

114TH CONGRESS
1ST SESSION

H. R. 158

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2015

Received

AN ACT

To amend the Immigration and Nationality Act to provide enhanced security measures for the visa waiver program, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Visa Waiver Program
3 Improvement and Terrorist Travel Prevention Act of
4 2015”.

5 **SEC. 2. ELECTRONIC PASSPORT REQUIREMENT.**

6 (a) REQUIREMENT FOR ALIEN TO POSSESS ELEC-
7 TRONIC PASSPORT.—Section 217(a)(3) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1187(a)(3)) is amend-
9 ed to read as follows:

10 “(3) PASSPORT REQUIREMENTS.—The alien, at
11 the time of application for admission, is in posses-
12 sion of a valid unexpired passport that satisfies the
13 following:

14 “(A) MACHINE READABLE.—The passport
15 is a machine-readable passport that is tamper-
16 resistant, incorporates document authentication
17 identifiers, and otherwise satisfies the inter-
18 nationally accepted standard for machine read-
19 ability.

20 “(B) ELECTRONIC.—Beginning on April 1,
21 2016, the passport is an electronic passport
22 that is fraud-resistant, contains relevant bio-
23 graphic and biometric information (as deter-
24 mined by the Secretary of Homeland Security),
25 and otherwise satisfies internationally accepted
26 standards for electronic passports.”.

1 (b) REQUIREMENT FOR PROGRAM COUNTRY TO
2 VALIDATE PASSPORTS.—Section 217(c)(2)(B) of the Im-
3 migration and Nationality Act (8 U.S.C. 1187(c)(2)(B))
4 is amended to read as follows:

5 “(B) PASSPORT PROGRAM.—

6 “(i) ISSUANCE OF PASSPORTS.—The
7 government of the country certifies that it
8 issues to its citizens passports described in
9 subparagraph (A) of subsection (a)(3), and
10 on or after April 1, 2016, passports de-
11 scribed in subparagraph (B) of subsection
12 (a)(3).

13 “(ii) VALIDATION OF PASSPORTS.—
14 Not later than October 1, 2016, the gov-
15 ernment of the country certifies that it has
16 in place mechanisms to validate passports
17 described in subparagraphs (A) and (B) of
18 subsection (a)(3) at each key port of entry
19 into that country. This requirement shall
20 not apply to travel between countries which
21 fall within the Schengen Zone.”.

22 (c) CONFORMING AMENDMENT.—Section 303(c) of
23 the Enhanced Border Security and Visa Entry Reform Act
24 of 2002 is repealed (8 U.S.C. 1732(c)).

1 **SEC. 3. RESTRICTION ON USE OF VISA WAIVER PROGRAM**
2 **FOR ALIENS WHO TRAVEL TO CERTAIN**
3 **COUNTRIES.**

4 Section 217(a) of the Immigration and Nationality
5 Act (8 U.S.C. 1187(a)), as amended by this Act, is further
6 amended by adding at the end the following:

7 “(12) NOT PRESENT IN IRAQ, SYRIA, OR ANY
8 OTHER COUNTRY OR AREA OF CONCERN.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraphs (B) and (C)—

11 “(i) the alien has not been present, at
12 any time on or after March 1, 2011—

13 “(I) in Iraq or Syria;

14 “(II) in a country that is des-
15 ignated by the Secretary of State
16 under section 6(j) of the Export Ad-
17 ministration Act of 1979 (50 U.S.C.
18 2405) (as continued in effect under
19 the International Emergency Eco-
20 nomic Powers Act (50 U.S.C. 1701 et
21 seq.)), section 40 of the Arms Export
22 Control Act (22 U.S.C. 2780), section
23 620A of the Foreign Assistance Act of
24 1961 (22 U.S.C. 2371), or any other
25 provision of law, as a country, the
26 government of which has repeatedly

1 provided support of acts of inter-
2 national terrorism; or

3 “(III) in any other country or
4 area of concern designated by the Sec-
5 retary of Homeland Security under
6 subparagraph (D); and

7 “(ii) regardless of whether the alien is
8 a national of a program country, the alien
9 is not a national of—

10 “(I) Iraq or Syria;

11 “(II) a country that is des-
12 ignated, at the time the alien applies
13 for admission, by the Secretary of
14 State under section 6(j) of the Export
15 Administration Act of 1979 (50
16 U.S.C. 2405) (as continued in effect
17 under the International Emergency
18 Economic Powers Act (50 U.S.C.
19 1701 et seq.)), section 40 of the Arms
20 Export Control Act (22 U.S.C. 2780),
21 section 620A of the Foreign Assist-
22 ance Act of 1961 (22 U.S.C. 2371),
23 or any other provision of law, as a
24 country, the government of which has

1 repeatedly provided support of acts of
2 international terrorism; or

3 “(III) any other country that is
4 designated, at the time the alien ap-
5 plies for admission, by the Secretary
6 of Homeland Security under subpara-
7 graph (D).

8 “(B) CERTAIN MILITARY PERSONNEL AND
9 GOVERNMENT EMPLOYEES.—Subparagraph
10 (A)(i) shall not apply in the case of an alien if
11 the Secretary of Homeland Security determines
12 that the alien was present—

13 “(i) in order to perform military serv-
14 ice in the armed forces of a program coun-
15 try; or

16 “(ii) in order to carry out official du-
17 ties as a full-time employee of the govern-
18 ment of a program country.

19 “(C) WAIVER.—The Secretary of Home-
20 land Security may waive the application of sub-
21 paragraph (A) to an alien if the Secretary de-
22 termines that such a waiver is in the law en-
23 forcement or national security interests of the
24 United States.

1 “(D) COUNTRIES OR AREAS OF CON-
2 CERN.—

3 “(i) IN GENERAL.—Not later than 60
4 days after the date of the enactment of
5 this paragraph, the Secretary of Homeland
6 Security, in consultation with the Sec-
7 retary of State and the Director of Na-
8 tional Intelligence, shall determine whether
9 the requirement under subparagraph (A)
10 shall apply to any other country or area.

11 “(ii) CRITERIA.—In making a deter-
12 mination under clause (i), the Secretary
13 shall consider—

14 “(I) whether the presence of an
15 alien in the country or area increases
16 the likelihood that the alien is a cred-
17 ible threat to the national security of
18 the United States;

19 “(II) whether a foreign terrorist
20 organization has a significant pres-
21 ence in the country or area; and

22 “(III) whether the country or
23 area is a safe haven for terrorists.

24 “(iii) ANNUAL REVIEW.—The Sec-
25 retary shall conduct a review, on an annual

1 basis, of any determination made under
2 clause (i).

3 “(E) REPORT.—Beginning not later than
4 1 year after the date of the enactment of this
5 paragraph, and annually thereafter, the Sec-
6 retary of Homeland Security shall submit to the
7 Committee on Homeland Security, the Com-
8 mittee on Foreign Affairs, the Permanent Se-
9 lect Committee on Intelligence, and the Com-
10 mittee on the Judiciary of the House of Rep-
11 resentatives, and the Committee on Homeland
12 Security and Governmental Affairs, the Com-
13 mittee on Foreign Relations, the Select Com-
14 mittee on Intelligence, and the Committee on
15 the Judiciary of the Senate a report on each in-
16 stance in which the Secretary exercised the
17 waiver authority under subparagraph (C) dur-
18 ing the previous year.”.

19 **SEC. 4. DESIGNATION REQUIREMENTS FOR PROGRAM**
20 **COUNTRIES.**

21 (a) REPORTING LOST AND STOLEN PASSPORTS.—
22 Section 217(c)(2)(D) of the Immigration and Nationality
23 Act (8 U.S.C. 1187(c)(2)(D)), as amended by this Act,
24 is further amended by striking “within a strict time limit”

1 and inserting “not later than 24 hours after becoming
2 aware of the theft or loss”.

3 (b) INTERPOL SCREENING.—Section 217(c)(2) of the
4 Immigration and Nationality Act (8 U.S.C. 1187(c)(2)),
5 as amended by this Act, is further amended by adding
6 at the end the following:

7 “(G) INTERPOL SCREENING.—Not later
8 than 270 days after the date of the enactment
9 of this subparagraph, except in the case of a
10 country in which there is not an international
11 airport, the government of the country certifies
12 to the Secretary of Homeland Security that, to
13 the maximum extent allowed under the laws of
14 the country, it is screening, for unlawful activ-
15 ity, each person who is not a citizen or national
16 of that country who is admitted to or departs
17 that country, by using relevant databases and
18 notices maintained by Interpol, or other means
19 designated by the Secretary of Homeland Secu-
20 rity. This requirement shall not apply to travel
21 between countries which fall within the
22 Schengen Zone.”.

23 (c) IMPLEMENTATION OF PASSENGER INFORMATION
24 EXCHANGE AGREEMENT.—Section 217(c)(2)(F) of the
25 Immigration and Nationality Act (8 U.S.C.

1 1187(c)(2)(F)), as amended by this Act, is further amend-
2 ed by inserting before the period at the end the following:
3 “, and fully implements such agreement”.

4 (d) TERMINATION OF DESIGNATION.—Section 217(f)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1187(f)) is amended by adding at the end the following:

7 “(6) FAILURE TO SHARE INFORMATION.—

8 “(A) IN GENERAL.—If the Secretary of
9 Homeland Security and the Secretary of State
10 jointly determine that the program country is
11 not sharing information, as required by sub-
12 section (c)(2)(F), the Secretary of Homeland
13 Security shall terminate the designation of the
14 country as a program country.

15 “(B) REDESIGNATION.—In the case of a
16 termination under this paragraph, the Secretary
17 of Homeland Security shall redesignate the
18 country as a program country, without regard
19 to paragraph (2) or (3) of subsection (c) or
20 paragraphs (1) through (4), when the Secretary
21 of Homeland Security, in consultation with the
22 Secretary of State, determines that the country
23 is sharing information, as required by sub-
24 section (c)(2)(F).

25 “(7) FAILURE TO SCREEN.—

1 “(A) IN GENERAL.—Beginning on the date
2 that is 270 days after the date of the enact-
3 ment of this paragraph, if the Secretary of
4 Homeland Security and the Secretary of State
5 jointly determine that the program country is
6 not conducting the screening required by sub-
7 section (c)(2)(G), the Secretary of Homeland
8 Security shall terminate the designation of the
9 country as a program country.

10 “(B) REDESIGNATION.—In the case of a
11 termination under this paragraph, the Secretary
12 of Homeland Security shall redesignate the
13 country as a program country, without regard
14 to paragraph (2) or (3) of subsection (c) or
15 paragraphs (1) through (4), when the Secretary
16 of Homeland Security, in consultation with the
17 Secretary of State, determines that the country
18 is conducting the screening required by sub-
19 section (c)(2)(G).”.

20 **SEC. 5. REPORTING REQUIREMENTS.**

21 (a) IN GENERAL.—Section 217(c) of the Immigration
22 and Nationality Act (8 U.S.C. 1187(c)), as amended by
23 this Act, is further amended—

24 (1) in paragraph (2)(C)(iii)—

1 (A) by striking “and the Committee on
2 International Relations” and inserting “, the
3 Committee on Foreign Affairs, and the Com-
4 mittee on Homeland Security”; and

5 (B) by striking “and the Committee on
6 Foreign Relations” and inserting “, the Com-
7 mittee on Foreign Relations, and the Com-
8 mittee on Homeland Security and Govern-
9 mental Affairs”; and

10 (2) in paragraph (5)(A)(i)—

11 (A) in subclause (III)—

12 (i) by inserting after “the Committee
13 on Foreign Affairs,” the following: “the
14 Permanent Select Committee on Intel-
15 ligence,”;

16 (ii) by inserting after “the Committee
17 on Foreign Relations,” the following: “the
18 Select Committee on Intelligence”; and

19 (iii) by striking “and” at the end;

20 (B) in subclause (IV), by striking the pe-
21 riod at the end and inserting the following: “;
22 and”; and

23 (C) by adding at the end the following:

24 “(V) shall submit to the commit-
25 tees described in subclause (III), a re-

1 port that includes an assessment of
2 the threat to the national security of
3 the United States of the designation
4 of each country designated as a pro-
5 gram country, including the compli-
6 ance of the government of each such
7 country with the requirements under
8 subparagraphs (D) and (F) of para-
9 graph (2), as well as each such gov-
10 ernment's capacity to comply with
11 such requirements.”.

12 (b) DATE OF SUBMISSION OF FIRST REPORT.—The
13 Secretary of Homeland Security shall submit the first re-
14 port described in subclause (V) of section 217(c)(5)(A)(i)
15 of the Immigration and Nationality Act (8 U.S.C.
16 (c)(5)(A)(i)), as added by subsection (a), not later than
17 90 days after the date of the enactment of this Act.

18 **SEC. 6. HIGH RISK PROGRAM COUNTRIES.**

19 Section 217(c) of the Immigration and Nationality
20 Act (8 U.S.C. 1187(c)), as amended by this Act, is further
21 amended by adding at the end the following:

22 “(12) DESIGNATION OF HIGH RISK PROGRAM
23 COUNTRIES.—

24 “(A) IN GENERAL.—The Secretary of
25 Homeland Security, in consultation with the Di-

1 rector of National Intelligence and the Sec-
2 retary of State, shall evaluate program coun-
3 tries on an annual basis based on the criteria
4 described in subparagraph (B) and shall iden-
5 tify any program country, the admission of na-
6 tionals from which under the visa waiver pro-
7 gram under this section, the Secretary deter-
8 mines presents a high risk to the national secu-
9 rity of the United States.

10 “(B) CRITERIA.—In evaluating program
11 countries under subparagraph (A), the Sec-
12 retary of Homeland Security, in consultation
13 with the Director of National Intelligence and
14 the Secretary of State, shall consider the fol-
15 lowing criteria:

16 “(i) The number of nationals of the
17 country determined to be ineligible to trav-
18 el to the United States under the program
19 during the previous year.

20 “(ii) The number of nationals of the
21 country who were identified in United
22 States Government databases related to
23 the identities of known or suspected terror-
24 ists during the previous year.

1 “(iii) The estimated number of na-
2 tionals of the country who have traveled to
3 Iraq or Syria at any time on or after
4 March 1, 2011, to engage in terrorism.

5 “(iv) The capacity of the country to
6 combat passport fraud.

7 “(v) The level of cooperation of the
8 country with the counter-terrorism efforts
9 of the United States.

10 “(vi) The adequacy of the border and
11 immigration control of the country.

12 “(vii) Any other criteria the Secretary
13 of Homeland Security determines to be ap-
14 propriate.

15 “(C) SUSPENSION OF DESIGNATION.—The
16 Secretary of Homeland Security, in consultation
17 with the Secretary of State, may suspend the
18 designation of a program country based on a
19 determination that the country presents a high
20 risk to the national security of the United
21 States under subparagraph (A) until such time
22 as the Secretary determines that the country no
23 longer presents such a risk.

24 “(D) REPORT.—Not later than 60 days
25 after the date of the enactment of this para-

graph, and annually thereafter, the Secretary of Homeland Security, in consultation with the Director of National Intelligence and the Secretary of State, shall submit to the Committee on Homeland Security, the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on the Judiciary of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs, the Committee on Foreign Relations, the Select Committee on Intelligence, and the Committee on the Judiciary of the Senate a report, which includes an evaluation and threat assessment of each country determined to present a high risk to the national security of the United States under subparagraph (A).”.

SEC. 7. ENHANCEMENTS TO THE ELECTRONIC SYSTEM FOR TRAVEL AUTHORIZATION.

(a) IN GENERAL.—Section 217(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)) is amended—

(1) in subparagraph (C)(i), by inserting after “any such determination” the following: “or shorten the period of eligibility under any such determination”;

1 (2) by striking subparagraph (D) and inserting
2 the following:

3 “(D) FRAUD DETECTION.—The Secretary
4 of Homeland Security shall research opportuni-
5 ties to incorporate into the System technology
6 that will detect and prevent fraud and deception
7 in the System.

8 “(E) ADDITIONAL AND PREVIOUS COUN-
9 TRIES OF CITIZENSHIP.—The Secretary of
10 Homeland Security shall collect from an appli-
11 cant for admission pursuant to this section in-
12 formation on any additional or previous coun-
13 tries of citizenship of that applicant. The Sec-
14 retary shall take any information so collected
15 into account when making determinations as to
16 the eligibility of the alien for admission pursu-
17 ant to this section.

18 “(F) REPORT ON CERTAIN LIMITATIONS
19 ON TRAVEL.—Not later than 30 days after the
20 date of the enactment of this subparagraph and
21 annually thereafter, the Secretary of Homeland
22 Security, in consultation with the Secretary of
23 State, shall submit to the Committee on Home-
24 land Security, the Committee on the Judiciary,
25 and the Committee on Foreign Affairs of the

1 House of Representatives, and the Committee
2 on Homeland Security and Governmental Af-
3 fairs, the Committee on the Judiciary, and the
4 Committee on Foreign Relations of the Senate
5 a report on the number of individuals who were
6 denied eligibility to travel under the program,
7 or whose eligibility for such travel was revoked
8 during the previous year, and the number of
9 such individuals determined, in accordance with
10 subsection (a)(6), to represent a threat to the
11 national security of the United States, and shall
12 include the country or countries of citizenship
13 of each such individual.”.

14 (b) REPORT.—Not later than 30 days after the date
15 of the enactment of this Act, the Secretary of Homeland
16 Security, in consultation with the Secretary of State, shall
17 submit to the Committee on Homeland Security, the Com-
18 mittee on the Judiciary, and the Committee on Foreign
19 Affairs of the House of Representatives, and the Com-
20 mittee on Homeland Security and Governmental Affairs,
21 the Committee on the Judiciary, and the Committee on
22 Foreign Relations of the Senate a report on steps to
23 strengthen the electronic system for travel authorization
24 authorized under section 217(h)(3) of the Immigration
25 and Nationality Act (8 U.S.C. 1187(h)(3))) in order to

1 better secure the international borders of the United
2 States and prevent terrorists and instruments of terrorism
3 from entering the United States.

4 **SEC. 8. PROVISION OF ASSISTANCE TO NON-PROGRAM**
5 **COUNTRIES.**

6 The Secretary of Homeland Security, in consultation
7 with the Secretary of State, shall provide assistance in a
8 risk-based manner to countries that do not participate in
9 the visa waiver program under section 217 of the Immi-
10 gration and Nationality Act (8 U.S.C. 1187) to assist
11 those countries in—

12 (1) submitting to Interpol information about
13 the theft or loss of passports of citizens or nationals
14 of such a country; and

15 (2) issuing, and validating at the ports of entry
16 of such a country, electronic passports that are
17 fraud-resistant, contain relevant biographic and bio-
18 metric information (as determined by the Secretary
19 of Homeland Security), and otherwise satisfy inter-
20 nationally accepted standards for electronic pass-
21 ports.

22 **SEC. 9. CLERICAL AMENDMENTS.**

23 (a) SECRETARY OF HOMELAND SECURITY.—Section
24 217 of the Immigration and Nationality Act (8 U.S.C.
25 1187), as amended by this Act, is further amended by

1 striking “Attorney General” each place such term appears
2 (except in subsection (c)(11)(B)) and inserting “Secretary
3 of Homeland Security”.

4 (b) ELECTRONIC SYSTEM FOR TRAVEL AUTHORIZA-
5 TION.—Section 217 of the Immigration and Nationality
6 Act (8 U.S.C. 1187), as amended this Act, is further
7 amended—

8 (1) by striking “electronic travel authorization
9 system” each place it appears and inserting “elec-
10 tronic system for travel authorization”;

11 (2) in the heading in subsection (a)(11), by
12 striking “ELECTRONIC TRAVEL AUTHORIZATION SYS-
13 TEM” and inserting “ELECTRONIC SYSTEM FOR
14 TRAVEL AUTHORIZATION”; and

15 (3) in the heading in subsection (h)(3), by
16 striking “ELECTRONIC TRAVEL AUTHORIZATION SYS-
17 TEM” and inserting “ELECTRONIC SYSTEM FOR
18 TRAVEL AUTHORIZATION”.

19 **SEC. 10. SENSE OF CONGRESS.**

20 It is the sense of Congress that the International
21 Civil Aviation Organization, the specialized agency of the
22 United Nations responsible for establishing international
23 standards, specifications, and best practices related to the
24 administration and governance of border controls and in-
25 spection formalities, should establish standards for the in-

1 introduction of electronic passports (referred to in this sec-
2 tion as “e-passports”), and obligate member countries to
3 utilize such e-passports as soon as possible. Such e-pass-
4 ports should be a combined paper and electronic passport
5 that contains biographic and biometric information that
6 can be used to authenticate the identity of travelers
7 through an embedded chip.

Passed the House of Representatives December 8,
2015.

Attest:

KAREN L. HAAS,
Clerk.