

113TH CONGRESS
2D SESSION

H. R. 5197

To amend section 214(c)(8) of the Immigration and Nationality Act to modify the data reporting requirements relating to nonimmigrant employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2014

Ms. FRANKEL of Florida (for herself, Mr. DEUTCH, and Mr. HIMES) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend section 214(c)(8) of the Immigration and Nationality Act to modify the data reporting requirements relating to nonimmigrant employees, 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 “Transparency in Re-
5 porting to Protect American Workers and Prevent Human
6 Trafficking Act”.

7 **SEC. 2. DATA REPORTING ON NONIMMIGRANT EMPLOYEES.**

8 Section 214(c)(8) of the Immigration and Nationality
9 Act (8 U.S.C. 1184(c)(8)) is amended to read as follows:

1 “(8)(A)(i)(I) The Secretary of Homeland Security
2 annually shall submit to the Committees on the Judiciary
3 of the House of Representatives and of the Senate and
4 timely upload to a public website a report (along with the
5 corresponding raw data set) with respect to each of the
6 subparagraphs of sections 101(a)(15) and 214(e) that per-
7 mit employment in the United States under any cir-
8 cumstances, including cultural exchange, training, or busi-
9 ness activities which result in receiving any form of com-
10 pensation, including a stipend, from any source.

11 “(II) Each report under subclause (I) shall contain
12 the following data regarding any nonimmigrant visa or
13 any grant of nonimmigrant status:

14 “(aa) The number of aliens who were granted
15 such a visa or status.

16 “(bb) The number of aliens who had such visas
17 or statuses that were expired, revoked, or otherwise
18 terminated during each month of the preceding fis-
19 cal year.

20 “(cc) Information on the countries of origin of
21 (including local region or state if available), age,
22 gender, and occupations of, educational levels at-
23 tained by, and compensation paid to aliens issued
24 such visa or status.

1 “(dd) The names and addresses of employers
2 and the number of aliens authorized per category
3 and subclass to work for each employer, including
4 the country of origin, age, and gender of each alien
5 authorized to work for each employer, the alien’s
6 primary work location, and secondary work location
7 if one exists.

8 “(III) Each report under subclause (I) shall contain
9 the following data regarding any nonimmigrant visa cat-
10 egory or status (including extensions and transfers to an-
11 other visa category or subclass, or request to switch to
12 another employer) that requires approval from the Sec-
13 retary of Homeland Security through a Petition for Non-
14 immigrant Worker, Form I-129 (or any successor form):

15 “(aa) The number of petitions filed.

16 “(bb) The number of petitions approved and
17 the number of workers (by occupation) included in
18 such approved petitions.

19 “(cc) The number of petitions denied and the
20 number of workers (by occupation) requested in
21 such denied petitions.

22 “(dd) The Standard Occupational Classification
23 (SOC) code for each occupation in each approved pe-
24 tition.

25 “(ee) The number of petitions withdrawn.

1 “(ff) The number of petitions awaiting final ac-
2 tion.

3 “(ii) The Secretary of Homeland Security annually
4 shall submit to the Committees on the Judiciary of the
5 House of Representatives and of the Senate and timely
6 upload to a public website a report (along with the cor-
7 responding raw data set) that contains the following:

8 “(I) A list of all employers who petition for
9 visas under section 101(a)(15)(H)(i)(b).

10 “(II) The number of such petitions filed and
11 approved for each such employer.

12 “(III) The Standard Occupational Classifica-
13 tions (SOC) for the approved positions.

14 “(IV) The number of nonimmigrants for whom
15 each such employer files for adjustment to perma-
16 nent resident status.

17 “(V) A list of all employers who are H–1B-de-
18 pendent employers (as defined in section
19 212(n)(3)(A)).

20 “(VI) A list of all employers for whom more
21 than 30 percent of their United States workforce are
22 nonimmigrants described in subparagraph (H)(i)(b)
23 or (L) of section 101(a)(15).

24 “(VII) A list of all employers for whom more
25 than 50 percent of their United States workforce are

1 nonimmigrants described in subparagraph (H)(i)(b)
2 or (L) of section 101(a)(15).

3 “(VIII) A gender breakdown by occupation and
4 by country of origin for the nonimmigrants described
5 in section 101(a)(15)(H)(i)(b).

6 “(IX) A list of all employers who conduct out-
7 placement of nonimmigrants described in section
8 101(a)(15)(H)(i)(b).

9 “(X) The number of nonimmigrants described
10 in section 101(a)(15)(H)(i)(b) categorized by their
11 highest level of education and major or primary field
12 of study, and whether such education was obtained
13 in the United States or in a foreign country.

14 “(iii) The Secretary of Homeland Security annually
15 shall submit to the Committees on the Judiciary of the
16 House of Representatives and of the Senate and timely
17 upload to a public website a report (along with the cor-
18 responding raw data set) that contains the following:

19 “(I) A list of all employers who have filed peti-
20 tions with the Secretary of Homeland Security for
21 nonimmigrants under section 101(a)(15)(L).

22 “(II) The number of such petitions filed and
23 approved for each such employer, whether each peti-
24 tion was processed by the Department of Homeland

1 Security or the Department of State as a blanket pe-
2 tition under paragraph (2)(A).

3 “(III) The Standard Occupational Classifica-
4 tions (SOC) code for each occupation in each ap-
5 proved positions.

6 “(IV) The amount of compensation paid to each
7 beneficiary.

8 “(V) The number of nonimmigrants described
9 in section 101(a)(15)(L) for whom each such em-
10 ployer files for adjustment to permanent resident
11 status.

12 “(VI) A list of all employers for whom more
13 than 30 percent of their United States workforce are
14 nonimmigrants described in subparagraph (H)(i)(b)
15 or (L) of section 101(a)(15).

16 “(VII) A list of all employers for whom more
17 than 50 percent of their United States workforce are
18 nonimmigrants described in subparagraph (H)(i)(b)
19 or (L) of section 101(a)(15).

20 “(VIII)(aa) A list of all employers who have
21 been authorized to file blanket petitions under para-
22 graph (2)(A), including those who were identified by
23 aliens applying for a visa under section
24 101(a)(15)(L) as the employer seeking to employ
25 such aliens; and

1 “(bb) the number of such visa applications ap-
2 proved pursuant to each blanket petition.

3 “(IX) A gender breakdown by occupation and
4 by country of origin for the nonimmigrants described
5 in section 101(a)(15)(L).

6 “(X) list of all employers who conduct outplace-
7 ment of nonimmigrants described in section
8 101(a)(15)(L).

9 “(XI) The number of nonimmigrants described
10 in section 101(a)(15)(L) categorized by their highest
11 level of education and major or primary field of
12 study, and whether such education was obtained in
13 the United States or in a foreign country.

14 “(XII) The number of petitions which have
15 been authorized as blanket petitions under para-
16 graph (2)(A).

17 “(iv) Reporting required by this subparagraph in-
18 cludes information gathered on petitions for nonimmigrant
19 status or in any other manner, including consular proc-
20 essing, and computer systems managed by the Secretary
21 of Homeland Security for tracking students and exchange
22 visitors.

23 “(v) The information included in the reports under
24 this subparagraph shall be disaggregated by non-

1 immigrant visa type and each subclass, if applicable as
2 set forth in subparagraph (C).

3 “(vi) The annual reports required under this sub-
4 paragraph shall be submitted not later than 3 months
5 after the end of each fiscal year and shall contain data
6 pertaining to the requested categories from the imme-
7 diately preceding fiscal year.

8 “(B)(i) The Secretary of Homeland Security shall
9 maintain an accurate count of the number of aliens sub-
10 ject to numerical limitations, if any, of the visa issued or
11 nonimmigrant status provided, including under subsection
12 (g)(1).

13 “(ii) The Secretary of Homeland Security shall no-
14 tify, on a quarterly basis, the Committees on the Judiciary
15 of the House of Representatives and the Senate of the
16 numbers of aliens who during the preceding 3-month pe-
17 riod were issued visas or otherwise provided nonimmigrant
18 status under section 101(a)(15)(H)(i)(b).

19 “(iii) The Secretary of Homeland Security shall no-
20 tify, on a semiannual basis, the Committees on the Judici-
21 ary of the House of Representatives and the Senate of
22 the number of aliens who during the preceding 1-year pe-
23 riod were issued visas or otherwise provided nonimmigrant
24 status under all annually capped visas enumerated in sec-

tion 101(a)(15) or who had such a visa or such status
revoked or otherwise terminated.

“(iv) Each notification under clause (i), and each
submission under clause (ii), shall include the number of
aliens who were issued visas or otherwise provided non-
immigrant status pursuant to petitions filed by institu-
tions or organizations described in section 212(p)(1).

“(C) The Secretary of Homeland Security shall col-
lect and report the required data described in subpara-
graphs (A) and (B) for nonimmigrant visas issued, or non-
immigrant status granted, under any subparagraph of sec-
tion 101(a)(15) and disaggregate the data accordingly
with respect to any particular subclass, or employment-
authorized exchange or training program authorized under
each subclass or otherwise specified in regulations or Fed-
eral agency guidance or directives, including—

“(i) with respect to section 101(a)(15)(J), the
specific program provisions enumerated in subpart B
of part 62 of title 22, Code of Federal Regulations;

“(ii) with respect to section 101(a)(15)(B), the
specific categories of business visitor activity enu-
merated in notes 9–11 of section 41.31 of volume 9,
U.S. Department of State Foreign Affairs Manual;
and

1 “(iii) with respect to section 101(a)(15)(F), all
2 persons granted employment authorization pursuant
3 to the provisions enumerated in section 214.2(f)(10)
4 of title 8, Code of Federal Regulations.

5 “(D) If the Secretary of Homeland Security deter-
6 mines that information maintained by either the Secretary
7 of State or the Secretary of Labor is required to make
8 a submission described in this paragraph, for example if
9 any of the required information is gathered during con-
10 sular processing or during the labor certification process,
11 the Secretaries of State and Labor shall provide such in-
12 formation to the Secretary of Homeland Security upon re-
13 quest.

14 “(E) The Secretaries of Homeland Security, State,
15 and Labor shall take such steps as are necessary to revise
16 any applications, petition forms, and databases used for
17 nonimmigrant visas or status under each subparagraph
18 and corresponding subcategory or subclass of section
19 101(a)(15) which permit an alien beneficiary to work in
20 the United States under any circumstances, including
21 training or business activities which result in receiving any
22 form of compensation, including a stipend, from any
23 source, so as to ensure that sufficient information is col-

1 lected to report the data as required under this para-
2 graph.”.

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