

lien upon the aircraft and may be collected by proceedings in rem which shall conform as nearly as may be to civil suits in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings against aircraft in any particular not otherwise provided by law. Any aircraft made subject to a lien by this section may be summarily seized by, and placed in the custody of such persons as the Attorney General may by regulation prescribe. The aircraft may be released from such custody upon deposit of such amount not exceeding \$2,000 as the Attorney General may prescribe, or of a bond in such sum and with such sureties as the Attorney General may prescribe, conditioned upon the payment of the penalty which may be finally determined by the Attorney General.

(June 27, 1952, ch. 477, title II, ch. 4, § 239, 66 Stat. 203; Nov. 29, 1990, Pub. L. 101-649, title V, § 543(a)(3), 104 Stat. 5058; Dec. 12, 1991, Pub. L. 102-232, title III, § 306(c)(2), 105 Stat. 1752.)

#### AMENDMENTS

1991—Pub. L. 102-232 made technical correction to directory language of Pub. L. 101-649. See 1990 Amendment note below.

1990—Pub. L. 101-649, as amended by Pub. L. 102-232, substituted “\$2,000” for “\$500” in two places.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-649 applicable to actions taken after Nov. 29, 1990, see section 543(c) of Pub. L. 101-649, set out as a note under section 1221 of this title.

#### FEDERAL RULES OF CIVIL PROCEDURE

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

#### CROSS REFERENCES

Definition of alien, Attorney General, and entry, see section 1101 of this title.

Designation of ports of entry for civil aircraft, see section 1644a of Title 19, Customs Duties.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1221, 1330 of this title.

### § 1230. Records of admission

(a) The Attorney General shall cause to be filed, as a record of admission of each immigrant, the immigrant visa required by section 1201(e) of this title to be surrendered at the port of entry by the arriving alien to an immigration officer.

(b) The Attorney General shall cause to be filed such record of the entry into the United States of each immigrant admitted under section 1181(b) of this title and of each nonimmigrant as the Attorney General deems nec-

essary for the enforcement of the immigration laws.

(June 27, 1952, ch. 477, title II, ch. 4, § 240, 66 Stat. 204.)

#### CROSS REFERENCES

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Entry, see section 1101(a)(13) of this title.

Immigrant, see section 1101(a)(15) of this title.

Immigrant visa, see section 1101(a)(16) of this title.

Immigration laws, see section 1101(a)(17) of this title.

Immigration officer, see section 1101(a)(18) of this title.

Nonimmigrant alien, see section 1101(a)(15) of this title.

United States, see section 1101(a)(38) of this title.

### PART V—DEPORTATION; ADJUSTMENT OF STATUS

#### CROSS REFERENCES

Registration provisions pertaining to persons trained in foreign espionage systems, deportation in manner provided by this part for violation of, see section 855 of Title 50, War and National Defense.

#### PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1306, 1361 of this title; title 50 section 855.

### § 1251. Deportable aliens

#### (a) Classes of deportable aliens

Any alien (including an alien crewman) in the United States shall, upon the order of the Attorney General, be deported if the alien is within one or more of the following classes of deportable aliens:

#### (1) Excludable at time of entry or of adjustment of status or violates status

##### (A) Excludable aliens

Any alien who at the time of entry or adjustment of status was within one or more of the classes of aliens excludable by the law existing at such time is deportable.

##### (B) Entered without inspection

Any alien who entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this chapter or any other law of the United States is deportable.

##### (C) Violated nonimmigrant status or condition of entry

###### (i) Nonimmigrant status violators

Any alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 1258 of this title, or to comply with the conditions of any such status, is deportable.

###### (ii) Violators of conditions of entry

Any alien whom the Secretary of Health and Human Services certifies has failed to comply with terms, conditions, and controls that were imposed under section 1182(g) of this title is deportable.

**(D) Termination of conditional permanent residence****(i) In general**

Any alien with permanent resident status on a conditional basis under section 1186a of this title (relating to conditional permanent resident status for certain alien spouses and sons and daughters) or under section 1186b of this title (relating to conditional permanent resident status for certain alien entrepreneurs, spouses, and children) who has had such status terminated under such respective section is deportable.

**(ii) Exception**

Clause (i) shall not apply in the cases described in section 1186a(c)(4) of this title (relating to certain hardship waivers).

**(E) Smuggling****(i) In general**

Any alien who (prior to the date of entry, at the time of any entry, or within 5 years of the date of any entry) knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is deportable.

**(ii) Special rule in the case of family reunification**

Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 1153(a)(2) of this title (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

**(iii) Waiver authorized**

The Attorney General may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) in the case of any alien lawfully admitted for permanent residence if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

**(F) Failure to maintain employment**

Any alien who obtains the status of an alien lawfully admitted for temporary residence under section 1161<sup>1</sup> of this title who fails to meet the requirement of section 1161(d)(5)(A)<sup>1</sup> of this title by the end of the applicable period is deportable.

**(G) Marriage fraud**

An alien shall be considered to be deportable as having procured a visa or other docu-

mentation by fraud (within the meaning of section 1182(a)(6)(C)(i) of this title) and to be in the United States in violation of this chapter (within the meaning of subparagraph (B)) if—

(i) the alien obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than 2 years prior to such entry of the alien and which, within 2 years subsequent to any entry of the alien in the United States, shall be judicially annulled or terminated, unless the alien establishes to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws, or

(ii) it appears to the satisfaction of the Attorney General that the alien has failed or refused to fulfill the alien's marital agreement which in the opinion of the Attorney General was made for the purpose of procuring the alien's entry as an immigrant.

**(H) Waiver authorized for certain misrepresentations**

The provisions of this paragraph relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens described in section 1182(a)(6)(C)(i) of this title, whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in paragraph (4)(D)) who—

(i) is the spouse, parent, son, or daughter of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

(ii) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds of inadmissibility specified under paragraphs (5)(A) and (7)(A) of section 1182(a) of this title which were a direct result of that fraud or misrepresentation.

A waiver of deportation for fraud or misrepresentation granted under this subparagraph shall also operate to waive deportation based on the grounds of inadmissibility at entry directly resulting from such fraud or misrepresentation.

**(2) Criminal offenses****(A) General crimes****(i) Crimes of moral turpitude**

Any alien who—

(I) is convicted of a crime involving moral turpitude committed within five years (or 10 years in the case of an alien provided lawful permanent resident status under section 1255(i)<sup>1</sup> of this title) after the date of entry, and

(II) either is sentenced to confinement or is confined therefor in a prison or correctional institution for one year or longer,

is deportable.

<sup>1</sup> See References in Text note below.

**(ii) Multiple criminal convictions**

Any alien who at any time after entry is convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial, is deportable.

**(iii) Aggravated felony**

Any alien who is convicted of an aggravated felony at any time after entry is deportable.

**(iv) Waiver authorized**

Clauses (i), (ii), and (iii) shall not apply in the case of an alien with respect to a criminal conviction if the alien subsequent to the criminal conviction has been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States.

**(B) Controlled substances****(i) Conviction**

Any alien who at any time after entry has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 802 of title 21), other than a single offense involving possession for one's own use of 30 grams or less of marijuana, is deportable.

**(ii) Drug abusers and addicts**

Any alien who is, or at any time after entry has been, a drug abuser or addict is deportable.

**(C) Certain firearm offenses**

Any alien who at any time after entry is convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18) in violation of any law is deportable.

**(D) Miscellaneous crimes**

Any alien who at any time has been convicted (the judgment on such conviction becoming final) of, or has been so convicted of a conspiracy or attempt to violate—

(i) any offense under chapter 37 (relating to espionage), chapter 105 (relating to sabotage), or chapter 115 (relating to treason and sedition) of title 18 for which a term of imprisonment of five or more years may be imposed;

(ii) any offense under section 871 or 960 of title 18;

(iii) a violation of any provision of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) or the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.); or

(iv) a violation of section 1185 or 1328 of this title,

is deportable.

**(3) Failure to register and falsification of documents****(A) Change of address**

An alien who has failed to comply with the provisions of section 1305 of this title is deportable, unless the alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

**(B) Failure to register or falsification of documents**

Any alien who at any time has been convicted—

(i) under section 1306(c) of this title or under section 36(c) of the Alien Registration Act, 1940,

(ii) of a violation of, or an attempt or a conspiracy to violate, any provision of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or

(iii) of a violation of, or an attempt or a conspiracy to violate, section 1546 of title 18 (relating to fraud and misuse of visas, permits, and other entry documents),

is deportable.

**(C) Document fraud**

Any alien who is the subject of a final order for violation of section 1324c of this title is deportable.

**(4) Security and related grounds****(A) In general**

Any alien who has engaged, is engaged, or at any time after entry engages in—

(i) any activity to violate any law of the United States relating to espionage or sabotage or to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

(ii) any other criminal activity which endangers public safety or national security, or

(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is deportable.

**(B) Terrorist activities**

Any alien who has engaged, is engaged, or at any time after entry engages in any terrorist activity (as defined in section 1182(a)(3)(B)(iii) of this title) is deportable.

**(C) Foreign policy****(i) In general**

An alien whose presence or activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is deportable.

**(ii) Exceptions**

The exceptions described in clauses (ii) and (iii) of section 1182(a)(3)(C) of this title shall apply to deportability under clause

(i) in the same manner as they apply to excludability under section 1182(a)(3)(C)(i) of this title.

**(D) Assisted in Nazi persecution or engaged in genocide**

Any alien described in clause (i) or (ii) of section 1182(a)(3)(E) of this title is deportable.

**(5) Public charge**

Any alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable.

**(b) Deportation of certain nonimmigrants**

An alien, admitted as a nonimmigrant under the provision of either section 1101(a)(15)(A)(i) or 1101(a)(15)(G)(i) of this title, and who fails to maintain a status under either of those provisions, shall not be required to depart from the United States without the approval of the Secretary of State, unless such alien is subject to deportation under paragraph (4) of subsection (a) of this section.

**(c) Waiver of grounds for deportation**

Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), and (3)(A) of subsection (a) of this section (other than so much of paragraph (1) as relates to a ground of exclusion described in paragraph (2) or (3) of section 1182(a) of this title) shall not apply to a special immigrant described in section 1101(a)(27)(J) of this title based upon circumstances that existed before the date the alien was provided such special immigrant status.

(June 27, 1952, ch. 477, title II, ch. 5, § 241, 66 Stat. 204; July 18, 1956, ch. 629, title III, § 301(b), (c), 70 Stat. 575; July 14, 1960, Pub. L. 86-648, § 9, 74 Stat. 505; Sept. 26, 1961, Pub. L. 87-301, § 16, 75 Stat. 655; Oct. 3, 1965, Pub. L. 89-236, § 11(e), 79 Stat. 918; Oct. 20, 1976, Pub. L. 94-571, § 7(e), 90 Stat. 2706; Oct. 30, 1978, Pub. L. 95-549, title I, § 103, 92 Stat. 2065; Dec. 29, 1981, Pub. L. 97-116, § 8, 95 Stat. 1616; Oct. 27, 1986, Pub. L. 99-570, title I, § 1751(b), 100 Stat. 3207-47; Nov. 6, 1986, Pub. L. 99-603, title III, § 303(b), 100 Stat. 3431; Nov. 10, 1986, Pub. L. 99-639, § 2(b), 100 Stat. 3541; Nov. 14, 1986, Pub. L. 99-653, § 7(c), 100 Stat. 3657; Oct. 24, 1988, Pub. L. 100-525, §§ 2(n)(2), 9(m), 102 Stat. 2613, 2620; Nov. 18, 1988, Pub. L. 100-690, title VII, §§ 7344(a), 7348(a), 102 Stat. 4470, 4473; Nov. 29, 1990, Pub. L. 101-649, title I, § 153(b), title V, §§ 505(a), 508(a), 544(b), title VI, § 602(a), (b), 104 Stat. 5006, 5050, 5051, 5061, 5077, 5081; Dec. 12, 1991, Pub. L. 102-232, title III, §§ 302(d)(3), 307(h), (k), 105 Stat. 1745, 1755, 1756; Sept. 13, 1994, Pub. L. 103-322, title XIII, § 130003(d), 108 Stat. 2026; Oct. 25, 1994, Pub. L. 103-416, title II, §§ 203(b), 219(g), 108 Stat. 4311, 4317.)

REFERENCES IN TEXT

Section 301 of the Immigration Act of 1990, referred to in subsec. (a)(1)(E)(ii), is section 301 of Pub. L. 101-649, which is set out as a note under section 1255a of this title.

Section 112 of the Immigration Act of 1990, referred to in subsec. (a)(1)(E)(ii), is section 112 of Pub. L. 101-649, which is set out as a note under section 1153 of this title.

Section 1161 of this title, referred to in subsec. (a)(1)(F), was repealed by Pub. L. 103-416, title II, § 219(ee)(1), Oct. 25, 1994, 108 Stat. 4319.

Section 1255(i) of this title, referred to in subsec. (a)(2)(A)(i)(I), probably means the subsec. (i) of section 1255 which was added by section 130003(c)(1) of Pub. L. 103-322.

The Military Selective Service Act, referred to in subsec. (a)(2)(D)(iii), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, which is classified principally to section 451 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 451 of Title 50, Appendix, and Tables.

The Trading With the Enemy Act, referred to in subsec. (a)(2)(D)(iii), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, as amended, which is classified to sections 1 to 6, 7 to 39 and 41 to 44 of Title 50, Appendix. For complete classification of this Act to the Code, see Tables.

The Alien Registration Act, 1940, referred to in subsec. (a)(3)(B)(i), is act June 28, 1940, ch. 439, 54 Stat. 670, as amended. Section 36(a) of that act was classified to section 457(c) of this title and was repealed by section 403(a)(39) of act June 27, 1952.

The Foreign Agents Registration Act of 1938, referred to in subsec. (a)(3)(B)(ii), is act June 8, 1938, ch. 327, 52 Stat. 631, as amended, which is classified generally to subchapter II (§ 611 et seq.) of chapter 11 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 611 of Title 22 and Tables.

AMENDMENTS

1994—Subsec. (a)(2)(A)(i)(I). Pub. L. 103-322 inserted “(or 10 years in the case of an alien provided lawful permanent resident status under section 1255(i) of this title)” after “five years”.

Subsec. (a)(2)(C). Pub. L. 103-416, § 203(b)(1), substituted “, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry,” for “in violation of any law,” and inserted “in violation of any law” after “title 18”.

Subsec. (a)(3)(B)(ii), (iii). Pub. L. 103-416, § 203(b)(2), inserted “an attempt or” before “a conspiracy”.

Subsec. (c). Pub. L. 103-416, § 219(g), substituted “and (3)(A) of subsection (a)” for “or (3)(A) of subsection (a)”.

1991—Subsec. (a). Pub. L. 102-232, § 307(h)(1), substituted “if the alien is within one or more of the following classes of deportable aliens” for “if the alien is deportable as being within one or more of the following classes of aliens”.

Subsec. (a)(1)(D)(i). Pub. L. 102-232, § 307(h)(2), inserted “respective” after “terminated under such”.

Subsec. (a)(1)(E)(i). Pub. L. 102-232, § 307(h)(3), inserted “any” after “at the time of” and after “within 5 years of the date of” in parenthetical provision.

Subsec. (a)(1)(E)(ii), (iii). Pub. L. 102-232, § 307(h)(4), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (a)(1)(G). Pub. L. 102-232, § 307(h)(5), substituted “section 1182(a)(6)(C)(i)” for “section 1182(a)(5)(C)(i)”.

Subsec. (a)(1)(H). Pub. L. 102-232, § 307(h)(6), substituted “paragraph (4)(D)” for “paragraph (6) or (7)”.

Subsec. (a)(2)(D). Pub. L. 102-232, § 307(h)(7), inserted “or attempt” after “conspiracy”.

Subsec. (a)(3)(C). Pub. L. 102-232, § 307(h)(8), added subpar. (C).

Subsec. (a)(4)(A), (B). Pub. L. 102-232, § 307(h)(9), substituted “after entry engages” for “after entry has engaged”.

Subsec. (a)(4)(C). Pub. L. 102-232, § 307(h)(10), substituted “excludability” for “excluability”.

Subsec. (c). Pub. L. 102-232, § 307(k)(2), redesignated subsec. (h) as (c) and substituted “existed” for “exist”.

Subsec. (d). Pub. L. 102-232, § 307(k)(1), struck out subsec. (d) which related to applicability of this section to aliens belonging to any of the classes enumerated in subsection (a) of this section.

Subsec. (h). Pub. L. 102-232, § 307(k)(2), redesignated subsec. (h) as (c).

Pub. L. 102-232, § 302(d)(3), struck out comma after “(3)(A)”.

1990—Subsec. (a). Pub. L. 101-649, §602(a), amended subsec. (a) generally, consolidating 20 categories of excludable aliens into 5 broader classes.

Pub. L. 101-649, §544(b), added par. (21) which read as follows: "is the subject of a final order for violation of section 1324c of this title."

Pub. L. 101-649, §508(a), substituted "conspiracy or attempt" for "conspiracy" in par. (11).

Subsec. (b). Pub. L. 101-649, §602(b), redesignated subsec. (e) as (b), substituted "paragraph (4) of subsection (a) of this section" for "subsection (a)(6) or (7) of this section" and struck out former subsec. (b) which related to nonapplicability of subsec. (a)(4) of this section.

Pub. L. 101-649, §505(a), struck out "(1)" after "crimes shall not apply" and ", or (2) if the court sentencing such alien for such crime shall make, at the time of first imposing judgment or passing sentence, or within thirty days thereafter, a recommendation to the Attorney General that such alien not be deported, due notice having been given prior to making such recommendation to representatives of the interested State, the Service, and prosecution authorities, who shall be granted an opportunity to make representations in the matter" at end of first sentence, and inserted "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section" in second sentence.

Subsec. (c). Pub. L. 101-649, §602(b)(1), struck out subsec. (c) which related to fraudulent entry.

Subsec. (e). Pub. L. 101-649, §602(b)(2)(B), redesignated subsec. (e) as (b).

Subsecs. (f), (g). Pub. L. 101-649, §602(b)(1), struck out subsecs. (f) and (g) which related to waiver of deportation in specified cases and hardship waivers, respectively.

Subsec. (h). Pub. L. 101-649, §153(b)(2), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: "Paragraphs (1), (2), (5), (9), or (12) of subsection (a) of this section (other than so much of paragraph (1) as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 1182(a) of this title) shall not apply to a special immigrant described in section 1101(a)(27)(J) of this title based upon circumstances that exist before the date the alien was provided such special immigrant status."

Pub. L. 101-649, §153(b)(1), added subsec. (h).

1988—Subsec. (a)(4). Pub. L. 100-690, §7344(a), inserted cl. (B).

Subsec. (a)(14). Pub. L. 100-690 inserted "any firearm or destructive device (as defined in paragraphs (3) and (4), respectively, of section 921(a) of title 18, or any revolver or" after "law".

Subsec. (a)(17). Pub. L. 100-525, §9(m), substituted "amendment, thereof, known as the Trading With the Enemy Act" for "amendment thereof; the Trading With the Enemy Act".

Subsec. (a)(20). Pub. L. 100-525, §2(n)(2), substituted "an alien lawfully admitted" for "an alien who becomes lawfully admitted".

1986—Subsec. (a)(9). Pub. L. 99-639, §2(b)(1), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(10). Pub. L. 99-653 repealed par. (10). Prior to repeal, par. (10) read as follows: "entered the United States from foreign contiguous territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory transportation company under section 1228(a) of this title and was without the required period of stay in such foreign contiguous territory or adjacent islands following such arrival (other than an alien described in section 1101(a)(27)(A) of this title and aliens born in the Western Hemisphere);".

Subsec. (a)(11). Pub. L. 99-570 substituted "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 802 of title 21)" for "any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, any salt derivative or preparation of opium or coca leaves or isonicepine or any addiction-forming or addiction-sustaining opiate".

Subsec. (a)(20). Pub. L. 99-603 added par. (20).

Subsec. (g). Pub. L. 99-639, §2(b)(2), added subsec. (g).

1981—Subsec. (f). Pub. L. 97-116 designated existing provision as par. (1)(A), substituted provision authorizing discretionary waiver of deportation based on visa fraud or misrepresentation in the case of an alien, other than an alien described in subsec. (a)(19) of this section, who is the spouse, parent, or child of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence and who was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds specified in section 1182(a)(14), (20), and (21) of this title which were a direct result of that fraud or misrepresentation, with relief available to those who have made innocent, as well as fraudulent, misrepresentations, for provision requiring mandatory waiver of deportation based on visa fraud or misrepresentation at the time of entry in the case of an alien who is the spouse, parent, or child of a United States citizen or of an alien lawfully admitted for permanent residence who is otherwise admissible, and added pars. (1)(B) and (2).

1978—Subsec. (a)(19). Pub. L. 95-549 added par. (19).

1976—Subsec. (a)(10). Pub. L. 94-571 substituted "(other than an alien described in section 1101(a)(27)(A) of this title and aliens born in the Western Hemisphere)" for "(other than an alien who is a native-born citizen of any of the countries enumerated in section 1101(a)(27)(A) of this title and an alien described in section 1101(a)(27)(B) of this title)".

1965—Subsec. (a)(10). Pub. L. 89-236 substituted "section 1101(a)(27)(A) of this title" for "section 1101(a)(27)(C) of this title".

1961—Subsec. (f). Pub. L. 87-301 added subsec. (f).

1960—Subsec. (a)(11). Pub. L. 86-648 inserted "or marihuana" after "narcotic drugs".

1956—Subsec. (a)(11). Act July 18, 1956, §301(b), included conspiracy to violate any narcotic law, and the illicit possession of narcotics, as additional grounds for deportation.

Subsec. (b). Act July 18, 1956, §301(c), inserted at end "The provisions of this subsection shall not apply in the case of any alien who is charged with being deportable from the United States under subsection (a)(11) of this section."

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 203(b) of Pub. L. 103-416 applicable to convictions occurring before, on, or after Oct. 25, 1994, see section 203(c) of Pub. L. 103-416, set out as an Effective and Termination Dates of 1994 Amendments note under section 1182 of this title.

Amendment by section 219(g) of Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by sections 302(d)(3), 307(h) of Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

Section 307(k) of Pub. L. 102-232 provided that the amendment made by that section is effective as if included in section 602(b) of the Immigration Act of 1990, Pub. L. 101-649.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 153(b)(1) of Pub. L. 101-649 effective Nov. 29, 1990, and (unless otherwise provided) ap-

licable to fiscal year 1991, see section 161(b) of Pub. L. 101-649, set out as a note under section 1101 of this title.

Section 153(b)(2) of Pub. L. 101-649 provided that the amendment of the subsec. (h) added by section 153(b)(1) of Pub. L. 101-649 is effective on the date the amendments by section 602 of Pub. L. 101-649 become effective. See section 602(d) of Pub. L. 101-649, set out as a note under section 1161 of this title.

Section 505(b) of Pub. L. 101-649 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 29, 1990] and shall apply to convictions entered before, on, or after such date."

Section 508(b) of Pub. L. 101-649 provided that: "The amendment made by subsection (a) [amending this section] shall apply to convictions occurring on or after the date of the enactment of this Act [Nov. 29, 1990]."

Section 544(d), formerly (c), of Pub. L. 101-649, as redesignated by Pub. L. 102-232, title III, §306(c)(5)(B), Dec. 12, 1991, 105 Stat. 1752, provided that: "The amendments made by this section [enacting section 1324c of this title and amending this section] shall apply to persons or entities that have committed violations on or after the date of the enactment of this Act [Nov. 29, 1990]."

Section 602(d) of Pub. L. 101-649 provided that: "The amendments made by this section, and by section 603(b) of this Act [amending this section, sections 1161, 1252, 1253, and 1254 of this title, and section 402 of Title 42, The Public Health and Welfare], shall not apply to deportation proceedings for which notice has been provided to the alien before March 1, 1991."

#### EFFECTIVE DATE OF 1988 AMENDMENTS

Section 7344(b) of Pub. L. 100-690 provided that: "The amendments made by subsection (a) [amending this section] shall apply to any alien who has been convicted, on or after the date of the enactment of this Act [Nov. 18, 1988], of an aggravated felony."

Section 7348(b) of Pub. L. 100-690 provided that: "The amendment made by subsection (a) [amending this section] shall apply to any alien convicted, on or after the date of the enactment of this Act [Nov. 18, 1988], of possessing any firearm or destructive device referred to in such subsection."

Amendment by section 2(n)(2) of Pub. L. 100-525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99-603, see section 2(s) of Pub. L. 100-525, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-653 applicable to visas issued, and admissions occurring, on or after Nov. 14, 1986, see section 23(a) of Pub. L. 99-653, set out as a note under section 1101 of this title.

Amendment by Pub. L. 99-570 applicable to convictions occurring before, on, or after Oct. 27, 1986, see section 1751(c) of Pub. L. 99-570, set out as a note under section 1182 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 20, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236 see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

#### EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 18, 1956, effective July 19, 1956, see section 401 of act July 18, 1956.

#### SAVINGS PROVISION

Section 602(c) of Pub. L. 101-649 provided that: "Notwithstanding the amendments made by this section [amending this section], any alien who was deportable because of a conviction (before the date of the enactment of this Act [Nov. 29, 1990]) of an offense referred to in paragraph (15), (16), (17), or (18) of section 241(a) of the Immigration and Nationality Act [8 U.S.C. 1251(a)], as in effect before the date of the enactment of this Act, shall be considered to remain so deportable. Except as otherwise specifically provided in such section and subsection (d) [set out as a note under section 1161 of this title], the provisions of such section, as amended by this section, shall apply to all aliens described in subsection (a) thereof notwithstanding that (1) any such alien entered the United States before the date of the enactment of this Act, or (2) the facts, by reason of which an alien is described in such subsection, occurred before the date of the enactment of this Act."

#### REPORT ON CRIMINAL ALIENS

Section 510 of Pub. L. 101-649, as amended by Pub. L. 102-232, title III, §306(a)(8), (9), Dec. 12, 1991, 105 Stat. 1751, provided that:

"(a) IN GENERAL.—The Attorney General shall submit to the appropriate Committees of the Congress, by not later than December 1, 1991, a report that describes the efforts of the Immigration and Naturalization Service to identify, apprehend, detain, and remove from the United States aliens who have been convicted of crimes in the United States.

"(b) CRIMINAL ALIEN CENSUS.—Such report shall include a statement of—

"(1) the number of aliens in the United States who have been convicted of a criminal offense in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

"(2) the number of aliens lawfully admitted to the United States who have been convicted of such an offense and, based on such conviction, are subject to deportation from the United States;

"(3) the number of aliens in the United States who are incarcerated in a penal institution in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

"(4)(A) the number of aliens whose deportation hearings have been conducted pursuant to section 242A(a) of the Immigration and Nationality Act [8 U.S.C. 1252a(a)], and (B) the percentage that such number represents of the total number of deportable aliens with respect to whom a hearing under such section could have been conducted since November 18, 1988; and

"(5) the number of aliens in the United States who have reentered the United States after having been convicted of a criminal offense in the United States. Within each of the numbers of aliens specified under this subsection who have been convicted of criminal offenses, the Attorney General shall distinguish between criminal offenses that are aggravated felonies (as defined in section 101(a)(43) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(43)], as amended by this Act) and other criminal offenses.

"(c) CRIMINAL ALIEN REMOVAL PLAN.—The Attorney General shall include in the report a plan for the prompt removal from the United States of criminal aliens who are subject to exclusion or deportation. Such plan shall also include a statement of additional funds that would be required to provide for the prompt removal from the United States of—

"(1)(A) aliens who are not lawfully admitted to the United States and who, as of the date of the enactment of this Act [Nov. 29, 1990], have committed any criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, as of such date, have committed a criminal offense in the United States the commission of which makes the alien subject to deportation; and

“(2)(A) aliens who are not lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States the commission of which makes the alien subject to deportation.

Such plan shall also include a method for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.”

#### CROSS REFERENCES

Conspiracy, see section 371 et seq. of Title 18, Crimes and Criminal Procedure.

Convicted aliens, deportation after imprisonment, see section 1252 of this title.

Definition of the term—

Adjacent islands, see section 1101(b)(5) of this title.

Advocates, see section 1101(a)(2) of this title.

Advocating a doctrine, see section 1101(e)(1) of this title.

Advocating the doctrines of world communism, see section 1101(e)(3) of this title.

Affiliation, see section 1101(e)(2) of this title.

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Crewman, see section 1101(a)(10) of this title.

Doctrine, see section 1101(a)(12) of this title.

Entry, see section 1101(a)(13) of this title.

Foreign state, see section 1101(a)(14) of this title.

Immigrant, see section 1101(a)(15) of this title.

Immigrant visa, see section 1101(a)(16) of this title.

Immigration laws, see section 1101(a)(17) of this title.

Nonimmigrant alien, see section 1101(a)(15) of this title.

Organization, see section 1101(a)(28) of this title.

Service, see section 1101(a)(34) of this title.

Totalitarian party and totalitarian dictatorship, see section 1101(a)(37) of this title.

United States, see section 1101(a)(38) of this title.

Unmarried, see section 1101(a)(39) of this title.

World communism, see section 1101(a)(40) of this title.

Diplomatic and semidiplomatic immunities, see section 1102 of this title.

Peace Corps programs, deportation of foreign participants pursuant to provisions of this section, see section 2508 of Title 22, Foreign Relations and Intercourse.

Principals, see section 2 of Title 18, Crimes and Criminal Procedures.

Reprieves and pardons, power of President to grant, see Const. Art. II, § 2, cl. 1.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1252a, 1253, 1254, 1364 of this title; title 22 sections 618, 2508; title 42 section 402.

#### § 1251a. Repealed. Pub. L. 87-301, § 24(a)(3), Sept. 26, 1961, 75 Stat. 657

Section, Pub. L. 85-316, § 7, Sept. 11, 1957, 71 Stat. 640, excepted spouse, child or parent of a United States citizen, and aliens admitted between Dec. 22, 1945, and Nov. 1, 1954, inclusive, who misrepresented their nationality, place of birth, identity or residence, provided this latter group did so misrepresent because of fear of persecution because of race, religion or politics if repatriated and not to evade quota restrictions, or an investigation of themselves, from the deportation provisions of section 1251 of this title which declared excludable, those aliens who sought to procure or procured entry into the United States by fraud and misrepresentation, or who were not of the nationality specified in their visas, and authorized the admission, after Sept. 11, 1957, of any alien spouse, parent or child of a United States citizen or of an alien admitted for permanent residence

who sought, or had procured fraudulent entry into the United States or admitted committing perjury in connection therewith, if otherwise admissible and the Attorney General consented. See sections 1182(h) and 1251(f) of this title.

#### § 1252. Apprehension and deportation of aliens

##### (a) Arrest and custody; review of determination by court; aliens committing aggravated felonies; report to Congressional committees

(1) Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Except as provided in paragraph (2), any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (A) be continued in custody; or (B) be released under bond in the amount of not less than \$500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or (C) be released on conditional parole. But such bond or parole, whether heretofore or hereafter authorized, may be revoked at any time by the Attorney General, in his discretion, and the alien may be returned to custody under the warrant which initiated the proceedings against him and detained until final determination of his deportability. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or parole pending final decision of deportability upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to determine deportability.

(2)(A) The Attorney General shall take into custody any alien convicted of an aggravated felony upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense). Notwithstanding paragraph (1) or subsections (c) and (d) of this section but subject to subparagraph (B), the Attorney General shall not release such felon from custody.

(B) The Attorney General may not release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, unless the alien demonstrates to the satisfaction of the Attorney General that such alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.

(3)(A) The Attorney General shall devise and implement a system—

(i) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

(ii) to designate and train officers and employees of the Service within each district to serve as a liaison to Federal, State, and local