

Union Calendar No. 333

116TH CONGRESS
2D SESSION

H. R. 2214

[Report No. 116–413, Part I]

To transfer and limit Executive Branch authority to suspend or restrict
the entry of a class of aliens.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2019

Ms. JUDY CHU of California (for herself, Mr. PALLONE, Ms. ESHOO, Ms. CLARKE of New York, Mr. BLUMENAUER, Ms. STEVENS, Mrs. WATSON COLEMAN, Mrs. NAPOLITANO, Miss RICE of New York, Ms. VELÁZQUEZ, Mr. KILDEE, Mr. DESAULNIER, Ms. DELBENE, Mr. POCAN, Mr. EVANS, Mrs. LAWRENCE, Ms. PRESSLEY, Mr. LEVIN of Michigan, Mr. DAVID SCOTT of Georgia, Mr. GRIJALVA, Mr. BROWN of Maryland, Mr. NADLER, Ms. LOFGREN, Mr. CARSON of Indiana, Mr. BEYER, Ms. OMAR, Mr. KHANNA, Ms. JAYAPAL, Ms. TLAIB, Ms. NORTON, Ms. SCHAKOWSKY, Mr. ROSE of New York, Mr. ESPAILLAT, Mr. GOMEZ, Mrs. DINGELL, Mr. RUSH, Mr. SMITH of Washington, Mr. CÁRDENAS, Ms. SHALALA, Mr. CORREA, Ms. OCASIO-CORTEZ, Ms. LEE of California, Mr. MALINOWSKI, Ms. SPANBERGER, Mr. MCGOVERN, Mr. COHEN, Mr. JOHNSON of Georgia, Mr. RUPPERSBERGER, Ms. MENG, Mr. TONKO, Mrs. TRAHAN, Mr. KENNEDY, Mr. MOULTON, Ms. ADAMS, Mr. CUMMINGS, Mr. CONNOLLY, Ms. ROYBAL-ALLARD, Mr. LEWIS, Mrs. KIRKPATRICK, Mr. SIRES, Ms. SLOTKIN, Mr. GREEN of Texas, Ms. MCCOLLUM, and Mr. DOGGETT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, Homeland Security, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH 5, 2020

Additional sponsors: Ms. BROWNLEY of California, Mr. GARCÍA of Illinois, Mr. LUJÁN, Ms. MOORE, Mrs. FLETCHER, Mrs. CAROLYN B. MALONEY of New York, Mrs. DAVIS of California, Mr. THOMPSON of California, Mr. PETERS, Mr. FOSTER, Mr. GONZALEZ of Texas, Ms. SPEIER, Mr. SOTO, Mr. JEFFRIES, Mr. ROUDA, Mr. KRISHNAMOORTHY, Mrs. HAYES, Mr. LARSEN of Washington, Mr. THOMPSON of Mississippi, Ms. HAALAND, Ms. DEAN, Ms. PINGREE, Mr. COOPER, Mr. SERRANO, Ms. CASTOR of Florida, Mr. GALLEG0, Mr. ENGEL, Mr. CASTRO of Texas, Mr. PAYNE, Mr. TED LIEU of California, Mr. PASCRELL, Mr. SCHNEIDER, Mr. HUFFMAN, Mr. SEAN PATRICK MALONEY of New York, Ms. HILL of California, Ms. SCANLON, Mr. GARAMENDI, Mr. HARDER of California, Mr. COURTNEY, Ms. WEXTON, Ms. CLARK of Massachusetts, Mr. YARMUTH, Mrs. LEE of Nevada, Mr. DELGADO, Mr. TAKANO, Mr. KIND, Mr. LOWENTHAL, Mr. SCHIFF, Mr. MORELLE, Mr. VARGAS, Ms. WASSERMAN SCHULTZ, Ms. BLUNT ROCHESTER, Mr. VELA, Ms. PORTER, Ms. SÁNCHEZ, Mr. HIGGINS of New York, Mr. CARTWRIGHT, Mr. RASKIN, Mr. SARBANES, Ms. DAVIDS of Kansas, Ms. WILD, Mr. CICILLINE, Mr. SWALWELL of California, Ms. BONAMICI, Mr. PANETTA, Ms. MUCARSEL-POWELL, Mr. STANTON, Mr. BERA, Ms. DEGETTE, Mr. BUTTERFIELD, Mr. TRONE, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. NEGUSE, Mr. PRICE of North Carolina, Mr. HASTINGS, Mr. SHERMAN, Ms. HOULAHAN, Ms. SCHRIER, Mrs. BEATTY, Mr. WELCH, Mr. CRIST, Mr. DEFazio, Ms. JACKSON LEE, Mrs. MCBATH, Mr. CISNEROS, Ms. UNDERWOOD, Ms. ESCOBAR, Ms. GARCIA of Texas, Mr. MEEKS, Ms. MATSUI, Mr. RYAN, Mr. QUIGLEY, Mr. DEUTCH, Ms. KELLY of Illinois, Ms. WATERS, Mr. AGUILAR, Mr. KEATING, Mr. ALLRED, Mr. CARBAJAL, Mr. HORSFORD, Ms. TITUS, Ms. WILSON of Florida, Ms. FRANKEL, Ms. SHERRILL, Mr. PERLMUTTER, Ms. DELAURO, Mr. MCNERNEY, Ms. GABBARD, Mrs. DEMINGS, Mr. SUOZZI, Mr. CROW, Mr. KILMER, Mr. DANNY K. DAVIS of Illinois, Mr. PAPPAS, Mr. LEVIN of California, Mr. RICHMOND, Ms. JOHNSON of Texas, Mr. COX of California, Ms. BASS, Mr. HIMES, Mr. CASTEN of Illinois, Ms. SEWELL of Alabama, Mr. LARSON of Connecticut, Ms. KUSTER of New Hampshire, Mr. GOLDEN, Mrs. LOWEY, Mrs. LURIA, Ms. BARRAGÁN, Mr. NEAL, Mr. LAWSON of Florida, Mr. RUIZ, Mr. KIM, Mr. GOTTHEIMER, Mr. CLEAVER, Mr. MCEACHIN, Mr. CLAY, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. NORCROSS, Mr. CUELLAR, Mr. SCOTT of Virginia, Mr. PHILLIPS, Ms. CRAIG, Mrs. TORRES of California, Ms. FUDGE, Ms. KAPTUR, Mr. BISHOP of Georgia, Mrs. MURPHY of Florida, Mr. HECK, Mr. LANGEVIN, Mr. VEASEY, Ms. PLASKETT, Mr. LYNCH, Mr. SABLON, Mr. SCHRADER, Mr. COSTA, and Mr. LIPINSKI

MARCH 5, 2020

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

MARCH 5, 2020

Committees on Foreign Affairs, Homeland Security, and Intelligence (Permanent Select) discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 10, 2019]

A BILL

To transfer and limit Executive Branch authority to suspend
or restrict the entry of a class of aliens.

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 TITLES.**

4 *This Act may be cited as the “National Origin-Based*
 5 *Antidiscrimination for Nonimmigrants Act” or the “NO*
 6 *BAN Act”.*

7 **SEC. 2. EXPANSION OF NONDISCRIMINATION PROVISION.**

8 *Section 202(a)(1)(A) of the Immigration and Nation-*
 9 *ality Act (8 U.S.C. 1152(a)(1)(A)) is amended—*

10 *(1) by inserting “or a nonimmigrant visa, ad-*
 11 *mission or other entry into the United States, or the*
 12 *approval or revocation of any immigration benefit”*
 13 *after “immigrant visa”;*

14 *(2) by inserting “religion,” after “sex,”; and*

15 *(3) by inserting “, except if expressly required by*
 16 *statute, or if a statutorily authorized benefit takes*
 17 *into consideration such factors” before the period at*
 18 *the end.*

19 **SEC. 3. TRANSFER AND LIMITATIONS ON AUTHORITY TO**
 20 **SUSPEND OR RESTRICT THE ENTRY OF A**
 21 **CLASS OF ALIENS.**

22 *Section 212(f) of the Immigration and Nationality Act*
 23 *(8 U.S.C. 1182(f)) is amended to read as follows:*

24 *“(f) AUTHORITY TO SUSPEND OR RESTRICT THE*
 25 *ENTRY OF A CLASS OF ALIENS.—*

1 “(1) *IN GENERAL.*—Subject to paragraph (2), if
2 the Secretary of State, in consultation with the Sec-
3 retary of Homeland Security, determines, based on
4 specific and credible facts, that the entry of any
5 aliens or any class of aliens into the United States
6 would undermine the security or public safety of the
7 United States or the preservation of human rights,
8 democratic processes or institutions, or international
9 stability, the President may temporarily—

10 “(A) suspend the entry of such aliens or
11 class of aliens as immigrants or nonimmigrants;
12 or

13 “(B) impose any restrictions on the entry of
14 such aliens that the President deems appro-
15 priate.

16 “(2) *LIMITATIONS.*—In carrying out paragraph
17 (1), the President, the Secretary of State, and the Sec-
18 retary of Homeland Security shall—

19 “(A) only issue a suspension or restriction
20 when required to address specific acts impli-
21 cating a compelling government interest in a
22 factor identified in paragraph (1);

23 “(B) narrowly tailor the suspension or re-
24 striction, using the least restrictive means, to
25 achieve such compelling government interest;

1 “(C) *specify the duration of the suspension*
2 *or restriction; and*

3 “(D) *consider waivers to any class-based re-*
4 *striction or suspension and apply a rebuttable*
5 *presumption in favor of granting family-based*
6 *and humanitarian waivers.*

7 “(3) CONGRESSIONAL NOTIFICATION.—

8 “(A) *IN GENERAL.*—Prior to the President
9 *exercising the authority under paragraph (1),*
10 *the Secretary of State and the Secretary of*
11 *Homeland Security shall consult Congress and*
12 *provide Congress with specific evidence sup-*
13 *porting the need for the suspension or restriction*
14 *and its proposed duration.*

15 “(B) *BRIEFING AND REPORT.*—Not later
16 *than 48 hours after the President exercises the*
17 *authority under paragraph (1), the Secretary of*
18 *State and the Secretary of Homeland Security*
19 *shall provide a briefing and submit a written re-*
20 *port to Congress that describes—*

21 “(i) *the action taken pursuant to para-*
22 *graph (1) and the specified objective of such*
23 *action;*

24 “(ii) *the estimated number of individ-*
25 *uals who will be impacted by such action;*

1 “(iii) *the constitutional and legislative*
2 *authority under which such action took*
3 *place; and*

4 “(iv) *the circumstances necessitating*
5 *such action, including how such action com-*
6 *plies with paragraph (2), as well as any in-*
7 *telligence informing such actions.*

8 “(C) *TERMINATION.—If the briefing and re-*
9 *port described in subparagraph (B) are not pro-*
10 *vided to Congress during the 48 hours that begin*
11 *when the President exercises the authority under*
12 *paragraph (1), the suspension or restriction shall*
13 *immediately terminate absent intervening con-*
14 *gressional action.*

15 “(D) *CONGRESSIONAL COMMITTEES.—The*
16 *term ‘Congress’, as used in this paragraph, refers*
17 *to the Select Committee on Intelligence of the*
18 *Senate, the Committee on Foreign Relations of*
19 *the Senate, the Committee on the Judiciary of*
20 *the Senate, the Committee on Homeland Secu-*
21 *rity and Governmental Affairs of the Senate, the*
22 *Permanent Select Committee on Intelligence of*
23 *the House of Representatives, the Committee on*
24 *Foreign Affairs of the House of Representatives,*
25 *the Committee on the Judiciary of the House of*

1 *Representatives, and the Committee on Home-*
2 *land Security of the House of Representatives.*

3 “(4) *PUBLICATION.*—*The Secretary of State and*
4 *the Secretary of Homeland Security shall publicly an-*
5 *nounce and publish an unclassified version of the re-*
6 *port described in paragraph (3)(B) in the Federal*
7 *Register.*

8 “(5) *JUDICIAL REVIEW.*—

9 “(A) *IN GENERAL.*—*Notwithstanding any*
10 *other provision of law, an individual or entity*
11 *who is present in the United States and has been*
12 *harmed by a violation of this subsection may file*
13 *an action in an appropriate district court of the*
14 *United States to seek declaratory or injunctive*
15 *relief.*

16 “(B) *CLASS ACTION.*—*Nothing in this Act*
17 *may be construed to preclude an action filed*
18 *pursuant to subparagraph (A) from proceeding*
19 *as a class action.*

20 “(6) *TREATMENT OF COMMERCIAL AIRLINES.*—
21 *Whenever the Secretary of Homeland Security finds*
22 *that a commercial airline has failed to comply with*
23 *regulations of the Secretary of Homeland Security re-*
24 *lating to requirements of airlines for the detection of*
25 *fraudulent documents used by passengers traveling to*

1 *the United States (including the training of personnel*
 2 *in such detection), the Secretary of Homeland Secu-*
 3 *rity may suspend the entry of some or all aliens*
 4 *transported to the United States by such airline.*

5 “(7) *RULE OF CONSTRUCTION.*—*Nothing in this*
 6 *section may be construed as authorizing the Presi-*
 7 *dent, the Secretary of State, or the Secretary of*
 8 *Homeland Security to act in a manner inconsistent*
 9 *with the policy decisions expressed in the immigra-*
 10 *tion laws.”.*

11 **SEC. 4. TERMINATION OF CERTAIN EXECUTIVE ACTIONS.**

12 (a) *TERMINATION.*—*Presidential Proclamations 9645,*
 13 *9822, and 9983 and Executive Orders 13769, 13780, and*
 14 *13815 shall be void beginning on the date of the enactment*
 15 *of this Act.*

16 (b) *EFFECT.*—*All actions taken pursuant to any proc-*
 17 *lamation or executive order terminated under subsection (a)*
 18 *shall cease on the date of the enactment of this Act.*

19 **SEC. 5. VISA APPLICANTS REPORT.**

20 (a) *INITIAL REPORTS.*—

21 (1) *IN GENERAL.*—*Not later than 90 days after*
 22 *the date of the enactment of this Act, the Secretary of*
 23 *State, in coordination with the Secretary of Home-*
 24 *land Security and the heads of other relevant Federal*
 25 *agencies, shall submit a report to the congressional*

1 committees referred to in section 212(f)(3)(D) of the
2 Immigration and Nationality Act, as amended by sec-
3 tion 3 of this Act, that describes the implementation
4 of each of the presidential proclamations and execu-
5 tive orders referred to in section 4.

6 (2) *PRESIDENTIAL PROCLAMATION 9645 AND*
7 9983.—*In addition to the content described in para-*
8 *graph (1), the report submitted with respect to Presi-*
9 *dential Proclamation 9645, issued on September 24,*
10 *2017, and Presidential Proclamation 9983, issued on*
11 *January 31, 2020, shall include, for each country list-*
12 *ed in such proclamation—*

13 (A) *the total number of individuals who ap-*
14 *plied for a visa during the time period the proc-*
15 *lamation was in effect, disaggregated by country*
16 *and visa category;*

17 (B) *the total number of visa applicants de-*
18 *scribed in subparagraph (A) who were approved,*
19 *disaggregated by country and visa category;*

20 (C) *the total number of visa applicants de-*
21 *scribed in subparagraph (A) who were refused,*
22 *disaggregated by country and visa category, and*
23 *the reasons they were refused;*

24 (D) *the total number of visa applicants de-*
25 *scribed in subparagraph (A) whose applications*

1 *remain pending, disaggregated by country and*
2 *visa category;*

3 *(E) the total number of visa applicants de-*
4 *scribed in subparagraph (A) who were granted a*
5 *waiver, disaggregated by country and visa cat-*
6 *egory;*

7 *(F) the total number of visa applicants de-*
8 *scribed in subparagraph (A) who were denied a*
9 *waiver, disaggregated by country and visa cat-*
10 *egory, and the reasons such waiver requests were*
11 *denied;*

12 *(G) the total number of refugees admitted,*
13 *disaggregated by country; and*

14 *(H) the complete reports that have been sub-*
15 *mitted to the President every 180 days in ac-*
16 *cordance with section 4 of Presidential Procla-*
17 *mation 9645 in its original form, and as amend-*
18 *ed by Presidential Proclamation 9983.*

19 ***(b) ADDITIONAL REPORTS.***—*Not later than 30 days*
20 *after the date on which the President exercises the authority*
21 *under section 212(f) of the Immigration and Nationality*
22 *Act (8 U.S.C. 1182(f)), as amended by section 3 of this Act,*
23 *and every 30 days thereafter, the Secretary of State, in co-*
24 *ordination with the Secretary of Homeland Security and*
25 *heads of other relevant Federal agencies, shall submit a re-*

1 port to the congressional committees referred to in para-
2 graph (3)(D) of such section 212(f) that identifies, with re-
3 spect to countries affected by a suspension or restriction,
4 the information described in subparagraphs (A) through
5 (H) of subsection (a)(2) of this section and specific evidence
6 supporting the need for the continued exercise of presi-
7 dential authority under such section 212(f), including the
8 information described in paragraph (3)(B) of such section
9 212(f). If the report described in this subsection is not pro-
10 vided to Congress in the time specified, the suspension or
11 restriction shall immediately terminate absent intervening
12 congressional action. A final report with such information
13 shall be prepared and submitted to such congressional com-
14 mittees not later than 30 days after the suspension or re-
15 striction is lifted.

16 (c) *FORM; AVAILABILITY.*—The reports required under
17 subsections (a) and (b) shall be made publicly available on-
18 line in unclassified form.

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