

113TH CONGRESS
2^D SESSION

H. R. 5759

AN ACT

To establish a rule of construction clarifying the limitations on executive authority to provide certain forms of immigration relief.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Preventing Executive
3 Overreach on Immigration Act of 2014”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

6 (1) Under article I, section 8, of the Constitu-
7 tion, the Congress has the power to “establish an
8 uniform Rule of Naturalization”. As the Supreme
9 Court found in *Galvan v. Press*, “that the formula-
10 tion of * * * policies [pertaining to the entry of
11 aliens and their right to remain here] is entrusted
12 exclusively to Congress has become about as firmly
13 imbedded in the legislative and judicial tissues of our
14 body politic as any aspect of our government”.

15 (2) Under article II, section 3, of the Constitu-
16 tion, the President is required to “take Care that
17 the Laws be faithfully executed”.

18 (3) Historically, executive branch officials have
19 legitimately exercised their prosecutorial discretion
20 through their constitutional power over foreign af-
21 fairs to permit individuals or narrow groups of non-
22 citizens to remain in the United States temporarily
23 due to extraordinary circumstances in their country
24 of origin that pose an imminent threat to the indi-
25 viduals’ life or physical safety.

1 (4) Prosecutorial discretion generally ought to
2 be applied on a case-by-case basis and not to whole
3 categories of persons.

4 (5) President Obama himself has stated at least
5 22 times in the past that he can't ignore existing
6 immigration law or create his own immigration law.

7 (6) President Obama's grant of deferred action
8 to more than 4,000,000 unlawfully present aliens, as
9 directed in a November 20, 2014, memorandum
10 issued by Secretary of Homeland Security Jeh
11 Charles Johnson, is without any constitutional or
12 statutory basis.

13 **SEC. 3. RULE OF CONSTRUCTION.**

14 (a) IN GENERAL.—Notwithstanding any other law,
15 the executive branch of the Government shall not—

16 (1) exempt or defer, by Executive order, regula-
17 tion, or any other means, categories of aliens consid-
18 ered under the immigration laws (as defined in sec-
19 tion 101(a)(17) of the Immigration and Nationality
20 Act (8 U.S.C. 1101(a)(17))) to be unlawfully
21 present in the United States from removal under
22 such laws;

23 (2) treat such aliens as if they were lawfully
24 present or had a lawful immigration status; or

1 (3) treat such aliens other than as unauthorized
2 aliens (as defined in section 274A(h)(3) of the Im-
3 migration and Nationality Act (8 U.S.C.
4 1324a(h)(3))).

5 (b) EXCEPTIONS.—Subsection (a) shall apply ex-
6 cept—

7 (1) to the extent prohibited by the Constitution;

8 (2) upon the request of Federal, State, or local
9 law enforcement agencies, for purposes of maintain-
10 ing aliens in the United States to be tried for crimes
11 or to be witnesses at trial; or

12 (3) for humanitarian purposes where the aliens
13 are at imminent risk of serious bodily harm or
14 death.

15 (c) EFFECT OF EXECUTIVE ACTION.—Any action by
16 the executive branch with the purpose of circumventing
17 the objectives of this section shall be null and void and
18 without legal effect.

19 (d) EFFECTIVE DATE.—This section shall take effect
20 as if enacted on November 20, 2014, and shall apply to
21 requests (regardless of whether the request is original or
22 for reopening of a previously denied request) submitted
23 on or after such date for—

24 (1) work authorization; or

1 (2) exemption from, or deferral of, removal.

Passed the House of Representatives December 4,
2014.

Attest:

Clerk.

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