

# NumbersUSA

## H.R. 4437

### Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005

Introduced by Rep. Jim Sensenbrenner (R-WI) December 6, 2005

**6 original cosponsors, 18 total cosponsors**

The Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437) includes measures developed by Judiciary Committee Chairman Jim Sensenbrenner (R-WI) and legislation already passed by the Homeland Security Committee. All in all, the bill is a good start down the road to immigration reform, but it would have a bigger impact with some additional interior enforcement and border security provisions. NumbersUSA would like to see added to the bill provisions calling for state and local involvement in immigration enforcement, a border fence, a crackdown on immigration-related fraud, and the elimination of rewards for illegal immigration, like birthright citizenship, among other things.

#### **Mandatory Employment Verification**

H.R. 4437 would finally mandate that every employer in the United States use the federal Internet/phone verification system that quickly and easily determines if a new hire is legally eligible to work here. Currently called the Basic Pilot program, this system for verifying Social Security numbers would stop most illegal aliens from getting jobs with legitimate employers. While no single enforcement measure would stop all illegal immigration, **this is the single-most important solution to rectifying our nation's half-hearted effort to tackle the problem.**

Under the bill, all private employers would be required to use the Basic Pilot within two years of enactment to determine every new hire's eligibility to work. By three years following enactment, federal, state and local governments, and the military would have to verify new hires. Within six years, all employers would have to run all their employees through the system. Employers that use the system in good faith are shielded from liability for hiring illegal aliens, and tough penalties are included for non-compliant employers.

The employment verification language in H.R. 4437 provides businesses an easy way to ensure compliance with the law and avoid inadvertent hiring violations. Perhaps most importantly from a business standpoint, enactment of this bill will allow all community-minded patriotic businesses the peace of mind that their competitors will not be undercutting them by hiring illegal labor.

One verification-related measure the bill fails to include would re-institute "no-match" letters from the Social Security Administration, which inform employers of employee names that do not match the Social Security numbers they provided. In many cases, the mere receipt of a "no-match" letter causes ineligible employees to leave their jobs voluntarily.

## State and Local Involvement

Currently, there are 2,000 Immigration and Customs Enforcement (ICE) agents working to apprehend millions of illegal aliens—including more than 400,000 absconders and 80,000 convicted criminals—present in the United States. But there are 600,000 state and local law enforcement officers who come across illegal aliens every day during the normal course of their duties. Far too often, however, when local officers call ICE to pick up detained illegal aliens, the officers are told release to them because ICE can't or won't come and get them.

Requiring ICE to respond to requests from local authorities by taking custody of detained aliens would send a strong message that our government is serious about enforcing immigration laws. It would also significantly increase the likelihood that illegal aliens will be caught and penalized for their lawbreaking.

Unfortunately, the bill does not yet include mandatory cooperation with state and local law enforcement. However, H.R. 4437 does assist local law enforcement in other ways. For example, it authorizes local sheriffs in counties along the southern border to transfer illegal aliens to federal custody, provided that the sheriffs (and their deputies) are properly trained. These sheriffs would be reimbursed for any costs incurred in the apprehension, detention, and transport of these aliens.

## Border Security Enhancements

H.R. 4437 tackles the border security problem by requiring the Department of Homeland Security (DHS) to develop a National Strategy for Border Security, which is intended to determine the most viable means of defending our borders against threats to security and unlawful transit. Customs and Border Protection (CBP) released its last National Border Patrol Plan in March 2005. That plan is gathering dust with its predecessors.

The bill directs DHS to take all actions it deems necessary to gain control over the borders, but it does not specifically require the construction of a fence, or the equivalent, even in all heavily populated areas of the border. Neither surveillance, nor manpower will defeat an illegal alien who can step across the border and instantly blend into a bustling population. If you combine a fence with full implementation of the entry-exit system at all points of access (which is something that this bill, unfortunately, does not do either), operational control could truly be achieved.

## "Catch and Release" and Removal

Currently, the misguided "catch and release" policy results in "Other Than Mexicans," or OTMs as the Border Patrol refers to them, who are apprehended near the border being released into American communities with only a Notice to Appear in court several months in the future. Not surprisingly, fewer than one-quarter of these aliens actually show up at their hearing; the rest become illegal aliens. The Sensenbrenner-King bill would strike a critical blow to this absurd practice.

Beginning October 1, 2006, **each alien caught crossing the border illegally would be detained until his/her removal from or lawful admission to the United States.** As an interim measure, beginning 60 days after enactment, illegal entrants could only be released from detention upon a determination that they pose no threat to national security and upon their posting of a \$5,000 bond to be forfeited if they fail to appear for their hearing. In addition, expedited removal procedures would be applied, in most cases, to illegal aliens apprehended within 14 days of their entry and within 100 miles of the border. All aliens deemed inadmissible on criminal- or security-based grounds would be subject to expedited removal.

Finally, the bill would make it easier to remove illegal aliens:

- removal orders would become final more quickly and more readily;
- prior removal orders could be reinstated if an alien reentered the country illegally after having been removed;
- judicial review of removal orders would be significantly curtailed; and,
- visa revocation orders would not be subject to judicial review.

The federal government has been trying for many years to repatriate nationals of certain countries that have been apprehended when entering or staying in the United States illegally. The Sensenbrenner proposal rightly concludes that the time for diplomatic entreaties is over and mandates that DHS refuse admission to nationals from those countries until they take back the ones ordered removed from the United States.