110TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
110–699

TO AMEND THE IMMIGRATION AND NATIONALITY ACT TO ESTABLISH A SEPARATE NONIMMIGRANT CLASSIFICATION FOR FASHION MODELS

JUNE 5, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 4080]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4080) to amend the Immigration and Nationality Act to establish a separate nonimmigrant classification for fashion models, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

THE AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. ESTABLISHMENT OF NEW FASHION MODEL NONIMMIGRANT CLASSIFICATION.

(a) IN GENERAL.—

(1) NEW CLASSIFICATION.—Section 101(a)(15)(P) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(P)) is amended—

(A) in clause (iii), by striking "or" at the end;

(B) in clause (iv), by striking "clause (i), (ii), or (iii)" and inserting "clause (i), (ii), (iii), or (iv)";

(C) by redesignating clause (iv) as clause (v); and

(D) by inserting after clause (iii) the following:

"(iv) is a fashion model who is of distinguished merit and ability and who is seeking to enter the United States temporarily to perform fashion modeling services that involve events or productions which have a distinguished reputation or that are performed for an organization or establishment that has a distinguished reputation for, or a record of, utilizing prominent modeling talent; or".

(2) AUTHORIZED PERIOD OF STAY.—Section 214(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(a)(2)(B)) is amended in the second sentence—

(A) by inserting "or fashion models" after "athletes"; and

(B) by inserting "or fashion model" after "athlete".

(3) NUMERICAL LIMITATION.—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following:

"(I)(i) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year under section 101(a)(15)(P)(iv) may not exceed 1,000.

"(ii) The numerical limitation established by clause (i) shall only apply to principal aliens and not to the spouses or children of such aliens.

"(iii) An alien who has already been counted toward the limitation established by clause (i) shall not be counted again during the same period of stay or authorized extension under subsection (a)(2)(B), irrespective of whether there is a change in petitioner under subparagraph (C).".

(4) CONSULTATION.—

(A) IN GENERAL.—Section 214(c)(4)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)(D)) is amended by striking "clause (i) or (iii)" and inserting "clause (i), (iii), or (iv)".

(B) ADVISORY OPINION.—Section 214(c)(6)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(6)(A)(iii)) is amended—

(i) by striking "section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii)," and inserting "clause (i), (iii), or (iv) of section 101(a)(15)(P),"; and

(ii) by striking "of athletics or entertainment".

(C) EXPEDITED PROCEDURES.—Section 214(c)(6)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(6)(E)(i)) is amended by striking "artists or entertainers" and inserting "artists, entertainers, or fashion models".

(b) ELIMINATION OF H-1B CLASSIFICATION FOR FASHION MODELS.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended—

(1) by striking "or as a fashion model"; and

(2) by striking "or, in the case of a fashion model, is of distinguished merit and ability".

(c) EFFECTIVE DATE AND IMPLEMENTATION.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) REGULATIONS, GUIDELINES, AND PRECEDENTS.—The regulations, guidelines and precedents in effect on the date of the enactment of this Act for the adjudication of petitions for fashion models under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)), shall be applied to petitions for fashion models under section 101(a)(15)(P)(iv) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(P)(iv)), as added by this Act, except to the extent modified by the Secretary of Homeland Security through final regulations (not through interim regulations) promulgated in accordance with subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the "Administrative Procedure Act").

(3) CONSTRUCTION.—Nothing in this section shall be construed as preventing an alien who is a fashion model from obtaining nonimmigrant status under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(O)(i)) if such alien is otherwise qualified for such status.

(4) TREATMENT OF PENDING PETITIONS.—Petitions filed on behalf of fashion models under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) that are pending on the date of the enactment of this Act shall be treated as if they had been filed under section 101(a)(15)(P)(iv)

of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(P)(iv)), as added by this Act.

PURPOSE AND SUMMARY

H.R. 4080 amends the Immigration and Nationality Act to establish a separate nonimmigrant classification for fashion models. The bill reclassifies fashion models of distinguished merit and ability, moving them from the H-1B visa category and establishing a new visa category for fashion models within the P visa category. The creation of a new category for fashion models within the P visa category corrects an earlier inadvertent misclassification of fashion models as H-1B workers.

BACKGROUND AND NEED FOR THE LEGISLATION

The H-1 category in existence before the enactment of Immigration Act of 1990 [1] was not limited to individuals in "specialty occupations," which includes individuals with bachelor's degrees or above, as the H1-B category is under current law. Instead, the H-1 category encompassed any individual of "distinguished merit and ability" coming temporarily "to perform services of an exceptional nature requiring such merit and ability." [2] This included fashion models.

The Immigration Act of 1990 reformed the employment-based immigration system and created the P visa category to accommodate individuals in the performing arts and athletics who previously had been included in H-1,[3] as well as a separate H-1B category for up to 65,000 individuals who are coming temporarily to work in a "specialty occupation," which is defined as "an occupation that requires . . . (A) theoretical and practical application of a body of highly specialized knowledge, and (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States." [4] The 1990 Act inadvertently omitted fashion models from any visa category. The omission was noticed, and addressed in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991; [5] but fashion models were added to the H-1B category,[6] under the overall H-1B numerical cap, rather than to the P visa category.

So long as the supply of H-1B visa numbers exceeded demand, placing fashion models in the H-1B category merely appeared odd. Since the late 1990's, however, when the demand for visas under H-1B began bumping up against the numerical cap, the misfit between fashion models and the H-1B category has increasingly caused real problems. From fiscal years 2000 through 2005, new employment approvals for H-1B fashion models ranged from 614 to 790. In fiscal years 2005 through 2007, these numbers declined

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[1] Immigration Act of 1990, Pub. L. No. 101–649, 104 Stat. 4978 (1990).

[2] 8 U.S.C. § 1101(h)(1) (1989); Robert C. Divine and R. Blake Chisam, IMMIGRATION PRACTICE, § 17-4(b), pp. 17–77–78 (Juris Publishing, Inc. 2006).

[3] Immigration Act of 1990, § 207, Pub. L. No. 101–649, 104 Stat. 4978 (1990).

[4] Robert C. Divine and R. Blake Chisam,IMMIGRATION PRACTICE, § 17-4(b), p. 17–79 (Juris Publishing, Inc. 2006) (citing INA § 214(i)(1)).

[5] Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. No. 102–232, 105 Stat. 1733 (Dec. 12, 1991).

[6] *Id.* at § 207(b).

steadily to 467, 438, and 349 respectively, likely as a result of the pressure on H-1B numbers caused by the H-1B cap.

The current visa structure hurts American commercial interests; undermines our Nation's leadership role in the international fashion, publishing, and advertising industries; and does nothing to advance the careers of American fashion models. When advertisers and marketers cannot get the particular fashion model they want into the United States for their "shoot," they have an easy solution—namely, to move the location of the shoot off shore.

When shoots are moved outside the United States, the American economy suffers. Taxes that would be paid by foreign fashion models for working in the United States are lost to Federal and state governments, firms that manage fashion models in the United States lose commissions to foreign firms, American fashion models who might be included in ensemble shoots are displaced by local talent in the offshore location, advertising agencies and other media firms in the United States lose business to their foreign counterparts, American fashion photographers lose business to foreign photographers, and workers who support fashion shoots—air and makeup artists, fashion stylists, prop stylists, photographic printers, retouchers, assistants—lose employment opportunities.

H.R. 4080 creates a new subcategory in the P visa category that retains the current admission standards applied to fashion models, while assuring that visas will remain available to fashion models of distinguished merit and ability. Placing fashion models in the P visa category corrects the misclassification that occurred in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 and more appropriately groups fashion models with other nonimmigrants (e.g., actors, athletes, and musicians) whose skill is in performances that give them a unique commercial identity and who make periodic trips into the country for time-limited assignments. In addition, by removing fashion models from the H-1B category, several hundred more visas per year will be available for professional workers for whom the category was intended.

The amendment adopted by the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law limits the number of fashion models who can be admitted annually under the P visa category to 1,000, and serves to ensure that the "consultation" requirements applicable to artists, entertainers, and athletes under the existing P category, which help protect American workers, would apply to fashion models as well.

The bill provides that the "regulations, guidelines and precedents in effect on the date of the enactment of this Act for the adjudication of petitions for fashion models under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)), shall be applied to petitions for fashion models under section 101(a)(15)(P)(iv) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(P)(iv)), as added by this Act, except to the extent modified by the Secretary of Homeland Security through final regulations (not through interim regulations) promulgated in accordance with the Administrative Procedure Act." The Committee emphasizes that regulations, guidelines, and precedents from the H-1B category that do not apply to the P visa category, such as the requirement that a petitioner file a Labor Condition Application with the Secretary of Labor, should not apply to petitions filed under the

new P-4 visa category. In addition, the Committee intends that the Department of State take all steps reasonable and necessary to ameliorate the adverse consequences to foreign fashion models with respect to visa applications, such as changes in the applicable "visa reciprocity schedule," caused by moving fashion models to the P category from the H-1B category. Further, the Committee strongly urges the Department of State to readily permit visa applicants under the new P-4 category to apply for visas in third countries and to temporarily apply more favorable H-1B reciprocity schedules to the new P-4 category during the time between the passage of this Act and any renegotiation of applicable visa reciprocity schedules.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 4080.

COMMITTEE CONSIDERATION

On May 8, 2008, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law met in open session and ordered the bill H.R. 4080 favorably reported, with an amendment, by voice vote, a quorum being present. On May 14, 2008, the Committee met in open session and ordered the bill H.R. 4080 favorably reported, with an amendment, by a rollcall vote of 20 to 3, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall votes occurred during the Committee's consideration of H.R. 4080.

1. Motion to report H.R. 4080, as amended, favorably. Passed 20 to 3.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Conyers, Jr., Chairman	X		
Mr. Berman			
Mr. Boucher			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Delahunt			
Mr. Wexler			
Ms. Sánchez	X		
Mr. Cohen	X		
Mr. Johnson			
Ms. Sutton	X		
Mr. Gutierrez	X		
Mr. Sherman	X		
Ms. Baldwin			
Mr. Weiner	X		
Mr. Schiff	X		
Mr. Davis			
Ms. Wasserman Schultz	X		

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Ellison			
Mr. Smith (Texas)	X		
Mr. Sensenbrenner, Jr.		X	
Mr. Coble	X		
Mr. Gallegly			
Mr. Goodlatte			
Mr. Chabot		X	
Mr. Lungren	X		
Mr. Cannon			
Mr. Keller	X		
Mr. Issa	X		
Mr. Pence			
Mr. Forbes			
Mr. King		X	
Mr. Feeney			
Mr. Franks			
Mr. Gohmert			
Mr. Jordan			
Total	20	3	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4080, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 15, 2008.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4080, a bill to amend the Immigration and Nationality Act to establish a separate nonimmigrant classification for fashion models.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 4080—A bill to amend the Immigration and Nationality Act to establish a separate nonimmigrant classification for fashion models.

CBO estimates that implementing H.R. 4080 would have no significant cost to the Federal Government. Enacting the bill could affect direct spending, but CBO estimates that any such effects would not be significant in any year. In addition, we estimate that enacting H.R. 4080 could increase revenues by less than $500,000 a year in fiscal years 2009 through 2018.

H.R. 4080 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

H.R. 4080 would establish a new nonimmigrant category for certain fashion models. Those individuals would be able to enter the United States and remain for up to 10 years under the new classification. The bill would limit the number of nonimmigrant visas granted to models to 1,000 for each fiscal year, not including any spouses or children accompanying the applicant.

The Department of State collects fees from persons who apply for such visas from overseas. Under current law, the department charges an application fee of $131 per person. In addition, DHS would collect a fee of $320 to process the visa applications submitted by fashion models. All of those fees are classified as offsetting collections (for the Department of State) or offsetting receipts (for DHS) and are retained and spent by the departments. CBO estimates that the net budgetary effect of those increased collections would be less than $500,000 a year.

In addition, the Department of State may charge additional fees for issuing a nonimmigrant visa. Those fees vary by country and are deposited in the Treasury as revenues. Based on the number of fashion models entering the United States as nonimmigrants in recent years, CBO estimates that the department would process fewer than 1,000 additional applications annually and that enacting H.R. 4080 would increase revenues by less than $500,000 a year in fiscal years 2009 through 2018.

Finally, some of the additional persons admitted under this legislation could become eligible for certain Federal benefits, but CBO expects that any increase in direct spending for benefit programs would not be significant over the 2009–2018 period.

The CBO staff contacts for this estimate are Mark Grabowicz (for DHS's costs), who can be reached at 226–2860, and Sunita D'Monte (for the Department of State's costs), who can be reached at 226–2840. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 4080 amends the Immigration and Nationality Act to replace the current nonimmigrant H-1B visa category for fashion models with a new P-4 visa category.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 4 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 4080 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Establishment of New Fashion Model Nonimmigrant Classification. Section 1 amends the Immigration and Nationality Act to replace the current nonimmigrant H-1B visa category for fashion models with a new P-4 visa category. It defines such category as a fashion model who is of distinguished merit and ability and who is seeking to enter the United States temporarily to perform fashion modeling services that involve events or productions which have a distinguished reputation or that are performed for an organization or establishment that has a distinguished reputation for, or a record of, utilizing prominent modeling talent.

AGENCY VIEWS

MAY 2 9 2008

Office of Legislative Affairs
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

The Honorable John Conyers, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Department of Homeland Security (DHS) appreciates the opportunity to comment on H.R. 4080, a bill to amend the Immigration and Nationality Act to establish a separate nonimmigrant classification for fashion models, as reported by the House Committee on the Judiciary on May 14, 2008. H.R. 4080, moving "fashion models of distinguished merit and ability" from H-1B to P nonimmigrant category, would benefit these models and their employers primarily in three ways: (1) the H-1B cap would not apply to them (however, the bill as amended provides an annual cap of 1,000); (2) Department of Labor approval of a labor condition application (LCA) would not be required; and (3) they could have up to a 10-year nonimmigrant stay (or even longer, if H.R. 5060 were also enacted).

DHS has concerns about some of this bill's provisions. Subsection (1)(c)(2) of the bill would require that the "regulations, guidelines and precedents" in effect on the date of enactment for the adjudication of fashion model H-1B petitions would apply unless and until final DHS regulations were promulgated (and not interim final). While DHS understands the desire for continuity, it is concerned about the inflexibility of requiring that "guidelines and precedents" could only be changed by final regulation, as opposed to successor guidelines and precedents since, by definition, these are documents that would not otherwise require a rulemaking process. It is also unclear how this statutory freezing of process would relate to "regulations, guidelines and precedents" involving the LCA and H-1B cap that this statute removes fashion models from. DHS understands the sponsors' intention is only to freeze those parts of the regulations and procedures not substantively affected by the bill but this is not clear from the text itself.

DHS notes as well that the bill as amended adds a consultation requirement for P model petitions, consistent with existing P classifications for entertainers and athletes. It is not clear what the appropriate labor organization would be for fashion models.

DHS also has concerns with subsection (1)(c)(5) of the bill (VISA VALIDITY PERIOD), which provides:

"The validity period for visas issued to beneficiaries of petitions filed under section 101(a)(15)(P)(iv) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(P)(iv)) shall be for the full period of approval notwithstanding the reciprocity validity periods that would otherwise be applicable."

This provision would completely override Section 221(c) of the Immigration and Nationality Act which states that "... A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa ... the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class..."

This provision exists to ensure that U.S. citizens receive treatment comparable to the treatment that the United States extends to foreign nationals in the same category. A new statutory provision which supersedes this provision would create an unprecedented right for foreign nationals to obtain nonimmigrant visas for an extended period of time while preventing the U.S. government from obtaining fair treatment for its citizens from any foreign government. It also creates an inequality in the visa reciprocity regime in that it carves out one particular visa category for exceptional treatment. DHS understands from the Department of State that unequal treatment for U.S. citizens in visa reciprocity for certain specialty categories by certain countries has already been reported. This provision would effectively prevent the U.S. government from attempting to rectify such an imbalance.

The Office of Management and Budget has advised that there is no objection to the presentation of these views from the standpoint of the Administration's program.

Thank you for considering the Department of Homeland Security's views on this legislation. If I may be of assistance, please contact the Office of Legislative Affairs at (202) 447-5890.

Sincerely,

Donald H. Kent, Jr.
Assistant Secretary
Office of Legislative Affairs

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

IMMIGRATION AND NATIONALITY ACT

* * * * * * *

TITLE I—GENERAL

DEFINITIONS

SECTION 101. (a) As used in this Act—
(1) * * *

* * * * * * *

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—
(A) * * *

* * * * * * *

(H) an alien (i)(b) subject to section 212(j)(2), who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) [or as a fashion model], who meets the requirements for the occupation specified in section 214(i)(2) [or, in the case of a fashion model, is of distinguished merit and ability], and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with the Secretary an application under section 212(n)(1), or (b1) who is entitled to enter the United States under and in pursuance of the provisions of an agreement listed in section 214(g)(8)(A), who is engaged in a specialty occupation described in section 214(i)(3), and with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed with the Secretary of Labor an attestation under section 212(t)(1), or (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or (ii)(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1986, agriculture as defined in section 3(f) of

the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), and the pressing of apples for cider on a farm, of a temporary or seasonal nature, or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession; or (iii) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training, in a training program that is not designed primarily to provide productive employment; and the alien spouse and minor children of any such alien specified in this paragraph if accompanying him or following to join him;

* * * * * * *

(P) an alien having a foreign residence which the alien has no intention of abandoning who—

(i) * * *

* * * * * * *

(iii)(I) * * *

* * * * * * *

(II) seeks to enter the United States temporarily and solely to perform, teach, or coach as such an artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique; [or]

(iv) is a fashion model who is of distinguished merit and ability and who is seeking to enter the United States temporarily to perform fashion modeling services that involve events or productions which have a distinguished reputation or that are performed for an organization or establishment that has a distinguished reputation for, or a record of, utilizing prominent modeling talent; or

[(iv)] *(v)* is the spouse or child of an alien described in [clause (i), (ii), or (iii)] *clause (i), (ii), (iii), or (iv)* and is accompanying, or following to join, the alien;

* * * * * * *

TITLE II—IMMIGRATION

* * * * * * *

CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

* * * * * * *

ADMISSION OF NONIMMIGRANTS

SEC. 214. (a)(1) * * *

(2)(A) * * *

(B) The period of authorized status as a nonimmigrant described in section 101(a)(15)(P) shall be for such period as the Attorney

General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes *or fashion models* under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete *or fashion model* and such period may be extended by the Attorney General for an additional period of up to 5 years.

* * * * * * *

(c)(1) * * *

* * * * * * *

(4)(A) * * *

* * * * * * *

(D) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in **[**clause (i) or (iii)**]** *clause (i), (iii), or (iv)* of section 101(a)(15)(P) only after consultation in accordance with paragraph (6).

* * * * * * *

(I)(i) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year under section 101(a)(15)(P)(iv) may not exceed 1,000.

(ii) The numerical limitation established by clause (i) shall only apply to principal aliens and not to the spouses or children of such aliens.

(iii) An alien who has already been counted toward the limitation established by clause (i) shall not be counted again during the same period of stay or authorized extension under subsection (a)(2)(B), irrespective of whether there is a change in petitioner under subparagraph (C).

* * * * * * *

(6)(A)(i) * * *

* * * * * * *

(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in **[**section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii),**]** *clause (i), (iii), or (iv) of section 101(a)(15)(P),* the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field **[**of athletics or entertainment**]** involved.

* * * * * * *

(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant **[**artists or entertainers**]** *artists, entertainers, or fashion models* described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

* * * * * * *

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