

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1333

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IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

Received; read twice and referred to the Committee on the Judiciary

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

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

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

8 (1) by striking “Except as specifically provided  
9 in paragraph (2) and in sections 101(a)(27),  
10 201(b)(2)(A)(i), and 203, no” and inserting “No”;

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

15 (3) by inserting “religion,” after “sex,”; and

16 (4) by inserting before the period at the end the  
17 following: “, except as specifically provided in para-  
18 graph (2), in sections 101(a)(27), 201(b)(2)(A)(i),  
19 and 203, if otherwise expressly required by statute,  
20 or if a statutorily authorized benefit takes into con-  
21 sideration such factors”.

22 **SEC. 3. TRANSFER AND LIMITATIONS ON AUTHORITY TO**  
23 **SUSPEND OR RESTRICT THE ENTRY OF A**  
24 **CLASS OF ALIENS.**

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

1       “(f) AUTHORITY TO SUSPEND OR RESTRICT THE  
2 ENTRY OF A CLASS OF ALIENS.—

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

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

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

18               “(2) LIMITATIONS.—In carrying out paragraph  
19 (1), the President, the Secretary of State, and the  
20 Secretary of Homeland Security shall—

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

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

4           “(C) specify the duration of the suspension  
5           or restriction;

6           “(D) consider waivers to any class-based  
7           restriction or suspension and apply a rebuttable  
8           presumption in favor of granting family-based  
9           and humanitarian waivers; and

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

11          “(3) CONGRESSIONAL NOTIFICATION.—

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

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

1           “(i) the action taken pursuant to  
2           paragraph (1) and the specified objective  
3           of such action;

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

6           “(iii) the constitutional and legislative  
7           authority under which such action took  
8           place; and

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

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

20          “(D) CONGRESSIONAL COMMITTEES.—The  
21          term ‘Congress’, as used in this paragraph, re-  
22          fers to the Select Committee on Intelligence of  
23          the Senate, the Committee on Foreign Rela-  
24          tions of the Senate, the Committee on the Judi-  
25          ciary of the Senate, the Committee on Home-

1 land Security and Governmental Affairs of the  
2 Senate, the Permanent Select Committee on In-  
3 telligence of the House of Representatives, the  
4 Committee on Foreign Affairs of the House of  
5 Representatives, the Committee on the Judici-  
6 ary of the House of Representatives, and the  
7 Committee on Homeland Security of the House  
8 of Representatives.

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

14 “(5) JUDICIAL REVIEW.—

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

22 “(B) CLASS ACTION.—Nothing in this Act  
23 may be construed to preclude an action filed  
24 pursuant to subparagraph (A) from proceeding  
25 as a class action.

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

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

18 **SEC. 4. VISA APPLICANTS REPORT.**

19          (a) INITIAL REPORTS.—

20                 (1) IN GENERAL.—Not later than 90 days after  
21          the date of the enactment of this Act, the Secretary  
22          of State, in coordination with the Secretary of  
23          Homeland Security and the heads of other relevant  
24          Federal agencies, shall submit a report to the con-  
25          gressional committees referred to in section

1 212(f)(3)(D) of the Immigration and Nationality  
2 Act, as amended by section 3 of this Act, that de-  
3 scribes the implementation of Presidential Proclama-  
4 tions 9645, 9822, and 9983 and Executive Order  
5 Nos. 13769, 13780, and 13815, during the effective  
6 period of each such proclamation and order.

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

14 (A) the total number of individuals who  
15 applied for a visa during the time period the  
16 proclamation was in effect, disaggregated by  
17 country and visa category;

18 (B) the total number of visa applicants de-  
19 scribed in subparagraph (A) who were ap-  
20 proved, disaggregated by country and visa cat-  
21 egory;

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



1 (D) the total number of visa applicants de-  
2 scribed in subparagraph (A) whose applications  
3 remain pending, disaggregated by country and  
4 visa category;

5 (E) the total number of visa applicants de-  
6 scribed in subparagraph (A) who were granted  
7 a waiver, disaggregated by country and visa  
8 category;

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

14 (G) the total number of refugees admitted,  
15 disaggregated by country; and

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

21 (b) ADDITIONAL REPORTS.—Not later than 30 days  
22 after the date on which the President exercises the author-  
23 ity under section 212(f) of the Immigration and Nation-  
24 ality Act (8 U.S.C. 1182(f)), as amended by section 3 of  
25 this Act, and every 30 days thereafter, the Secretary of

1 State, in coordination with the Secretary of Homeland Se-  
2 curity and heads of other relevant Federal agencies, shall  
3 submit a report to the congressional committees referred  
4 to in paragraph (3)(D) of such section 212(f) that identi-  
5 fies, with respect to countries affected by a suspension or  
6 restriction, the information described in subparagraphs  
7 (A) through (G) of subsection (a)(2) of this section and  
8 the specific evidence supporting the need for the continued  
9 exercise of presidential authority under such section  
10 212(f), including the information described in paragraph  
11 (3)(B) of such section 212(f). If the report described in  
12 this subsection is not provided to such congressional com-  
13 mittees in the time specified, the suspension or restriction  
14 shall immediately terminate absent intervening congres-  
15 sional action. A final report with such information shall  
16 be prepared and submitted to such congressional commit-  
17 tees not later than 30 days after the suspension or restric-  
18 tion 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.

Passed the House of Representatives April 21, 2021.

Attest:                   CHERYL L. JOHNSON,  
*Clerk.*