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Title 8 - ALIENS AND NATIONALITY

CHAPTER 12 - IMMIGRATION AND NATIONALITY

SUBCHAPTER II - IMMIGRATION

Part II - Admission Qualifications for Aliens; Travel Control of Citizens and Aliens

Sec. 1185 - Travel control of citizens and aliens

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§1185. Travel control of citizens and aliens**(a) Restrictions and prohibitions**

Unless otherwise ordered by the President, it shall be unlawful—

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

(b) Citizens

Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid United States passport.

(c) Definitions

The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term "person" as used in this section shall be deemed to mean any individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

(d) Nonadmission of certain aliens

Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if, upon arrival in the United States, he is found to be inadmissible under any of the provisions of this chapter, or any other law, relative to the entry of aliens into the United States.

(e) Revocation of proclamation as affecting penalties

The revocation of any rule, regulation, or order issued in pursuance of this section shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such rule, regulation, or order.

(f) Permits to enter

Passports, visas, reentry permits, and other documents required for entry under this chapter may be considered as permits to enter for the purposes of this section.

(June 27, 1952, ch. 477, title II, ch. 2, §215, 66 Stat. 190; Pub. L. 95–426, title VII, §707(a)–(d), Oct. 7, 1978, 92 Stat. 992, 993; Pub. L. 103–416, title II, §204(a), Oct. 25, 1994, 108 Stat. 4311.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (c), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

This chapter, referred to in subsecs. (d) and (f), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–416 inserted “United States” after “valid”.

1978—Subsec. (a). Pub. L. 95–426, §707(a), substituted provision that the enumerated acts would, unless otherwise ordered by the President, be deemed unlawful for provisions declaring it unlawful when the United States is at war or during a proclaimed national emergency, or, as to aliens, when there exists a state of war between two or more states and the President finds that the interests of the United States require restrictions to be imposed upon departure of persons from and their entry into the United States.

Subsec. (b). Pub. L. 95–426, §707(b), substituted provisions prohibiting departure or entry except as otherwise provided by the President and subject to such limitations and exceptions as he may authorize or prescribe, for provisions prohibiting such departure or entry after proclamation of a national emergency has been made, published and in force.

Subsec. (c). Pub. L. 95–426, §707(d), redesignated subsec. (d) as (c). Former subsec. (c), which provided for penalties for violation of this section, was struck out.

Subsec. (d). Pub. L. 95–426, §707(d), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 95–426, §707(c), (d), redesignated subsec. (f) as (e) and struck out “proclamation,” before “rule” in two places. Former subsec. (e) redesignated (d).

Subsecs. (f), (g). Pub. L. 95–426, §707(d), redesignated subsec. (g) as (f). Former (f) redesignated (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 204(b) of Pub. L. 103–416 provided that: “The amendment made by subsection (a) [amending this section] shall apply to departures and entries (and attempts thereof) occurring on or after the date of enactment of this Act [Oct. 25, 1994].”

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

DELEGATION OF AUTHORITY UNDER SECTIONS 1182(F) AND 1185(A)(1) OF THIS TITLE

Authority of President under subsec. (a)(1) of this section to maintain custody and conduct screening of any undocumented person seeking to enter the United States who is encountered in a vessel interdicted on the high seas through Dec. 31, 2000, delegated to Attorney General by Memorandum of President of the United States, Sept. 24, 1999, 64 F.R. 55809, set out as a note under section 1182 of this title.

ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS TRAVEL CARDS

Pub. L. 112–54, Nov. 12, 2011, 125 Stat. 550, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011’.

“SEC. 2. ASIA-PACIFIC ECONOMIC COOPERATION BUSINESS TRAVEL CARDS.

“(a) IN GENERAL.—During the 7-year period ending on September 30, 2018, the Secretary of Homeland Security, in coordination with the Secretary of State, is authorized to issue Asia-Pacific Economic Cooperation Business Travel Cards (referred to in this section as ‘ABT Cards’) to any eligible person, including business leaders and United States Government officials who are actively engaged in Asia-Pacific Economic Cooperation business. An individual may not receive an ABT Card under this section unless the individual has been approved and is in good standing in an international trusted traveler program of the Department of Homeland Security.

“(b) INTEGRATION WITH EXISTING TRAVEL PROGRAMS.—The Secretary of Homeland Security may integrate application procedures for, and issuance, suspension, and revocation of, ABT Cards with other appropriate international trusted traveler programs of the Department of Homeland Security.

“(c) COOPERATION WITH PRIVATE ENTITIES.—In carrying out this section, the Secretary of Homeland Security may consult with appropriate private sector entities.

“(d) RULEMAKING.—The Secretary of Homeland Security, in coordination with the Secretary of State, may prescribe such regulations as may be necessary to carry out this section, including regulations regarding conditions of or limitations on eligibility for an ABT Card.

“(e) FEE.—

“(1) IN GENERAL.—The Secretary of Homeland Security may—

“(A) prescribe and collect a fee for the issuance of ABT Cards; and

“(B) adjust such fee to the extent the Secretary determines to be necessary to comply with paragraph (2).

“(2) LIMITATION.—The Secretary of Homeland Security shall ensure that the total amount of the fees collected under paragraph (1) during any fiscal year is sufficient to offset the direct and indirect costs associated with carrying out this section during such fiscal year, including the costs associated with establishing the program.

“(3) ACCOUNT FOR COLLECTIONS.—There is established in the Treasury of the United States an ‘APEC Business Travel Card Account’ into which the fees collected under paragraph (1) shall be deposited as offsetting receipts.

“(4) USE OF FUNDS.—Amounts deposited into the APEC Business Travel Card Account—

“(A) shall be credited to the appropriate account of the Department of Homeland Security for expenses incurred in carrying out this section; and

“(B) shall remain available until expended.

“(f) TERMINATION OF PROGRAM.—The Secretary of Homeland Security, in coordination with the Secretary of State, may terminate activities under this section if the Secretary of Homeland Security determines such action to be in the interest of the United States.”

WESTERN HEMISPHERE TRAVEL INITIATIVE

Pub. L. 110–53, title VII, §724, Aug. 3, 2007, 121 Stat. 350, provided that: “Before the Secretary of Homeland Security publishes a final rule in the Federal Register implementing section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) [set out below]—

“(1) the Secretary of Homeland Security shall complete a cost-benefit analysis of the Western Hemisphere Travel Initiative, authorized under such section 7209; and

“(2) the Secretary of State shall develop proposals for reducing the execution fee charged for the passport card, proposed at 71 Fed. Reg. 60928–32 (October 17, 2006), including the use of mobile application teams, during implementation of the land and sea phase of the Western Hemisphere Travel Initiative, in order to encourage United States citizens to apply for the passport card.”

Pub. L. 108–458, title VII, §7209, Dec. 17, 2004, 118 Stat. 3823, as amended by Pub. L. 109–295, title V, §546, Oct. 4, 2006, 120 Stat. 1386; Pub. L. 110–53, title VII, §723, Aug. 3, 2007, 121 Stat. 349; Pub. L. 110–161, div. E, title V, §545, Dec. 26, 2007, 121 Stat. 2080, provided that:

“(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

“(1) Existing procedures allow many individuals to enter the United States by showing minimal identification or without showing any identification.

“(2) The planning for the terrorist attacks of September 11, 2001, demonstrates that terrorists study and exploit United States vulnerabilities.

“(3) Additional safeguards are needed to ensure that terrorists cannot enter the United States.

“(b) PASSPORTS.—

“(1) DEVELOPMENT OF PLAN AND IMPLEMENTATION.—

“(A) The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)). Such plan may not be implemented earlier than the date that is the later of 3 months after the Secretary of State and the Secretary of Homeland Security make the certification required in subparagraph (B) or June 1, 2009. The plan shall seek to expedite the travel of frequent travelers, including those who reside in border communities, and in doing so, shall make readily available a registered traveler program (as described in section 7208(k) [8 U.S.C. 1365b(k)]).

“(B) The Secretary of Homeland Security and the Secretary of State shall jointly certify to the Committees on Appropriations of the Senate and the House of Representatives that the following criteria have been met prior to implementation of section 7209(b)(1)(A)—

“(i) the National Institute of Standards and Technology certifies that the Departments of Homeland Security and State have selected a card architecture that meets or exceeds International Organization for Standardization (ISO) security standards and meets or exceeds best available practices for protection of personal identification documents: *Provided*, That the National Institute of Standards and Technology shall also assist the Departments of Homeland Security and State to incorporate into the architecture of the card the best available practices to prevent the unauthorized use of information on the card: *Provided further*, That to facilitate efficient cross-border travel, the Departments of Homeland Security and State shall, to the maximum extent possible, develop an architecture that is compatible with information technology systems and infrastructure used by United States Customs and Border Protection;

“(ii) the technology to be used by the United States for the passport card, and any subsequent change to that technology, has been shared with the governments of Canada and Mexico;

“(iii) an agreement has been reached with the United States Postal Service on the fee to be charged individuals for the passport card, and a detailed justification has been submitted to the Committees on Appropriations of the Senate and the House of Representatives;

“(iv) an alternative procedure has been developed for groups of children traveling across an international border under adult supervision with parental consent;

“(v) the necessary technological infrastructure to process the passport cards has been installed, and all employees at ports of entry have been properly trained in the use of the new technology;

“(vi) the passport card has been made available for the purpose of international travel by United States citizens through land and sea ports of entry between the United States and Canada, Mexico, the Caribbean and Bermuda;

“(vii) a single implementation date for sea and land borders has been established; and

“(viii) the signing of a memorandum of agreement to initiate a pilot program with not less than one State to determine if an enhanced driver's license, which is machine-readable and tamper proof, not valid for certification of citizenship for any purpose other than admission into the United States from Canada or Mexico, and issued by such State to an individual, may permit the individual to use the driver's license to meet the documentation requirements under subparagraph (A) for entry into the United States from Canada or Mexico at land and sea ports of entry.

“(C) REPORT.—Not later than 180 days after the initiation of the pilot program described in subparagraph (B)(viii), the Secretary of Homeland Security and the Secretary of State shall submit to the appropriate congressional committees a report which includes—

“(i) an analysis of the impact of the pilot program on national security;

“(ii) recommendations on how to expand the pilot program to other States;

“(iii) any appropriate statutory changes to facilitate the expansion of the pilot program to additional States and to citizens of Canada;

“(iv) a plan to screen individuals participating in the pilot program against United States terrorist watch lists; and

“(v) a recommendation for the type of machine-readable technology that should be used in enhanced driver's licenses, based on individual privacy considerations and the costs and feasibility of incorporating any new technology into existing driver's licenses.

“(2) REQUIREMENT TO PRODUCE DOCUMENTATION.—The plan developed under paragraph (1) shall require all United States citizens, and categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of such Act [8 U.S.C. 1182(d)(4)(B)], to carry and produce the documentation described in paragraph (1) when traveling from foreign countries into the United States.

“(c) TECHNICAL AND CONFORMING AMENDMENTS.—After the complete implementation of the plan described in subsection (b)—

“(1) neither the Secretary of State nor the Secretary of Homeland Security may exercise discretion under section 212(d)(4)(B) of such Act [8 U.S.C. 1182(d)(4)(B)] to waive documentary requirements for travel into the United States; and

“(2) the President may not exercise discretion under section 215(b) of such Act (8 U.S.C. 1185(b)) to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States except—

“(A) where the Secretary of Homeland Security determines that the alternative documentation that is the basis for the waiver of the documentary requirement is sufficient to denote identity and citizenship;

“(B) in the case of an unforeseen emergency in individual cases; or

“(C) in the case of humanitarian or national interest reasons in individual cases.

“(d) TRANSIT WITHOUT VISA PROGRAM.—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act [8 U.S.C. 1182(d)(4)(C)] until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.”

[Amendment by Pub. L. 110–161, §545, to section 7209 of Pub. L. 108–458, set out above, was executed to reflect the probable intent of Congress, notwithstanding errors in the directory language.]

EX. ORD. NO. 12172. DELEGATION OF AUTHORITY OF PRESIDENT TO SECRETARY OF STATE AND ATTORNEY GENERAL RESPECTING ENTRY OF IRANIAN ALIENS INTO THE UNITED STATES

Ex. Ord. No. 12172, Nov. 26, 1979, 44 F.R. 67947, as amended by Ex. Ord. No. 12206, Apr. 7, 1980, 45 F.R. 24101, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States, including the Immigration and Nationality Act, as amended [this chapter], 8 USC 1185 and 3 USC 301, it is hereby ordered as follows:

Section 1–101. Delegation of Authority. The Secretary of State and the Attorney General are hereby designated and empowered to exercise in respect of Iranians the authority conferred upon the President by section 215(a)(1) of the Act of June 27, 1952 (8 USC 1185), to prescribe limitations and exceptions on the rules and regulations governing the entry of aliens into the United States.

Section 1–102. Effective Date. This order is effective immediately.

JIMMY CARTER.

EX. ORD. NO. 13323. ASSIGNMENT OF FUNCTIONS RELATING TO ARRIVALS IN AND DEPARTURES FROM THE UNITED STATES

Ex. Ord. No. 13323, Dec. 30, 2003, 69 F.R. 241, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 215 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1185), and section 301 of title 3, United States Code, and to strengthen the national security of the United States through procedures and systems to manage and control the arrival and departure of persons from the United States, it is hereby ordered as follows:

SECTION 1. *Functions of the Secretary of Homeland Security.* The Secretary of Homeland Security is assigned the functions of the President under section 215(a) of the INA with respect to persons other than citizens of the United States. In exercising these functions, the Secretary of Homeland Security shall not issue, amend, or revoke any rules, regulations, or orders without first obtaining the concurrence of the Secretary of State.

SEC. 2. *Functions of the Secretary of State.* The Secretary of State is assigned the functions of the President under section 215(a) and (b) of the INA with respect to citizens of the United States, including those functions concerning United States passports. In addition, the Secretary may amend or revoke part 46 of title 22, Code of Federal Regulations, which concern persons other than citizens of the United States. In exercising these

functions, the Secretary of State shall not issue, amend, or revoke any rules, regulations, or orders without first consulting with the Secretary of Homeland Security.

SEC. 3. *Judicial Review*. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

GEORGE W. BUSH.