

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 135

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:10, relating to prohibited use of employee's social security number by employer; civil penalty.

[S 1040]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:10 as follows:

§ 40.1-28.7:10. Prohibited use of employee's social security number; civil penalty.

A. No employer shall (i) use an employee's social security number or any derivative thereof as such employee's identification number or (ii) include an employee's social security number or any number derived thereof on any identification card or badge, any access card or badge, or any other similar card or badge issued to such employee.

B. Any employer that knowingly violates the provisions of this section shall be subject to a civil penalty not to exceed \$100 for each violation. The Commissioner shall notify any employer that he alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final. Civil penalties under this section shall be assessed by the Commissioner and paid to the Literary Fund. The Commissioner shall prescribe procedures for the payment of proposed penalties that are not contested by employers.

C. The Commissioner or his authorized representative shall have the right to petition a circuit court for injunctive or such other relief as may be necessary for enforcement of this section.