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H. R. 1333

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2021

Ms. CHU (for herself, Mr. NADLER, Ms. LOFGREN, Ms. OMAR, Ms. TLAIB, Mr. CARSON, Mr. BEYER, Mrs. DEMINGS, Mr. MEEKS, Mrs. CAROLYN B. MALONEY of New York, Mr. ESPAILLAT, Ms. MCCOLLUM, Mr. MCGOVERN, Ms. SCHAKOWSKY, Mr. GALLEG0, Mr. JOHNSON of Georgia, Ms. DEGETTE, Mr. FOSTER, Ms. STEVENS, Mr. EVANS, Mr. CASTRO of Texas, Ms. CLARKE of New York, Ms. VELÁZQUEZ, Mr. SHERMAN, Mr. COOPER, Ms. JAYAPAL, Mr. BLUMENAUER, Ms. SCANLON, Mr. QUIGLEY, Ms. MOORE of Wisconsin, Mr. GRIJALVA, Mr. RUSH, Ms. BONAMICI, Ms. MENG, Mrs. WATSON COLEMAN, Mr. MALINOWSKI, Mr. MCEACHIN, Mr. CONNOLLY, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. BARRAGÁN, Mrs. NAPOLITANO, Ms. ESCOBAR, Mr. LIEU, Ms. PRESSLEY, Ms. LEE of California, Mr. COHEN, Mrs. DINGELL, Mr. VARGAS, Mr. KEATING, Mr. LOWENTHAL, Mr. GOMEZ, Mr. CARBAJAL, Mr. LANGEVIN, Mr. WELCH, Mr. CORREA, Mr. RASKIN, Ms. NORTON, Mr. SIRES, Mr. PALLONE, Mr. GARCÍA of Illinois, Mr. HASTINGS, Mr. TONKO, Ms. PINGREE, Mrs. TRAHAN, Ms. TITUS, Mr. SMITH of Washington, Mrs. BEATTY, Mr. CLEAVER, Mr. SUOZZI, Mr. PASCRELL, Mr. KILDEE, Mr. KRISHNAMOORTHY, Mr. NEGUSE, Mr. DESAULNIER, Ms. SPANBERGER, Mrs. LAWRENCE, Ms. ROSS, Ms. KELLY of Illinois, Mr. STANTON, Mr. GREEN of Texas, Mr. TAKANO, Mrs. TORRES of California, Ms. ESHOO, Mr. PRICE of North Carolina, Mrs. HAYES, Ms. SCHRIER, Mr. DANNY K. DAVIS of Illinois, Mr. POCAN, Mrs. MCBATH, Mr. KIM of New Jersey, Ms. SPEIER, Ms. BUSH, Ms. GARCIA of Texas, Mr. BERA, Ms. DEAN, Mr. SWALWELL, Ms. SEWELL, Ms. STRICKLAND, Mr. JONES, Ms. WILLIAMS of Georgia, Mr. KHANNA, Mr. LEVIN of California, Mr. AGUILAR, Ms. BASS, Mr. MCNERNEY, Mr. PAYNE, Mr. TORRES of New York, Ms. MATSUI, Mr. PANETTA, Mr. TRONE, Ms. OCASIO-CORTEZ, Mr. BROWN, Mrs. KIRKPATRICK, Mr. HUFFMAN, Mr. COSTA, Ms. DELBENE, Mr. CÁRDENAS, Mr. RUIZ, Mr. HIMES, Mr. GARAMENDI, Ms. KAPTUR, Mr. SARBANES, Mr. CICILLINE, Mr. VEASEY, Mr. MORELLE, Mr. SEAN PATRICK MALONEY of New York, Mr. SCHIFF, Ms. HOULAHAN, Ms. CLARK of Massachusetts, Mr. DEUTCH, Mr. BUTTERFIELD, Ms. WILD, Miss RICE of New York, Mrs. LURIA, and Mr. THOMPSON of California) intro-

duced 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

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 TITLE.**

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
 16 by statute, or if a statutorily authorized benefit
 17 takes into consideration such factors” before the pe-
 18 riod at the end.

1 **SEC. 3. TRANSFER AND LIMITATIONS ON AUTHORITY TO**
2 **SUSPEND OR RESTRICT THE ENTRY OF A**
3 **CLASS OF ALIENS.**

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

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

8 “(1) **IN GENERAL.—**Subject to paragraph (2),
9 if the Secretary of State, in consultation with the
10 Secretary of Homeland Security, determines, based
11 on specific and credible facts, that the entry of any
12 aliens or any class of aliens into the United States
13 would undermine the security or public safety of the
14 United States or the preservation of human rights,
15 democratic processes or institutions, or international
16 stability, the President may temporarily—

17 “(A) suspend the entry of such aliens or
18 class of aliens as immigrants or nonimmigrants;
19 or

20 “(B) impose any restrictions on the entry
21 of such aliens that the President deems appro-
22 priate.

23 “(2) **LIMITATIONS.—**In carrying out paragraph
24 (1), the President, the Secretary of State, and the
25 Secretary of Homeland Security shall—

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

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

8 “(C) specify the duration of the suspension
9 or restriction;

10 “(D) consider waivers to any class-based
11 restriction or suspension and apply a rebuttable
12 presumption in favor of granting family-based
13 and humanitarian waivers; and

14 “(E) comply with all provisions of this Act.

15 “(3) CONGRESSIONAL NOTIFICATION.—

16 “(A) IN GENERAL.—Prior to the President
17 exercising the authority under paragraph (1),
18 the Secretary of State and the Secretary of
19 Homeland Security shall consult Congress and
20 provide Congress with specific evidence sup-
21 porting the need for the suspension or restric-
22 tion and its proposed duration.

23 “(B) BRIEFING AND REPORT.—Not later
24 than 48 hours after the President exercises the
25 authority under paragraph (1), the Secretary of

1 State and the Secretary of Homeland Security
2 shall provide a briefing and submit a written re-
3 port to Congress that describes—

4 “(i) the action taken pursuant to
5 paragraph (1) and the specified objective
6 of such action;

7 “(ii) the estimated number of individ-
8 uals who will be impacted by such action;

9 “(iii) the constitutional and legislative
10 authority under which such action took
11 place; and

12 “(iv) the circumstances necessitating
13 such action, including how such action
14 complies with paragraph (2), as well as
15 any intelligence informing such actions.

16 “(C) TERMINATION.—If the briefing and
17 report described in subparagraph (B) are not
18 provided to Congress during the 48 hours that
19 begin when the President exercises the author-
20 ity under paragraph (1), the suspension or re-
21 striction shall immediately terminate absent in-
22 tervening congressional action.

23 “(D) CONGRESSIONAL COMMITTEES.—The
24 term ‘Congress’, as used in this paragraph, re-
25 fers to the Select Committee on Intelligence of

1 the Senate, the Committee on Foreign Rela-
2 tions of the Senate, the Committee on the Judi-
3 ciary of the Senate, the Committee on Home-
4 land Security and Governmental Affairs of the
5 Senate, the Permanent Select Committee on In-
6 telligence of the House of Representatives, the
7 Committee on Foreign Affairs of the House of
8 Representatives, the Committee on the Judici-
9 ary of the House of Representatives, and the
10 Committee on Homeland Security of the House
11 of Representatives.

12 “(4) PUBLICATION.—The Secretary of State
13 and the Secretary of Homeland Security shall pub-
14 licly announce and publish an unclassified version of
15 the report described in paragraph (3)(B) in the Fed-
16 eral Register.

17 “(5) JUDICIAL REVIEW.—

18 “(A) IN GENERAL.—Notwithstanding any
19 other provision of law, an individual or entity
20 who is present in the United States and has
21 been harmed by a violation of this subsection
22 may file an action in an appropriate district
23 court of the United States to seek declaratory
24 or injunctive relief.

1 “(B) CLASS ACTION.—Nothing in this Act
2 may be construed to preclude an action filed
3 pursuant to subparagraph (A) from proceeding
4 as a class action.

5 “(6) TREATMENT OF COMMERCIAL AIRLINES.—
6 Whenever the Secretary of Homeland Security finds
7 that a commercial airline has failed to comply with
8 regulations of the Secretary of Homeland Security
9 relating to requirements of airlines for the detection
10 of fraudulent documents used by passengers trav-
11 eling to the United States (including the training of
12 personnel in such detection), the Secretary of Home-
13 land Security may suspend the entry of some or all
14 aliens transported to the United States by such air-
15 line.

16 “(7) RULE OF CONSTRUCTION.—Nothing in
17 this section may be construed as authorizing the
18 President, the Secretary of State, or the Secretary
19 of Homeland Security to act in a manner incon-
20 sistent with the policy decisions expressed in the im-
21 migration laws.”.

22 **SEC. 4. VISA APPLICANTS REPORT.**

23 (a) INITIAL REPORTS.—

24 (1) IN GENERAL.—Not later than 90 days after
25 the date of the enactment of this Act, the Secretary

1 of State, in coordination with the Secretary of
2 Homeland Security and the heads of other relevant
3 Federal agencies, shall submit a report to the con-
4 gressional committees referred to in section
5 212(f)(3)(D) of the Immigration and Nationality
6 Act, as amended by section 3 of this Act, that de-
7 scribes the implementation of Presidential Proclama-
8 tions 9645, 9822, and 9983 and Executive Orders
9 13769, 13780, and 13815, during the effective pe-
10 riod of each such proclamation and order.

11 (2) PRESIDENTIAL PROCLAMATION 9645 AND
12 9983.—In addition to the content described in para-
13 graph (1), the report submitted with respect to Pres-
14 idential Proclamation 9645, issued on September 24,
15 2017, and Presidential Proclamation 9983, issued
16 on January 31, 2020, shall include, for each country
17 listed in such proclamation—

18 (A) the total number of individuals who
19 applied for a visa during the time period the
20 proclamation was in effect, disaggregated by
21 country and visa category;

22 (B) the total number of visa applicants de-
23 scribed in subparagraph (A) who were ap-
24 proved, disaggregated by country and visa cat-
25 egory;

1 (C) the total number of visa applicants de-
2 scribed in subparagraph (A) who were refused,
3 disaggregated by country and visa category,
4 and the reasons they were refused;

5 (D) the total number of visa applicants de-
6 scribed in subparagraph (A) whose applications
7 remain pending, disaggregated by country and
8 visa category;

9 (E) the total number of visa applicants de-
10 scribed in subparagraph (A) who were granted
11 a waiver, disaggregated by country and visa
12 category;

13 (F) the total number of visa applicants de-
14 scribed in subparagraph (A) who were denied a
15 waiver, disaggregated by country and visa cat-
16 egory, and the reasons such waiver requests
17 were denied;

18 (G) the total number of refugees admitted,
19 disaggregated by country; and

20 (H) the complete reports that were sub-
21 mitted to the President every 180 days in ac-
22 cordance with section 4 of Presidential Procla-
23 mation 9645 in its original form, and as
24 amended by Presidential Proclamation 9983.

1 (b) ADDITIONAL REPORTS.—Not later than 30 days
2 after the date on which the President exercises the author-
3 ity under section 212(f) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1182(f)), as amended by section 3 of
5 this Act, and every 30 days thereafter, the Secretary of
6 State, in coordination with the Secretary of Homeland Se-
7 curity and heads of other relevant Federal agencies, shall
8 submit a report to the congressional committees referred
9 to in paragraph (3)(D) of such section 212(f) that identi-
10 fies, with respect to countries affected by a suspension or
11 restriction, the information described in subparagraphs
12 (A) through (H) of subsection (a)(2) of this section and
13 specific evidence supporting the need for the continued ex-
14 ercise of presidential authority under such section 212(f),
15 including the information described in paragraph (3)(B)
16 of such section 212(f). If the report described in this sub-
17 section is not provided to Congress in the time specified,
18 the suspension or restriction shall immediately terminate
19 absent intervening congressional action. A final report
20 with such information shall be prepared and submitted to
21 such congressional committees not later than 30 days
22 after the suspension or restriction is lifted.

1 (c) FORM; AVAILABILITY.—The reports required
2 under subsections (a) and (b) shall be made publicly avail-
3 able online in unclassified form.

