation under paragraph (2)(A) or submit
14 the list of disclosed significant deficiencies
15 and known material violations pursuant to
16 paragraph (2)(B).

17 “(B) PENALTIES.—

18 “(i) IN GENERAL.—Any individual
19 who violates subparagraph (A) shall be
20 fined not more than \$1,000,000, impris-
21 oned not more than 10 years, or both.

22 “(ii) ENHANCED PENALTY.—Any in-
23 dividual who violates subparagraph (A)
24 with respect to the employment of unau-
25 thorized aliens in violation of section

1 274A(a)(1) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1324a(a)(1)) shall
3 be fined not more than \$5,000,000, impris-
4 oned not more than 20 years, or both.”.

5 **SEC. 3. IMPLEMENTATION AND RULEMAKING.**

6 Not later than 1 year after the date of enactment
7 of this Act, the Chair of the Securities and Exchange
8 Commission, in consultation with the Secretary of Home-
9 land Security and the Attorney General, shall—

10 (1) prescribe rules requiring the inclusion of the
11 certification described in section 13(t) of the Securi-
12 ties and Exchange Act of 1934, as added by section
13 2, within the annual reports filed on Form 10-K or
14 any successor form;

15 (2) establish requirements for public availability
16 of such certifications; and

17 (3) promulgate any regulations necessary to
18 carry out the purposes of this Act and the amend-
19 ments made by this Act.