

108TH CONGRESS
2D SESSION

H. R. 4415

To amend the Immigration and Nationality Act to eliminate the “specialized knowledge” basis for obtaining nonimmigrant status as an intracompany transferee, to impose an annual numerical limitation on nonimmigrant visas for such transferees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2004

Mr. HYDE introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to eliminate the “specialized knowledge” basis for obtaining nonimmigrant status as an intracompany transferee, to impose an annual numerical limitation on nonimmigrant visas for such transferees, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Save American Jobs
5 Through L Visa Reform Act of 2004”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Testimony given at a February 4, 2004,
4 hearing of the Committee on International Relations
5 of the House of Representatives indicated that there
6 is widespread abuse by companies subcontracting to
7 other companies nonimmigrants who obtained status
8 under the Immigration and Nationality Act by satis-
9 fying the requirements for intracompany transferees
10 with “specialized knowledge”. Such testimony in-
11 cluded that of two United States citizens displaced
12 from their jobs by such nonimmigrants.

13 (2) Further evidence of abuse was indicated by
14 such citizens citing cases, including their own, where
15 a citizen’s employment was terminated after the citi-
16 zen trained such intracompany transferees to per-
17 form the citizen’s job.

18 (3) This testimony also indicated that signifi-
19 cant numbers of intracompany transferees admitted
20 to the United States due to claimed possession of
21 “specialized knowledge” do not, in fact, possess that
22 prerequisite “specialized knowledge” at the time of
23 entry into the United States.

24 (4) Employers have used the intracompany
25 transferee visa program to fill thousands of positions
26 in the United States. 57,245 such visas were issued

1 in fiscal year 2003, at the same time as United
2 States unemployment in information technology spe-
3 cialities increased. The admission of intracompany
4 transferees with “specialized knowledge” therefore
5 flooded a job market which had already become
6 highly competitive due to job losses.

7 (5) Consular officers overseas continue to docu-
8 ment pervasive fraud in intracompany transferee
9 nonimmigrant visa petitions filed in certain coun-
10 tries. In China, for example, recent statistics pro-
11 vided by the United States Embassy in Beijing to a
12 visiting congressional staff delegation in February
13 2004 reported an intracompany transferee non-
14 immigrant visa fraud rate of about 40 percent, in
15 petitions received since fiscal year 2000, with similar
16 fraud rates reported for other areas of China as
17 well.

18 **SEC. 3. ELIMINATION OF NONIMMIGRANT VISAS FOR**
19 **INTRACOMPANY TRANSFEREES WITH SPE-**
20 **CIALIZED KNOWLEDGE.**

21 (a) IN GENERAL.—Section 101(a)(15)(L) of the Im-
22 migration and Nationality Act (8 U.S.C. 1101(a)(15)(L))
23 is amended by striking “managerial, executive, or involves
24 specialized knowledge,” and inserting “managerial or ex-
25 ecutive,”.

1 (b) CONFORMING AMENDMENTS.—Section 214(c)(2)
2 of the Immigration and Nationality Act (8 U.S.C.
3 1184(c)(2)) is amended—

4 (1) by amending subparagraph (D) to read as
5 follows:

6 “(D) The period of authorized admission for a non-
7 immigrant admitted under section 101(a)(15)(L) shall not
8 exceed 7 years.”; and

9 (2) by striking subparagraph (B) and redesignig-
10 nating subparagraphs (C) through (E) as subpara-
11 graphs (B) through (D), respectively.

12 **SEC. 4. IMPOSITION OF ANNUAL NUMERICAL LIMITATION.**

13 Section 214(c)(2) of the Immigration and Nationality
14 Act (8 U.S.C. 1184(c)(2)), as amended by section 3 of
15 this Act, is further amended by adding at the end the fol-
16 lowing:

17 “(E) The total number of aliens who may be issued
18 visas or otherwise provided nonimmigrant status during
19 any fiscal year (beginning with fiscal year 2005) under
20 section 101(a)(15)(L) may not exceed 35,000. The numer-
21 ical limitation in the preceding sentence shall apply only
22 to principal aliens and not to the spouses or children of
23 such aliens. The provisions of subsection (g)(3) shall apply
24 to visas subject to this subparagraph in the same manner

1 as such provisions apply to visas subject to subsection
2 (g)(1).”.

3 **SEC. 5. REMOVAL OF INTRACOMPANY TRANSFEREES FROM**
4 **CLASSES OF ALIENS NOT PRESUMED TO BE**
5 **IMMIGRANTS.**

6 Section 214(b) of the Immigration and Nationality
7 Act (8 U.S.C. 1184(b)) is amended by striking “subpara-
8 graph (L) or (V) of section 101(a)(15),” and inserting
9 “section 101(a)(15)(V),”.

10 **SEC. 6. SENSE OF CONGRESS REGARDING PAYMENT OF**
11 **PREVAILING WAGE.**

12 It is the sense of the Congress that employers of non-
13 immigrants described in section 101(a)(15)(L) of the Im-
14 migration and Nationality Act (8 U.S.C. 1101(a)(15)(L))
15 should pay such nonimmigrants wages that are at least
16 the greater of—

17 (1) the actual wage level paid by the employer
18 to all other individuals with similar experience and
19 qualifications for the specific employment in ques-
20 tion; or

21 (2) the prevailing wage level for the occupa-
22 tional classification in the area of employment.

23 **SEC. 7. EFFECTIVE DATE.**

24 The amendments made by this Act shall take effect
25 on the date of the enactment of this Act and shall apply

1 to nonimmigrant visas issued, or nonimmigrant status
2 provided, under section 101(a)(15)(L) of the Immigration
3 and Nationality Act (8 U.S.C. 1101(a)(15)(L)) on or after
4 such date. Such amendment shall not be construed as—

5 (1) invalidating any visa issued under such sec-
6 tion before such date; or

7 (2) otherwise affecting any alien provided non-
8 immigrant status under such section before such
9 date.

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