

TITLE 8 - ALIENS AND NATIONALITY**CHAPTER 12 - IMMIGRATION AND NATIONALITY****SUBCHAPTER II - IMMIGRATION****Part II - Admission Qualifications for Aliens; Travel Control of Citizens and Aliens****§ 1184. Admission of nonimmigrants****(a) Regulations**

(1) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 1258 of this title, such alien will depart from the United States. No alien admitted to Guam or the Commonwealth of the Northern Mariana Islands without a visa pursuant to section 1182 (l) of this title may be authorized to enter or stay in the United States other than in Guam or the Commonwealth of the Northern Mariana Islands or to remain in Guam or the Commonwealth of the Northern Mariana Islands for a period exceeding 45 days from date of admission to Guam or the Commonwealth of the Northern Mariana Islands. No alien admitted to the United States without a visa pursuant to section 1187 of this title may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.

(2) (A) The period of authorized status as a nonimmigrant described in section 1101 (a)(15)(O) of this title shall be for such period as the Attorney General may specify in order to provide for the event (or events) for which the nonimmigrant is admitted.

(B) The period of authorized status as a nonimmigrant described in section 1101 (a)(15)(P) of this title 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 under section 1101 (a)(15)(P) of this title, 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 and such period may be extended by the Attorney General for an additional period of up to 5 years.

(b) Presumption of status; written waiver

Every alien (other than a nonimmigrant described in subparagraph (L) or (V) of section 1101 (a)(15) of this title, and other than a nonimmigrant described in any provision of section 1101 (a)(15)(H)(i) of this title except subclause (b1) of such section) shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 1101 (a)(15) of this title. An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act [22 U.S.C. 288 et seq.], or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 1257 (b) of this title.

(c) Petition of importing employer

(1) The question of importing any alien as a nonimmigrant under subparagraph (H), (L), (O), or (P)(i) of section 1101 (a)(15) of this title (excluding nonimmigrants under section 1101 (a)(15)(H)(i)(b1) of this title) in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petition, shall be made and approved before the visa is granted.

The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant. For purposes of this subsection with respect to nonimmigrants described in section 1101 (a)(15)(H)(ii)(a) of this title, the term “appropriate agencies of Government” means the Department of Labor and includes the Department of Agriculture. The provisions of section 1188 of this title shall apply to the question of importing any alien as a nonimmigrant under section 1101 (a)(15)(H)(ii)(a) of this title.

- (2) (A) The Attorney General shall provide for a procedure under which an importing employer which meets requirements established by the Attorney General may file a blanket petition to import aliens as nonimmigrants described in section 1101 (a)(15)(L) of this title instead of filing individual petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for admission of aliens covered under such a petition.
- (B) For purposes of section 1101 (a)(15)(L) of this title, an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.
- (C) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 1101 (a)(15)(L) of this title within 30 days after the date a completed petition has been filed.
- (D) The period of authorized admission for—
- (i) a nonimmigrant admitted to render services in a managerial or executive capacity under section 1101 (a)(15)(L) of this title shall not exceed 7 years, or
 - (ii) a nonimmigrant admitted to render services in a capacity that involves specialized knowledge under section 1101 (a)(15)(L) of this title shall not exceed 5 years.
- (E) In the case of an alien spouse admitted under section 1101 (a)(15)(L) of this title, who is accompanying or following to join a principal alien admitted under such section, the Attorney General shall authorize the alien spouse to engage in employment in the United States and provide the spouse with an “employment authorized” endorsement or other appropriate work permit.
- (F) An alien who will serve in a capacity involving specialized knowledge with respect to an employer for purposes of section 1101 (a)(15)(L) of this title and will be stationed primarily at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent shall not be eligible for classification under section 1101 (a)(15)(L) of this title if—
- (i) the alien will be controlled and supervised principally by such unaffiliated employer; or
 - (ii) the placement of the alien at the worksite of the unaffiliated employer is essentially an arrangement to provide labor for hire for the unaffiliated employer, rather than a placement in connection with the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary.
- (3) The Attorney General shall approve a petition—
- (A) with respect to a nonimmigrant described in section 1101 (a)(15)(O)(i) of this title only after consultation in accordance with paragraph (6) or, with respect to aliens seeking entry for a motion picture or television production, after consultation with the appropriate union representing the alien’s occupational peers and a management organization in the area of the alien’s ability, or
 - (B) with respect to a nonimmigrant described in section 1101 (a)(15)(O)(ii) of this title after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien’s ability.

In the case of an alien seeking entry for a motion picture or television production,

- (i) any opinion under the previous sentence shall only be advisory,
- (ii) any such opinion that recommends denial must be in writing,
- (iii) in making the decision the Attorney General shall consider the exigencies and scheduling of the production, and
- (iv) the Attorney General shall append to the decision any such opinion. The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 1101 (a)(15)(O)(i) of this title because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.

(4) (A) For purposes of section 1101 (a)(15)(P)(i)(a) of this title, an alien is described in this subparagraph if the alien—

- (i) (I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance;
- (II) is a professional athlete, as defined in section 1154 (i)(2) of this title;
- (III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—
 - (aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country;
 - (bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association; and
 - (cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league; or
- (IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production; and
- (ii) seeks to enter the United States temporarily and solely for the purpose of performing—
 - (I) as such an athlete with respect to a specific athletic competition; or
 - (II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.

(B) (i) For purposes of section 1101 (a)(15)(P)(i)(b) of this title, an alien is described in this subparagraph if the alien—

- (I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,
- (II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

(iii)

(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.

(C) A person may petition the Attorney General for classification of an alien as a nonimmigrant under section 1101 (a)(15)(P) of this title.

(D) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 1101 (a)(15)(P) of this title only after consultation in accordance with paragraph (6).

(E) The Attorney General shall approve petitions under this subsection for nonimmigrants described in section 1101 (a)(15)(P)(ii) of this title only after consultation with labor organizations representing artists and entertainers in the United States.

(F) **(i)** No nonimmigrant visa under section 1101 (a)(15)(P)(i)(a) of this title shall be issued to any alien who is a national of a country that is a state sponsor of international terrorism unless the Secretary of State determines, in consultation with the Secretary of Homeland Security and the heads of other appropriate United States agencies, that such alien does not pose a threat to the safety, national security, or national interest of the United States. In making a determination under this subparagraph, the Secretary of State shall apply standards developed by the Secretary of State, in consultation with the Secretary of Homeland Security and the heads of other appropriate United States agencies, that are applicable to the nationals of such states.

(ii) In this subparagraph, the term “state sponsor of international terrorism” means any country the government of which has been determined by the Secretary of State under any of the laws specified in clause (iii) to have repeatedly provided support for acts of international terrorism.

(iii) The laws specified in this clause are the following:

(I) Section 2405 (j)(1)(A) of title 50, Appendix (or successor statute).

(II) Section 2780 (d) of title 22.

(III) Section 2371 (a) of title 22.

(G) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than 1 alien as a nonimmigrant under section 1101 (a)(15)(P)(i)(a) of this title.

- (H)** The Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 1101 (a)(15)(P)(i) of this title if the athlete is eligible under such other provision.
- (5)** **(A)** In the case of an alien who is provided nonimmigrant status under section 1101 (a)(15)(H)(i)(b) or 1101 (a)(15)(H)(ii)(b) of this title and who is dismissed from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad.
- (B)** In the case of an alien who is admitted to the United States in nonimmigrant status under section 1101 (a)(15)(O) or 1101 (a)(15)(P) of this title and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.
- (6)** **(A)**
- (i)** To meet the consultation requirement of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 1101 (a)(15)(O)(i) of this title (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may include a labor organization) with expertise in the specific field involved.
- (ii)** To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 1101 (a)(15)(O)(ii) of this title (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.
- (iii)** To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 1101 (a)(15)(P)(i) or 1101 (a)(15)(P)(iii) of this title, 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.
- (B)** To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.
- (C)** In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.
- (D)** Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.
- (E)**

- (i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 1101 (a)(15)(O) or 1101 (a)(15)(P) of this title to accommodate the exigencies and scheduling of a given production or event.
- (ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 1101 (a)(15)(O)(i) or 1101 (a)(15)(P)(i) of this title in the case of emergency circumstances (including trades during a season).
- (F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate.
- (7) If a petition is filed and denied under this subsection, the Attorney General shall notify the petitioner of the determination and the reasons for the denial and of the process by which the petitioner may appeal the determination.
- (8) The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 1101 (a)(15) of this title the following:
- (A) The number of such petitions which have been filed.
- (B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.
- (C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.
- (D) The number of such petitions which have been withdrawn.
- (E) The number of such petitions which are awaiting final action.
- (9) (A) The Attorney General shall impose a fee on an employer (excluding any employer that is a primary or secondary education institution, an institution of higher education, as defined in section 1001 (a) of title 20, a nonprofit entity related to or affiliated with any such institution, a nonprofit entity which engages in established curriculum-related clinical training of students registered at any such institution, a nonprofit research organization, or a governmental research organization) filing before ¹ a petition under paragraph (1)—
- (i) initially to grant an alien nonimmigrant status described in section 1101 (a)(15)(H)(i)(b) of this title;
- (ii) to extend the stay of an alien having such status (unless the employer previously has obtained an extension for such alien); or
- (iii) to obtain authorization for an alien having such status to change employers.
- (B) The amount of the fee shall be \$1,500 for each such petition except that the fee shall be half the amount for each such petition by any employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer).
- (C) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 1356 (s) of this title.
- (10) An amended H-1B petition shall not be required where the petitioning employer is involved in a corporate restructuring, including but not limited to a merger, acquisition, or consolidation, where a new corporate entity succeeds to the interests and obligations of the original petitioning

employer and where the terms and conditions of employment remain the same but for the identity of the petitioner.

- (11)** **(A)** Subject to subparagraph (B), the Secretary of Homeland Security or the Secretary of State, as appropriate, shall impose a fee on an employer who has filed an attestation described in section 1182 (t) of this title—
- (i)** in order that an alien may be initially granted nonimmigrant status described in section 1101 (a)(15)(H)(i)(b1) of this title; or
 - (ii)** in order to satisfy the requirement of the second sentence of subsection (g)(8)(C) of this section for an alien having such status to obtain certain extensions of stay.
- (B)** The amount of the fee shall be the same as the amount imposed by the Secretary of Homeland Security under paragraph (9), except that if such paragraph does not authorize such Secretary to impose any fee, no fee shall be imposed under this paragraph.
- (C)** Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 1356 (s) of this title.
- (12)** **(A)** In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1)—
- (i)** initially to grant an alien nonimmigrant status described in subparagraph (H)(i)(b) or (L) of section 1101 (a)(15) of this title; or
 - (ii)** to obtain authorization for an alien having such status to change employers.
- (B)** In addition to any other fees authorized by law, the Secretary of State shall impose a fraud prevention and detection fee on an alien filing an application abroad for a visa authorizing admission to the United States as a nonimmigrant described in section 1101 (a)(15)(L) of this title, if the alien is covered under a blanket petition described in paragraph (2)(A).
- (C)** The amount of the fee imposed under subparagraph (A) or (B) shall be \$500.
- (D)** The fee imposed under subparagraph (A) or (B) shall only apply to principal aliens and not to the spouses or children who are accompanying or following to join such principal aliens.
- (E)** Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 1356 (v) of this title.
- (13)** **(A)** In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1) for nonimmigrant workers described in section 1101 (a)(15)(H)(ii)(b) of this title.
- (B)** The amount of the fee imposed under subparagraph (A) shall be \$150.
- (14)** **(A)** If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a substantial failure to meet any of the conditions of the petition to admit or otherwise provide status to a nonimmigrant worker under section 1101 (a)(15)(H)(ii)(b) of this title or a willful misrepresentation of a material fact in such petition—
- (i)** the Secretary of Homeland Security may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed \$10,000 per violation) as the Secretary of Homeland Security determines to be appropriate; and
 - (ii)** the Secretary of Homeland Security may deny petitions filed with respect to that employer under section 1154 of this title or paragraph (1) of this subsection during a period of at least 1 year but not more than 5 years for aliens to be employed by the employer.

(B) The Secretary of Homeland Security may delegate to the Secretary of Labor, with the agreement of the Secretary of Labor, any of the authority given to the Secretary of Homeland Security under subparagraph (A)(i).

(C) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for willful failures to meet any of the conditions of the petition that involve harm to United States workers.

(D) In this paragraph, the term “substantial failure” means the willful failure to comply with the requirements of this section that constitutes a significant deviation from the terms and conditions of a petition.

(d) Issuance of visa to fiancée or fiancé of citizen

(1) A visa shall not be issued under the provisions of section 1101 (a)(15)(K)(i) of this title until the consular officer has received a petition filed in the United States by the fiancée and fiancé of the applying alien and approved by the Secretary of Homeland Security. The petition shall be in such form and contain such information as the Secretary of Homeland Security shall, by regulation, prescribe. Such information shall include information on any criminal convictions of the petitioner for any specified crime. It shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien’s arrival, except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person. In the event the marriage with the petitioner does not occur within three months after the admission of the said alien and minor children, they shall be required to depart from the United States and upon failure to do so shall be removed in accordance with sections 1229a and 1231 of this title.

(2) (A) Subject to subparagraphs (B) and (C), a consular officer may not approve a petition under paragraph (1) unless the officer has verified that—

(i) the petitioner has not, previous to the pending petition, petitioned under paragraph (1) with respect to two or more applying aliens; and

(ii) if the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

(B) The Secretary of Homeland Security may, in the Secretary’s discretion, waive the limitations in subparagraph (A) if justification exists for such a waiver. Except in extraordinary circumstances and subject to subparagraph (C), such a waiver shall not be granted if the petitioner has a record of violent criminal offenses against a person or persons.

(C) (i) The Secretary of Homeland Security is not limited by the criminal court record and shall grant a waiver of the condition described in the second sentence of subparagraph (B) in the case of a petitioner described in clause (ii).

(ii) A petitioner described in this clause is a petitioner who has been battered or subjected to extreme cruelty and who is or was not the primary perpetrator of violence in the relationship upon a determination that—

(I) the petitioner was acting in self-defense;

(II) the petitioner was found to have violated a protection order intended to protect the petitioner; or

(III) the petitioner committed, was arrested for, was convicted of, or pled guilty to committing a crime that did not result in serious bodily injury and where there was a connection between the crime and the petitioner’s having been battered or subjected to extreme cruelty.

(iii) In acting on applications under this subparagraph, the Secretary of Homeland Security shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Secretary.

(3) In this subsection:

(A) The terms “domestic violence”, “sexual assault”, “child abuse and neglect”, “dating violence”, “elder abuse”, and “stalking” have the meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.²

(B) The term “specified crime” means the following:

(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking.

(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.

(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.

(e) **Nonimmigrant professionals and annual numerical limit**

(1) Notwithstanding any other provision of this chapter, an alien who is a citizen of Canada and seeks to enter the United States under and pursuant to the provisions of Annex 1502.1 (United States of America), Part C—Professionals, of the United States-Canada Free-Trade Agreement to engage in business activities at a professional level as provided for therein may be admitted for such purpose under regulations of the Attorney General promulgated after consultation with the Secretaries of State and Labor.

(2) An alien who is a citizen of Canada or Mexico, and the spouse and children of any such alien if accompanying or following to join such alien, who seeks to enter the United States under and pursuant to the provisions of Section D of Annex 1603 of the North American Free Trade Agreement (in this subsection referred to as “NAFTA”) to engage in business activities at a professional level as provided for in such Annex, may be admitted for such purpose under regulations of the Attorney General promulgated after consultation with the Secretaries of State and Labor. For purposes of this chapter, including the issuance of entry documents and the application of subsection (b) of this section, such alien shall be treated as if seeking classification, or classifiable, as a nonimmigrant under section 1101 (a)(15) of this title. The admission of an alien who is a citizen of Mexico shall be subject to paragraphs (3), (4), and (5). For purposes of this paragraph and paragraphs (3), (4), and (5), the term “citizen of Mexico” means “citizen” as defined in Annex 1608 of NAFTA.

(3) The Attorney General shall establish an annual numerical limit on admissions under paragraph (2) of aliens who are citizens of Mexico, as set forth in Appendix 1603.D.4 of Annex 1603 of the NAFTA. Subject to paragraph (4), the annual numerical limit—

(A) beginning with the second year that NAFTA is in force, may be increased in accordance with the provisions of paragraph 5(a) of Section D of such Annex, and

(B) shall cease to apply as provided for in paragraph 3 of such Appendix.

(4) The annual numerical limit referred to in paragraph (3) may be increased or shall cease to apply (other than by operation of paragraph 3 of such Appendix) only if—

(A) the President has obtained advice regarding the proposed action from the appropriate advisory committees established under section 2155 of title 19;

(B) the President has submitted a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that sets forth—

(i) the action proposed to be taken and the reasons therefor, and

- (ii) the advice obtained under subparagraph (A);
 - (C) a period of at least 60 calendar days that begins on the first day on which the President has met the requirements of subparagraphs (A) and (B) with respect to such action has expired; and
 - (D) the President has consulted with such committees regarding the proposed action during the period referred to in subparagraph (C).
- (5) During the period that the provisions of Appendix 1603.D.4 of Annex 1603 of the NAFTA apply, the entry of an alien who is a citizen of Mexico under and pursuant to the provisions of Section D of Annex 1603 of NAFTA shall be subject to the attestation requirement of section 1182 (m) of this title, in the case of a registered nurse, or the application requirement of section 1182 (n) of this title, in the case of all other professions set out in Appendix 1603.D.1 of Annex 1603 of NAFTA, and the petition requirement of subsection (c) of this section, to the extent and in the manner prescribed in regulations promulgated by the Secretary of Labor, with respect to sections 1182 (m) and 1182 (n) of this title, and the Attorney General, with respect to subsection (c) of this section.
- (6) In the case of an alien spouse admitted under section 1101 (a)(15)(E) of this title, who is accompanying or following to join a principal alien admitted under such section, the Attorney General shall authorize the alien spouse to engage in employment in the United States and provide the spouse with an “employment authorized” endorsement or other appropriate work permit.
- (f) Denial of crewmember status in case of certain labor disputes**
 - (1) Except as provided in paragraph (3), no alien shall be entitled to nonimmigrant status described in section 1101 (a)(15)(D) of this title if the alien intends to land for the purpose of performing service on board a vessel of the United States (as defined in section 116 of title 46) or on an aircraft of an air carrier (as defined in section 40102 (a)(2) of title 49) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.
 - (2) An alien described in paragraph (1)—
 - (A) may not be paroled into the United States pursuant to section 1182 (d)(5) of this title unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States; and
 - (B) shall be considered not to be a bona fide crewman for purposes of section 1282 (b) of this title.
 - (3) Paragraph (1) shall not apply to an alien if the air carrier or owner or operator of such vessel that employs the alien provides documentation that satisfies the Attorney General that the alien—
 - (A) has been an employee of such employer for a period of not less than 1 year preceding the date that a strike or lawful lockout commenced;
 - (B) has served as a qualified crewman for such employer at least once in each of 3 months during the 12-month period preceding such date; and
 - (C) shall continue to provide the same services that such alien provided as such a crewman.
- (g) Temporary workers and trainees; limitation on numbers**
 - (1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1992)—
 - (A) under section 1101 (a)(15)(H)(i)(b) of this title, may not exceed—
 - (i) 65,000 in each fiscal year before fiscal year 1999;
 - (ii) 115,000 in fiscal year 1999;
 - (iii) 115,000 in fiscal year 2000;
 - (iv) 195,000 in fiscal year 2001;
 - (v) 195,000 in fiscal year 2002;
 - (vi) 195,000 in fiscal year 2003; and

- (iv) The annual numerical limitation described in paragraph (1)(A) is reduced by the amount of the annual numerical limitations established under clause (i). However, if a numerical limitation established under clause (i) has not been exhausted at the end of a given fiscal year, the Secretary of Homeland Security shall adjust upwards the numerical limitation in paragraph (1)(A) for that fiscal year by the amount remaining in the numerical limitation under clause (i). Visas under section 1101 (a)(15)(H)(i)(b) of this title may be issued pursuant to such adjustment within the first 45 days of the next fiscal year to aliens who had applied for such visas during the fiscal year for which the adjustment was made.
- (C) The period of authorized admission as a nonimmigrant under section 1101 (a)(15)(H)(i)(b1) of this title shall be 1 year, and may be extended, but only in 1-year increments. After every second extension, the next following extension shall not be granted unless the Secretary of Labor had determined and certified 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 1182 (t)(1) of this title for the purpose of permitting the nonimmigrant to obtain such extension.
- (D) The numerical limitation described in paragraph (1)(A) for a fiscal year shall be reduced by one for each alien granted an extension under subparagraph (C) during such year who has obtained 5 or more consecutive prior extensions.
- (9) (A) Subject to subparagraphs (B) and (C), an alien who has already been counted toward the numerical limitation of paragraph (1)(B) during fiscal year 2004, 2005, or 2006 shall not again be counted toward such limitation during fiscal year 2007. Such an alien shall be considered a returning worker.
- (B) A petition to admit or otherwise provide status under section 1101 (a)(15)(H)(ii)(b) of this title shall include, with respect to a returning worker—
- (i) all information and evidence that the Secretary of Homeland Security determines is required to support a petition for status under section 1101 (a)(15)(H)(ii)(b) of this title;
 - (ii) the full name of the alien; and
 - (iii) a certification to the Department of Homeland Security that the alien is a returning worker.
- (C) An H-2B visa or grant of nonimmigrant status for a returning worker shall be approved only if the alien is confirmed to be a returning worker by—
- (i) the Department of State; or
 - (ii) if the alien is visa exempt or seeking to change to status under section 1101 (a)(15)(H)(ii)(b) of this title, the Department of Homeland Security.
- (10) The numerical limitations of paragraph (1)(B) shall be allocated for a fiscal year so that the total number of aliens subject to such numerical limits who enter the United States pursuant to a visa or are accorded nonimmigrant status under section 1101 (a)(15)(H)(ii)(b) of this title during the first 6 months of such fiscal year is not more than 33,000.
- (11) (A) The Secretary of State may not approve a number of initial applications submitted for aliens described in section 1101 (a)(15)(E)(iii) of this title that is more than the applicable numerical limitation set out in this paragraph.
- (B) The applicable numerical limitation referred to in subparagraph (A) is 10,500 for each fiscal year.
- (C) The applicable numerical limitation referred to in subparagraph (A) shall only apply to principal aliens and not to the spouses or children of such aliens.
- (h) **Intention to abandon foreign residence**

The fact that an alien is the beneficiary of an application for a preference status filed under section 1154 of this title or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant described in subparagraph (H)(i)(b) or (c), (L), or (V) of section 1101 (a)(15) of this title or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph, if the alien had obtained a change of status under section 1258 of this title to a classification as such a nonimmigrant before the alien's most recent departure from the United States.

(i) "Specialty occupation" defined

(1) Except as provided in paragraph (3), for purposes of section 1101 (a)(15)(H)(i)(b) of this title, section 1101 (a)(15)(E)(iii) of this title, and paragraph (2), the term "specialty occupation" means 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.

(2) For purposes of section 1101 (a)(15)(H)(i)(b) of this title, the requirements of this paragraph, with respect to a specialty occupation, are—

- (A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,
- (B) completion of the degree described in paragraph (1)(B) for the occupation, or
- (C)
 - (i) experience in the specialty equivalent to the completion of such degree, and
 - (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

(3) For purposes of section 1101 (a)(15)(H)(i)(b1) of this title, the term "specialty occupation" means an occupation that requires—

- (A) theoretical and practical application of a body of 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.

(j) Labor disputes

(1) Notwithstanding any other provision of this chapter, an alien who is a citizen of Canada or Mexico who seeks to enter the United States under and pursuant to the provisions of Section B, Section C, or Section D of Annex 1603 of the North American Free Trade Agreement, shall not be classified as a nonimmigrant under such provisions if there is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment, unless such alien establishes, pursuant to regulations promulgated by the Attorney General, that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout. Notice of a determination under this paragraph shall be given as may be required by paragraph 3 of article 1603 of such Agreement. For purposes of this paragraph, the term "citizen of Mexico" means "citizen" as defined in Annex 1608 of such Agreement.

(2) Notwithstanding any other provision of this chapter except section 1182 (t)(1) of this title, and subject to regulations promulgated by the Secretary of Homeland Security, an alien who seeks to enter the United States under and pursuant to the provisions of an agreement listed in subsection (g)(8)(A) of this section, and the spouse and children of such an alien if accompanying or following to join the alien, may be denied admission as a nonimmigrant under subparagraph (E), (L), or (H)(i)(b1) of section 1101 (a)(15) of this title if there is in progress a labor dispute in the occupational classification at the place or intended place of employment, unless such alien establishes, pursuant to regulations promulgated by the Secretary of Homeland Security after consultation with the Secretary of Labor, that the alien's entry will not affect adversely the settlement of the labor dispute or the employment of any person who is involved in the labor

dispute. Notice of a determination under this paragraph shall be given as may be required by such agreement.

(k) Numerical limitations; period of admission; conditions for admission and stay; annual report

(1) The number of aliens who may be provided a visa as nonimmigrants under section 1101 (a)(15)(S)(i) of this title in any fiscal year may not exceed 200. The number of aliens who may be provided a visa as nonimmigrants under section 1101 (a)(15)(S)(ii) of this title in any fiscal year may not exceed 50.

(2) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

(3) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

(A) shall report not less often than quarterly to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission;

(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of removal, any action for removal of the alien instituted before the alien obtains lawful permanent resident status; and

(D) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.

(4) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—

(A) the number of such nonimmigrants admitted;

(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens;

(C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;

(D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and

(E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (3)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.

(l) Restrictions on waiver

(1) In the case of a request by an interested State agency, or by an interested Federal agency, for a waiver of the 2-year foreign residence requirement under section 1182 (e) of this title on behalf of an alien described in clause (iii) of such section, the Attorney General shall not grant such waiver unless—

(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

(B) in the case of a request by an interested State agency, the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 30;

(C) in the case of a request by an interested Federal agency or by an interested State agency—

(i) the alien demonstrates a bona fide offer of full-time employment at a health facility or health care organization, which employment has been determined by the Attorney General to be in the public interest; and

- (ii) the alien agrees to begin employment with the health facility or health care organization within 90 days of receiving such waiver, and agrees to continue to work for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien, which would justify a lesser period of employment at such health facility or health care organization, in which case the alien must demonstrate another bona fide offer of employment at a health facility or health care organization for the remainder of such 3-year period); and
- (D) in the case of a request by an interested Federal agency (other than a request by an interested Federal agency to employ the alien full-time in medical research or training) or by an interested State agency, the alien agrees to practice primary care or specialty medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals, except that—
- (i) in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary;
- (ii) in the case of a request by an interested State agency, the head of such State agency determines that the alien is to practice medicine under such agreement in a facility that serves patients who reside in one or more geographic areas so designated by the Secretary of Health and Human Services (without regard to whether such facility is located within such a designated geographic area), and the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation in subparagraph (B)) in accordance with the conditions of this clause to exceed 10; and
- (iii) in the case of a request by an interested Federal agency or by an interested State agency for a waiver for an alien who agrees to practice specialty medicine in a facility located in a geographic area so designated by the Secretary of Health and Human Services, the request shall demonstrate, based on criteria established by such agency, that there is a shortage of health care professionals able to provide services in the appropriate medical specialty to the patients who will be served by the alien.
- (2) (A) Notwithstanding section 1258 (a)(2) of this title, the Attorney General may change the status of an alien who qualifies under this subsection and section 1182 (e) of this title to that of an alien described in section 1101 (a)(15)(H)(i)(b) of this title. The numerical limitations contained in subsection (g)(1)(A) of this section shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.
- (B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or health care organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status, until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least 2 years following departure from the United States.
- (3) Notwithstanding any other provision of this subsection, the 2-year foreign residence requirement under section 1182 (e) of this title shall apply with respect to an alien described in clause (iii) of such section, who has not otherwise been accorded status under section 1101 (a)(27)(H) of this title, if—
- (A) at any time the alien ceases to comply with any agreement entered into under subparagraph (C) or (D) of paragraph (1); or
- (B) the alien's employment ceases to benefit the public interest at any time during the 3-year period described in paragraph (1)(C).

(m) Nonimmigrant elementary and secondary school students

(1) An alien may not be accorded status as a nonimmigrant under clause (i) or (iii) of section 1101 (a)(15)(F) of this title in order to pursue a course of study—

(A) at a public elementary school or in a publicly funded adult education program; or

(B) at a public secondary school unless—

(i) the aggregate period of such status at such a school does not exceed 12 months with respect to any alien, and

(ii) the alien demonstrates that the alien has reimbursed the local educational agency that administers the school for the full, unsubsidized per capita cost of providing education at such school for the period of the alien's attendance.

(2) An alien who obtains the status of a nonimmigrant under clause (i) or (iii) of section 1101 (a)(15)(F) of this title in order to pursue a course of study at a private elementary or secondary school or in a language training program that is not publicly funded shall be considered to have violated such status, and the alien's visa under section 1101 (a)(15)(F) of this title shall be void, if the alien terminates or abandons such course of study at such a school and undertakes a course of study at a public elementary school, in a publicly funded adult education program, in a publicly funded adult education language training program, or at a public secondary school (unless the requirements of paragraph (1)(B) are met).

(n) Increased portability of H-1B status

(1) A nonimmigrant alien described in paragraph (2) who was previously issued a visa or otherwise provided nonimmigrant status under section 1101 (a)(15)(H)(i)(b) of this title is authorized to accept new employment upon the filing by the prospective employer of a new petition on behalf of such nonimmigrant as provided under subsection (a) of this section. Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, such authorization shall cease.

(2) A nonimmigrant alien described in this paragraph is a nonimmigrant alien—

(A) who has been lawfully admitted into the United States;

(B) on whose behalf an employer has filed a nonfrivolous petition for new employment before the date of expiration of the period of stay authorized by the Attorney General; and

(C) who, subsequent to such lawful admission, has not been employed without authorization in the United States before the filing of such petition.

(o) Nonimmigrants guilty of trafficking in persons

(1) No alien shall be eligible for admission to the United States under section 1101 (a)(15)(T) of this title if there is substantial reason to believe that the alien has committed an act of a severe form of trafficking in persons (as defined in section 7102 of title 22).

(2) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year under section 1101 (a)(15)(T) of this title may not exceed 5,000.

(3) The numerical limitation of paragraph (2) shall only apply to principal aliens and not to the spouses, sons, daughters, siblings, or parents of such aliens.

(4) An unmarried alien who seeks to accompany, or follow to join, a parent granted status under section 1101 (a)(15)(T)(i) of this title, and who was under 21 years of age on the date on which such parent applied for such status, shall continue to be classified as a child for purposes of section 1101 (a)(15)(T)(ii) of this title, if the alien attains 21 years of age after such parent's application was filed but while it was pending.

(5) An alien described in clause (i) of section 1101 (a)(15)(T) of this title shall continue to be treated as an alien described in clause (ii)(I) of such section if the alien attains 21 years of age after the alien's application for status under such clause (i) is filed but while it is pending.

(6) In making a determination under section 1101 (a)(15)(T)(i)(III)(aa) with respect to an alien, statements from State and local law enforcement officials that the alien has complied with any reasonable request for assistance in the investigation or prosecution of crimes such as kidnapping, rape, slavery, or other forced labor offenses, where severe forms of trafficking in persons (as defined in section 7102 of title 22) appear to have been involved, shall be considered.

(7) (A) Except as provided in subparagraph (B), an alien who is issued a visa or otherwise provided nonimmigrant status under section 1101 (a)(15)(T) of this title may be granted such status for a period of not more than 4 years.

(B) An alien who is issued a visa or otherwise provided nonimmigrant status under section 1101 (a)(15)(T) of this title may extend the period of such status beyond the period described in subparagraph (A) if—

(i) a Federal, State, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting activity relating to human trafficking or certifies that the presence of the alien in the United States is necessary to assist in the investigation or prosecution of such activity;

(ii) the alien is eligible for relief under section 1255 (l) of this title and is unable to obtain such relief because regulations have not been issued to implement such section; or

(iii) the Secretary of Homeland Security determines that an extension of the period of such nonimmigrant status is warranted due to exceptional circumstances.

(C) Nonimmigrant status under section 1101 (a)(15)(T) of this title shall be extended during the pendency of an application for adjustment of status under section 1255 (l) of this title.

(p) Requirements applicable to section 1101 (a)(15)(U) visas

(1) Petitioning procedures for section 1101 (a)(15)(U) visas

The petition filed by an alien under section 1101 (a)(15)(U)(i) of this title shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in section 1101 (a)(15)(U)(iii) of this title. This certification may also be provided by an official of the Service whose ability to provide such certification is not limited to information concerning immigration violations. This certification shall state that the alien “has been helpful, is being helpful, or is likely to be helpful” in the investigation or prosecution of criminal activity described in section 1101 (a)(15)(U)(iii) of this title.

(2) Numerical limitations

(A) The number of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 1101 (a)(15)(U) of this title in any fiscal year shall not exceed 10,000.

(B) The numerical limitations in subparagraph (A) shall only apply to principal aliens described in section 1101 (a)(15)(U)(i) of this title, and not to spouses, children, or, in the case of alien children, the alien parents of such children.

(3) Duties of the Attorney General with respect to “U” visa nonimmigrants

With respect to nonimmigrant aliens described in subsection (a)(15)(U) of section 1101 of this title—

(A) the Attorney General and other government officials, where appropriate, shall provide those aliens with referrals to nongovernmental organizations to advise the aliens regarding their options while in the United States and the resources available to them; and

(B) the Attorney General shall, during the period those aliens are in lawful temporary resident status under that subsection, provide the aliens with employment authorization.

(4) Credible evidence considered

In acting on any petition filed under this subsection, the consular officer or the Attorney General, as appropriate, shall consider any credible evidence relevant to the petition.

(5) Nonexclusive relief

Nothing in this subsection limits the ability of aliens who qualify for status under section 1101 (a)(15)(U) of this title to seek any other immigration benefit or status for which the alien may be eligible.

(6) Duration of status

The authorized period of status of an alien as a nonimmigrant under section 1101 (a)(15)(U) of this title shall be for a period of not more than 4 years, but shall be extended upon certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating or prosecuting criminal activity described in section 1101 (a)(15)(U)(iii) of this title that the alien's presence in the United States is required to assist in the investigation or prosecution of such criminal activity. The Secretary of Homeland Security may extend, beyond the 4-year period authorized under this section, the authorized period of status of an alien as a nonimmigrant under section 1101 (a)(15)(U) of this title if the Secretary determines that an extension of such period is warranted due to exceptional circumstances. Such alien's nonimmigrant status shall be extended beyond the 4-year period authorized under this section if the alien is eligible for relief under section 1255 (m) of this title and is unable to obtain such relief because regulations have not been issued to implement such section and shall be extended during the pendency of an application for adjustment of status under section 1255 (m) of this title. The Secretary may grant work authorization to any alien who has a pending, bona fide application for nonimmigrant status under section 1101 (a)(15)(U) of this title.

(q) Employment of nonimmigrants described in section 1101 (a)(15)(V)

(1) In the case of a nonimmigrant described in section 1101 (a)(15)(V) of this title—

(A) the Attorney General shall authorize the alien to engage in employment in the United States during the period of authorized admission and shall provide the alien with an "employment authorized" endorsement or other appropriate document signifying authorization of employment; and

(B) the period of authorized admission as such a nonimmigrant shall terminate 30 days after the date on which any of the following is denied:

(i) The petition filed under section 1154 of this title to accord the alien a status under section 1153 (a)(2)(A) of this title (or, in the case of a child granted nonimmigrant status based on eligibility to receive a visa under section 1153 (d) of this title, the petition filed to accord the child's parent a status under section 1153 (a)(2)(A) of this title).

(ii) The alien's application for an immigrant visa pursuant to the approval of such petition.

(iii) The alien's application for adjustment of status under section 1255 of this title pursuant to the approval of such petition.

(2) In determining whether an alien is eligible to be admitted to the United States as a nonimmigrant under section 1101 (a)(15)(V) of this title, the grounds for inadmissibility specified in section 1182 (a)(9)(B) of this title shall not apply.

(3) The status of an alien physically present in the United States may be adjusted by the Attorney General, in the discretion of the Attorney General and under such regulations as the Attorney General may prescribe, to that of a nonimmigrant under section 1101 (a)(15)(V) of this title, if the alien—

(A) applies for such adjustment;

(B) satisfies the requirements of such section; and

(C) is eligible to be admitted to the United States, except in determining such admissibility, the grounds for inadmissibility specified in paragraphs (6)(A), (7), and (9)(B) of section 1182 (a) of this title shall not apply.

(r) Visas of nonimmigrants described in section 1101 (a)(15)(K)(ii)

(1) A visa shall not be issued under the provisions of section 1101 (a)(15)(K)(ii) of this title until the consular officer has received a petition filed in the United States by the spouse of the applying alien and approved by the Attorney General. The petition shall be in such form and contain such information as the Attorney General shall, by regulation, prescribe. Such information shall include information on any criminal convictions of the petitioner for any specified crime.

(2) In the case of an alien seeking admission under section 1101 (a)(15)(K)(ii) of this title who concluded a marriage with a citizen of the United States outside the United States, the alien shall be considered inadmissible under section 1182 (a)(7)(B) of this title if the alien is not at the time of application for admission in possession of a valid nonimmigrant visa issued by a consular officer in the foreign state in which the marriage was concluded.

(3) In the case of a nonimmigrant described in section 1101 (a)(15)(K)(ii) of this title, and any child of such a nonimmigrant who was admitted as accompanying, or following to join, such a nonimmigrant, the period of authorized admission shall terminate 30 days after the date on which any of the following is denied:

(A) The petition filed under section 1154 of this title to accord the principal alien status under section 1151 (b)(2)(A)(i) of this title.

(B) The principal alien's application for an immigrant visa pursuant to the approval of such petition.

(C) The principal alien's application for adjustment of status under section 1255 of this title pursuant to the approval of such petition.

(4) (A) The Secretary of Homeland Security shall create a database for the purpose of tracking multiple visa petitions filed for fiance(e)s and spouses under clauses (i) and (ii) of section 1101 (a)(15)(K) of this title. Upon approval of a second visa petition under section 1101 (a)(15)(K) of this title for a fiance(e) or spouse filed by the same United States citizen petitioner, the petitioner shall be notified by the Secretary that information concerning the petitioner has been entered into the multiple visa petition tracking database. All subsequent fiance(e) or spouse nonimmigrant visa petitions filed by that petitioner under such section shall be entered in the database.

(B) (i) Once a petitioner has had two fiance(e) or spousal petitions approved under clause (i) or (ii) of section 1101 (a)(15)(K) of this title, if a subsequent petition is filed under such section less than 10 years after the date the first visa petition was filed under such section, the Secretary of Homeland Security shall notify both the petitioner and beneficiary of any such subsequent petition about the number of previously approved fiance(e) or spousal petitions listed in the database.

(ii) A copy of the information and resources pamphlet on domestic violence developed under section 1375a (a) of this title shall be mailed to the beneficiary along with the notification required in clause (i).

(5) In this subsection:

(A) The terms "domestic violence", "sexual assault", "child abuse and neglect", "dating violence", "elder abuse", and "stalking" have the meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.³

(B) The term "specified crime" means the following:

(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking.

(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.

(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.

Footnotes

¹ So in original. The word “before” probably should not appear.

² See References in Text note below.

³ See References in Text note below.

(June 27, 1952, ch. 477, title II, ch. 2, § 214, 66 Stat. 189; Pub. L. 91–225, § 3, Apr. 7, 1970, 84 Stat. 117; Pub. L. 98–454, title VI, § 602(b), Oct. 5, 1984, 98 Stat. 1737; Pub. L. 99–603, title III, §§ 301(b), 313 (b), Nov. 6, 1986, 100 Stat. 3411, 3438; Pub. L. 99–639, § 3(a), (c), Nov. 10, 1986, 100 Stat. 3542; Pub. L. 100–449, title III, § 307(b), Sept. 28, 1988, 102 Stat. 1877; Pub. L. 100–525, § 2(l)(1), Oct. 24, 1988, 102 Stat. 2612; Pub. L. 101–649, title II, §§ 202(a), 205 (a), (b), (c)(2), 206 (b), 207 (b), Nov. 29, 1990, 104 Stat. 5014, 5019, 5020, 5023, 5025; Pub. L. 102–232, title II, §§ 202(a), 203 (b), 204, 205 (d), (e), 206 (a), (c)(2), 207 (a), (c)(1), title III, § 303(a)(10)–(12), Dec. 12, 1991, 105 Stat. 1737–1741, 1748; Pub. L. 103–182, title III, § 341(b), (c), Dec. 8, 1993, 107 Stat. 2116, 2117; Pub. L. 103–322, title XIII, § 130003(b)(2), Sept. 13, 1994, 108 Stat. 2025; Pub. L. 103–416, title II, § 220(b), Oct. 25, 1994, 108 Stat. 4319; Pub. L. 104–208, div. C, title III, § 308(e)(1)(D), (2)(B), (f)(1)(G), (H), (3)(B), (g)(5)(A)(i), (7)(A), title VI, §§ 621, 622 (c), 625 (a)(1), 671 (a)(3)(A), (e)(4)(A), Sept. 30, 1996, 110 Stat. 3009–619 to 3009–621, 3009–623, 3009–695, 3009–699, 3009–721, 3009–723; Pub. L. 105–65, title I, § 108, Oct. 27, 1997, 111 Stat. 1350; Pub. L. 105–277, div. C, title IV, §§ 411(a), 414 (a), Oct. 21, 1998, 112 Stat. 2681–642, 2681–651; Pub. L. 106–104, § 2, Nov. 13, 1999, 113 Stat. 1483; Pub. L. 106–311, § 1, Oct. 17, 2000, 114 Stat. 1247; Pub. L. 106–313, title I, §§ 102(a), 103, 105 (a), 108, Oct. 17, 2000, 114 Stat. 1251–1253, 1255; Pub. L. 106–386, div. A, § 107(e)(2), div. B, title V, § 1513(c), Oct. 28, 2000, 114 Stat. 1478, 1535; Pub. L. 106–396, title IV, § 401, Oct. 30, 2000, 114 Stat. 1647; Pub. L. 106–553, § 1(a)(2) [title XI, §§ 1102(b), (d)(1), 1103 (b), (c)(1)], Dec. 21, 2000, 114 Stat. 2762, 2762A–142, 2762A–144, 2762A–145; Pub. L. 107–45, § 1, Oct. 1, 2001, 115 Stat. 258; Pub. L. 107–124, Jan. 16, 2002, 115 Stat. 2402; Pub. L. 107–125, §§ 1, 2 (a), Jan. 16, 2002, 115 Stat. 2403; Pub. L. 107–273, div. C, title I, § 11018(a), Nov. 2, 2002, 116 Stat. 1825; Pub. L. 107–274, § 2(c), Nov. 2, 2002, 116 Stat. 1923; Pub. L. 108–77, title IV, §§ 402(a)(2), (d)(1), 403, 404, Sept. 3, 2003, 117 Stat. 940, 946, 947; Pub. L. 108–78, title IV, § 402, Sept. 3, 2003, 117 Stat. 970; Pub. L. 108–193, §§ 4(b)(2), 8 (a)(3), Dec. 19, 2003, 117 Stat. 2878, 2886; Pub. L. 108–441, § 1(b)–(d), Dec. 3, 2004, 118 Stat. 2630; Pub. L. 108–447, div. J, title IV, §§ 412(a), 413 (a), 422 (b), 425 (a) 426 (a), Dec. 8, 2004, 118 Stat. 3351–3353, 3356, 3357; Pub. L. 109–13, div. B, title IV, §§ 402(a), 403 (a), 404 (a), 405, title V, § 501(b), (c), May 11, 2005, 119 Stat. 318–322; Pub. L. 109–162, title VIII, §§ 821(a), (b), (c)(2), 832 (a)(1),(2), Jan. 5, 2006, 119 Stat. 3062, 3066, 3067; Pub. L. 109–364, div. A, title X, § 1074(a), Oct. 17, 2006, 120 Stat. 2403; Pub. L. 109–463, § 2, Dec. 22, 2006, 120 Stat. 3477; Pub. L. 110–229, title VII, § 702(b)(1), May 8, 2008, 122 Stat. 860; Pub. L. 110–362, § 2, Oct. 8, 2008, 122 Stat. 4013; Pub. L. 110–457, title II, § 201(b), (c), Dec. 23, 2008, 122 Stat. 5053.)

Amendment of Section

For termination of amendment by section 107(c) of Pub. L. 108–78, see Effective and Termination Dates of 2003 Amendment note below.

For termination of amendment by section 107(c) of Pub. L. 108–77, see Effective and Termination Dates of 2003 Amendment note below.

References in Text

The International Organizations Immunities Act, referred to in subsec. (b), is act Dec. 29, 1945, ch. 652, title I, 59 Stat. 669, as amended, which is classified principally to subchapter XVIII (§ 288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 288 of Title 22 and Tables.

Section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, referred to in subsecs. (d)(3)(A) and (r)(5)(A), is section 3 of Pub. L. 109–162, which enacted sections 3796gg–2 and 13925 of Title 42, The Public Health and Welfare, amended sections 3796gg–3, 3796hh–4, 10420, 13975, and 14039 of Title 42, repealed former section 3796gg–2 of Title 42, and amended provisions set out as a note under section 3796gg–2 of Title 42.

Codification

In subsec. (f)(1), “section 116 of title 46” substituted for “section 2101 (46) of title 46, United States Code” on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, section 4 of which enacted subtitle I of Title 46, Shipping.

Amendments

2008—Subsec. (a)(1). Pub. L. 110–229 substituted “Guam or the Commonwealth of the Northern Mariana Islands” for “Guam” wherever appearing and substituted “45 days” for “fifteen days”.

Subsec. (l)(1)(D)(ii). Pub. L. 110–362 substituted “10” for “5”.

Subsec. (o)(7)(B). Pub. L. 110–457, § 201(b)(1), inserted dash after “if”, designated remainder of existing provisions as cl. (i), and added cls. (ii) and (iii).

Subsec. (o)(7)(C). Pub. L. 110–457, § 201(b)(2), added subpar. (C).

Subsec. (p)(6). Pub. L. 110–457, § 201(c), inserted at end “The Secretary of Homeland Security may extend, beyond the 4-year period authorized under this section, the authorized period of status of an alien as a nonimmigrant under section 1101 (a)(15)(U) of this title if the Secretary determines that an extension of such period is warranted due to exceptional circumstances. Such alien’s nonimmigrant status shall be extended beyond the 4-year period authorized under this section if the alien is eligible for relief under section 1255 (m) of this title and is unable to obtain such relief because regulations have not been issued to implement such section and shall be extended during the pendency of an application for adjustment of status under section 1255 (m) of this title. The Secretary may grant work authorization to any alien who has a pending, bona fide application for nonimmigrant status under section 1101 (a)(15)(U) of this title.”

2006—Subsec. (c)(4)(A)(i), (ii). Pub. L. 109–463, § 2(a), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

“(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

“(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.”

Subsec. (c)(4)(F) to (H). Pub. L. 109–463, § 2(b)–(d), added subpars. (F) to (H).

Subsec. (d). Pub. L. 109–162, § 832(a)(1), designated existing provisions as par. (1), inserted after second sentence “Such information shall include information on any criminal convictions of the petitioner for any specified crime.”, substituted “Secretary of Homeland Security” for “Attorney General” wherever appearing, and added pars. (2) and (3).

Subsec. (g)(9)(A). Pub. L. 109–364, § 1074(a)(1), substituted “Subject to subparagraphs (B) and (C), an alien who has already been counted toward the numerical limitation of paragraph (1)(B) during fiscal year 2004, 2005, or 2006 shall not again be counted toward such limitation during fiscal year 2007” for “Subject to subparagraphs (B) and (C), an alien who has already been counted toward the numerical limitations of paragraph (1)(B) during any 1 of the 3 fiscal years prior to the fiscal year of the approved start date of a petition for a nonimmigrant worker described in section 1101 (a)(15)(H)(ii)(b) of this title shall not be counted toward such limitation for the fiscal year in which the petition is approved”.

Subsec. (g)(9)(B). Pub. L. 109–364, § 1074(a)(2), substituted “to admit or otherwise provide status under section 1101 (a)(15)(H)(ii)(b) of this title” for “referred to in subparagraph (A)” in introductory provisions.

Subsec. (l)(2)(A). Pub. L. 109–162, § 821(c)(2), substituted “1258(a)(2)” for “1258(2)”.

Subsec. (o)(7). Pub. L. 109–162, § 821(a), added par. (7).

Subsec. (p)(6). Pub. L. 109–162, § 821(b), added par. (6).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Subsec. (r)(1). Pub. L. 109–162, § 832(a)(2)(A), inserted at end “Such information shall include information on any criminal convictions of the petitioner for any specified crime.”

Subsec. (r)(4), (5). Pub. L. 109–162, § 832(a)(2)(B), added pars. (4) and (5).

2005—Subsec. (c)(13). Pub. L. 109–13, § 403(a), added par. (13).

Subsec. (c)(14). Pub. L. 109–13, § 404(a), added par. (14).

Subsec. (g)(9). Pub. L. 109–13, § 402(a), added par. (9).

Subsec. (g)(10). Pub. L. 109–13, § 405, added par. (10).

Subsec. (g)(11). Pub. L. 109–13, § 501(b), added par. (11).

Subsec. (i)(1). Pub. L. 109–13, § 501(c), inserted “, section 1101 (a)(15)(E)(iii) of this title,” after “section 1101 (a)(15)(H)(i)(b) of this title” in introductory provisions.

2004—Subsec. (c)(2)(A). Pub. L. 108–447, § 413(a), struck out at end “In the case of an alien seeking admission under section 1101 (a)(15)(L) of this title, the 1-year period of continuous employment required under such section is deemed to be reduced to a 6-month period if the importing employer has filed a blanket petition under this subparagraph and met the requirements for expedited processing of aliens covered under such petition.”

Subsec. (c)(2)(F). Pub. L. 108–447, § 412(a), added subpar. (F).

Subsec. (c)(9)(A). Pub. L. 108–447, § 422(b)(1), struck out “October 1, 2003” before “a petition under paragraph (1)” in introductory provisions.

Subsec. (c)(9)(B). Pub. L. 108–447, § 422(b)(2), (3), substituted “\$1,500” for “\$1,000” and inserted before period at end “except that the fee shall be half the amount for each such petition by any employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer)”.

Subsec. (c)(12). Pub. L. 108–447, § 426(a), added par. (12).

Subsec. (g)(5). Pub. L. 108–447, § 425(a)(1), struck out “is employed (or has received an offer of employment) at” after “section 1101 (a)(15)(H)(i)(b) of this title who” in introductory provisions.

Subsec. (g)(5)(A). Pub. L. 108–447, § 425(a)(2), inserted “is employed (or has received an offer of employment) at” before “an institution” and struck out “or” at end.

Subsec. (g)(5)(B). Pub. L. 108–447, § 425(a)(3), inserted “is employed (or has received an offer of employment) at” before “a nonprofit” and substituted “; or” for period at end.

Subsec. (g)(5)(C). Pub. L. 108–447, § 425(a)(4), added subpar. (C).

Subsec. (l)(1)(D). Pub. L. 108–441, § 1(c), (d), substituted “agrees to practice primary care or specialty medicine” for “agrees to practice medicine” and “except that—” for “except that, in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary.” and added cls. (i) to (iii).

Subsec. (l)(2)(A). Pub. L. 108–441, § 1(b), inserted at end “The numerical limitations contained in subsection (g)(1)(A) of this section shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.”

2003—Subsec. (b). Pub. L. 108–77, §§ 107(c), 404 (1), temporarily substituted “(other than a nonimmigrant described in subparagraph (L) or (V) of section 1101 (a)(15) of this title, and other than a nonimmigrant described in any provision of section 1101 (a)(15)(H)(i) of this title except subclause (b1) of such section)” for “(other than a nonimmigrant described in subparagraph (H)(i), (L), or (V) of section 1101 (a)(15) of this title)”. See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (c)(1). Pub. L. 108–77, §§ 107(c), 404 (2), temporarily substituted “subparagraph (H), (L), (O), or (P)(i) of section 1101 (a)(15) of this title (excluding nonimmigrants under section 1101 (a)(15)(H)(i)(b1) of this title)” for “section 1101 (a)(15)(H), (L), (O), or (P)(i) of this title”. See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (c)(11). Pub. L. 108–77, §§ 107(c), 402 (d)(1), temporarily added par. (11). See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (g)(8). Pub. L. 108–77, §§ 107(c), 402 (a)(2)(B), temporarily added par. (8). See Effective and Termination Dates of 2003 Amendments note below.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscp.html>).

Subsec. (g)(8)(A). Pub. L. 108–78, §§ 107(c), 402 (1), temporarily amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “The agreement referred to in section 1101 (a)(15)(H)(i)(b1) of this title is the United States-Chile Free Trade Agreement.” See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (g)(8)(B)(ii). Pub. L. 108–78, §§ 107(c), 402 (2), temporarily amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “The annual numerical limitations described in clause (i) shall not exceed 1,400 for nationals of Chile for any fiscal year. For purposes of this clause, the term ‘national’ has the meaning given such term in article 14.9 of the United States-Chile Free Trade Agreement.” See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (h). Pub. L. 108–77, §§ 107(c), 404 (3), temporarily substituted “(H)(i)(b) or (c)” for “(H)(i)”. See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (i)(1). Pub. L. 108–77, §§ 107(c), 402 (a)(2)(A)(i), temporarily substituted “Except as provided in paragraph (3), for purposes” for “For purposes”. See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (i)(3). Pub. L. 108–77, §§ 107(c), 402 (a)(2)(A)(ii), temporarily added par. (3). See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (j). Pub. L. 108–77, §§ 107(c), 403, temporarily designated existing provisions as par. (1), substituted “this paragraph” for “this subsection” in two places, and added par. (2). See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (m). Pub. L. 108–193, § 8(a)(3), redesignated subsec. (m), relating to increased portability of H–1B status, as (n).

Subsec. (n). Pub. L. 108–193, § 8(a)(3), redesignated subsec. (m), relating to increased portability of H–1B status, as (n). Former subsec. (n), relating to nonimmigrants guilty of trafficking in persons, redesignated (o).

Subsec. (n)(3). Pub. L. 108–193, § 4(b)(2)(A), inserted “siblings,” before “or parents”.

Subsec. (n)(4) to (6). Pub. L. 108–193, § 4(b)(2)(B), added pars. (4) to (6).

Subsec. (o). Pub. L. 108–193, § 8(a)(3), redesignated subsec. (n) as (o). Former subsec. (o), relating to requirements applicable to section 1101 (a)(15)(U) visas, redesignated (p). Another former subsec. (o), relating to employment of nonimmigrants described in section 1101 (a)(15)(V) of this title, redesignated (q).

Subsec. (p). Pub. L. 108–193, § 8(a)(3), redesignated subsec. (o), relating to requirements applicable to section 1101 (a)(15)(U) visas, as (p). Former subsec. (p) redesignated (r).

Subsec. (q). Pub. L. 108–193, § 8(a)(3), redesignated subsec. (o), relating to employment of nonimmigrants described in section 1101 (a)(15)(V) of this title, as (q).

Subsec. (r). Pub. L. 108–193, § 8(a)(3), redesignated subsec. (p) as (r).

2002—Subsec. (c)(2)(A). Pub. L. 107–125, § 2(a), inserted at end “In the case of an alien seeking admission under section 1101 (a)(15)(L) of this title, the 1-year period of continuous employment required under such section is deemed to be reduced to a 6-month period if the importing employer has filed a blanket petition under this subparagraph and met the requirements for expedited processing of aliens covered under such petition.”

Subsec. (c)(2)(E). Pub. L. 107–125, § 1, added subpar. (E).

Subsec. (e)(6). Pub. L. 107–124 added par. (6).

Subsec. (l)(1)(B). Pub. L. 107–273 substituted “30;” for “20;”.

Subsec. (m). Pub. L. 107–274 substituted “clause (i) or (iii) of section 1101 (a)(15)(F)” for “section 1101 (a)(15)(F)(i)” in two places in subsec. (m) relating to nonimmigrant elementary and secondary school students.

2001—Subsec. (k)(2). Pub. L. 107–45, § 1(2), redesignated par. (3) as (2).

Pub. L. 107–45, § 1(1), which directed that subsec. (k) be amended by striking (2), was executed by striking par. (2) to reflect the probable intent of Congress. Prior to amendment, par. (2) read as follows: “No alien may be admitted into the United States as such a nonimmigrant more than 7 years after September 13, 1994.”

Subsec. (k)(3). Pub. L. 107–45, § 1(2), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (k)(4). Pub. L. 107–45, § 1(2), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (k)(4)(E). Pub. L. 107–45, § 1(3), substituted “paragraph (3)” for “paragraph (4)”.

Subsec. (k)(5). Pub. L. 107–45, § 1(2), redesignated par. (5) as (4).

2000—Subsec. (b). Pub. L. 106–553, § 1(a)(2) [title XI, § 1102(d)(1)], substituted “(H)(i), (L), or (V)” for “(H)(i) or (L)”.

Subsec. (c)(9)(A). Pub. L. 106–311, § 1(1), substituted “(excluding any employer that is a primary or secondary education institution, an institution of higher education, as defined in section 1001 (a) of title 20, a nonprofit entity related to or affiliated with any such institution, a nonprofit entity which engages in established curriculum-related clinical training of students registered at any such institution, a nonprofit research organization, or a governmental research organization) filing before October 1, 2003” for “(excluding an employer described in subparagraph (A) or (B) of section 1182 (p)(1) of this title) filing (on or after December 1, 1998, and before October 1, 2001)”.

Subsec. (c)(9)(B). Pub. L. 106–311, § 1(2), substituted “\$1,000” for “\$500”.

Subsec. (c)(10). Pub. L. 106–396 added par. (10).

Subsec. (d). Pub. L. 106–553, § 1(a)(2) [title XI, § 1103(c)(1)], substituted “1101(a)(15)(K)(i)” for “1101(a)(15)(K)”.

Subsec. (g)(1)(A)(iv) to (vii). Pub. L. 106–313, § 102(a), added cls. (iv) to (vi), redesignated former cl. (v) as (vii), and struck out former cl. (iv) which read as follows: “107,500 in fiscal year 2001; and”.

Subsec. (g)(3). Pub. L. 106–313, § 108, amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status.”

Subsec. (g)(5) to (7). Pub. L. 106–313, § 103, added pars. (5) to (7).

Subsec. (h). Pub. L. 106–553, § 1(a)(2) [title XI, § 1102(d)(1)], substituted “(H)(i), (L), or (V)” for “(H)(i) or (L)”.

Subsec. (l). Pub. L. 106–386, § 107(e)(2)(A), redesignated subsec. (l), relating to nonimmigrant elementary and secondary school students, as (m).

Subsec. (m). Pub. L. 106–386, § 107(e)(2)(A), redesignated subsec. (l), relating to nonimmigrant elementary and secondary school students, as (m).

Pub. L. 106–313, § 105(a), added subsec. (m) relating to increased portability of H–1B status.

Subsec. (n). Pub. L. 106–386, § 107(e)(2)(B), added subsec. (n).

Subsec. (o). Pub. L. 106–553, § 1(a)(2) [title XI, § 1102(b)], added subsec. (o) relating to employment of nonimmigrants described in section 1101 (a)(15)(V) of this title.

Pub. L. 106–386, § 1513(c), added subsec. (o) relating to requirements applicable to section 1101 (a)(15)(U) visas.

Subsec. (p). Pub. L. 106–553, § 1(a)(2) [title XI, § 1103(b)], added subsec. (p).

1999—Subsec. (k)(2). Pub. L. 106–104 substituted “7 years” for “5 years”.

1998—Subsec. (c)(9). Pub. L. 105–277, § 414(a), added par. (9).

Subsec. (g)(1)(A). Pub. L. 105–277, § 411(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “under section 1101 (a)(15)(H)(i)(b) of this title may not exceed 65,000, or”.

1997—Subsec. (l)(1)(D). Pub. L. 105–65 inserted before period at end “, except that, in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary”.

1996—Subsec. (c)(2)(A). Pub. L. 104–208, § 308(f)(1)(G), substituted “admission” for “entry”.

Subsec. (c)(5)(B). Pub. L. 104–208, § 308(f)(3)(B), substituted “is admitted to” for “enters”.

Subsec. (d). Pub. L. 104–208, § 308(g)(5)(A)(i), (7)(A), substituted “sections 1229a and 1231” for “sections 1252 and 1253”.

Pub. L. 104–208, § 308(f)(1)(H), substituted “admission” for “entry”.

Pub. L. 104–208, § 308(e)(2)(B), substituted “removed” for “deported”.

Subsec. (f)(1). Pub. L. 104–208, § 671(e)(4)(A), substituted “section 40102 (a)(2) of title 49” for “section 101(3) of the Federal Aviation Act of 1958”.

Subsec. (j). Pub. L. 104–208, § 671(a)(3)(A), redesignated subsec. (j), relating to numerical limitations on the number of aliens provided with nonimmigrant visas, as (k).

Subsec. (j)(1). Pub. L. 104–208, § 621, substituted “200” for “100” and “50” for “25”.

Subsec. (k). Pub. L. 104–208, § 671(a)(3)(A), redesignated subsec. (j), relating to numerical limitations on the number of aliens provided with nonimmigrant visas, as (k). Former (k) redesignated (l).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Pub. L. 104–208, § 622(c), amended subsec. (k) generally, substituting provisions relating to requests by interested State and Federal agencies for waivers of the two-year foreign residence requirement under section 1182 (e) of this title for former provisions relating to requests by interested State agencies for such waivers.

Subsec. (k)(4)(C). Pub. L. 104–208, § 308(e)(1)(D), amended subsec. (k)(4)(C), as redesignated by Pub. L. 104–208, § 671(a)(3)(A), by substituting “removal” for “deportation”.

Subsec. (l). Pub. L. 104–208, § 671(a)(3)(A), redesignated subsec. (k) as (l).

Pub. L. 104–208, § 625(a)(1), added subsec. (l) relating to nonimmigrant elementary and secondary school students.

1994—Subsec. (j). Pub. L. 103–322 added subsec. (j) relating to numerical limitations on the number of aliens provided with nonimmigrant visas.

Subsec. (k). Pub. L. 103–416 added subsec. (k).

1993—Subsec. (e). Pub. L. 103–182, § 341(b), designated existing provisions as par. (1) and added pars. (2) to (5).

Subsec. (j). Pub. L. 103–182, § 341(c), added subsec. (j).

1991—Subsec. (a)(2)(A). Pub. L. 102–232, § 303(a)(11), substituted “described in section 1101 (a)(15)(O)” for “under section 1101 (a)(15)(O)”.

Pub. L. 102–232, § 205(d), inserted “(or events)” after “event”.

Subsec. (a)(2)(B). Pub. L. 102–232, § 206(a), designated cl. (i) as subpar. (B) and struck out cl. (ii) which read as follows: “An alien who is admitted as a nonimmigrant under clause (ii) or (iii) of section 1101 (a)(15)(P) of this title may not be readmitted as such a nonimmigrant unless the alien has remained outside the United States for at least 3 months after the date of the most recent admission. The Attorney General may waive the application of the previous sentence in the case of individual tours in which the application would work an undue hardship.”

Subsec. (c)(2)(A). Pub. L. 102–232, § 303(a)(10)(A), substituted “individual petitions” for “individuals petitions”.

Subsec. (c)(2)(D). Pub. L. 102–232, § 303(a)(10)(B), substituted “involves” for “involved”.

Subsec. (c)(3). Pub. L. 102–232, § 205(e), inserted at end “The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 1101 (a)(15)(O)(i) of this title because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.”

Subsec. (c)(3)(A). Pub. L. 102–232, § 204(1), substituted “after consultation in accordance with paragraph (6)” for “after consultation with peer groups in the area of the alien’s ability”.

Subsec. (c)(3)(B). Pub. L. 102–232, § 204(2), substituted “after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien’s ability” for “after consultation with labor organizations with expertise in the skill area involved”.

Subsec. (c)(4)(A), (B). Pub. L. 102–232, § 203(b), added subpars. (A) and (B) and redesignated former subpars. (A) and (B) as (C) and (D), respectively.

Subsec. (c)(4)(C). Pub. L. 102–232, § 204(3), struck out “clause (ii) of” after “under”.

Pub. L. 102–232, § 203(b), redesignated subpar. (A) as (C). Former subpar. (C) redesignated (E).

Subsec. (c)(4)(D). Pub. L. 102–232, § 204(4), substituted “after consultation in accordance with paragraph (6)” for “after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved”.

Pub. L. 102–232, § 203(b), redesignated subpar. (B) as (D).

Subsec. (c)(4)(E). Pub. L. 102–232, § 206(c)(2), struck out before period at end “, in order to assure reciprocity in fact with foreign states”.

Pub. L. 102–232, § 203(b), redesignated subpar. (C) as (E).

Subsec. (c)(5). Pub. L. 102–232, § 207(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(5)(A). Pub. L. 102–232, § 303(a)(12), substituted “1101(a)(15)(H)(ii)(b)” for “1101(H)(ii)(b)”.

Subsec. (c)(6), (7). Pub. L. 102–232, § 204(5), (6), added par. (6) and redesignated former par. (6) as (7).

Subsec. (c)(8). Pub. L. 102–232, § 207(c)(1), added par. (8).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscp.html>).

Subsec. (g)(1). Pub. L. 102–232, § 202(a), inserted “or” at end of subpar. (A), substituted a period for “, or” at end of subpar. (B), and struck out subpar. (C) which read as follows: “under section 1101 (a)(15)(P)(i) or section 1101 (a)(15)(P)(iii) of this title may not exceed 25,000.”

1990—Subsec. (a). Pub. L. 101–649, § 207(b)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 101–649, § 205(b)(1), inserted “(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 1101 (a)(15) of this title)” after “Every alien”.

Subsec. (c). Pub. L. 101–649, §§ 206(b), 207 (b)(2)(B), designated existing provisions as par. (1), substituted reference to section 1101 (a)(15)(H), (L), (O), or (P)(i) of this title for reference to section 1101 (a)(15)(H) or (L) of this title, and added pars. (2) to (6).

Subsec. (f). Pub. L. 101–649, § 202(a), added subsec. (f).

Subsecs. (g) to (i). Pub. L. 101–649, § 205(a), (b)(2), (c)(2), added subsecs. (g) to (i).

1988—Subsec. (c). Pub. L. 100–525, § 2(l)(1), amended Pub. L. 99–603, § 301(b). See 1986 Amendment note below.

Subsec. (e). Pub. L. 100–449 added subsec. (e).

1986—Subsec. (a). Pub. L. 99–603, § 313(b), inserted provision directing that no alien admitted without a visa pursuant to section 1187 of this title may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.

Subsec. (c). Pub. L. 99–603, § 301(b), as amended by Pub. L. 100–525, § 2(l)(1), inserted provisions relating to nonimmigrants described in section 1101 (a)(15)(H)(ii)(a) of this title.

Subsec. (d). Pub. L. 99–639, § 3(a), substituted “have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry,” for “have a bona fide intention to marry”, and inserted “, except that the Attorney General in his discretion may waive the requirement that the parties have previously met in person”.

Pub. L. 99–639, § 3(c), struck out last sentence which read: “In the event the marriage between the said alien and the petitioner shall occur within three months after the entry and they are found otherwise admissible, the Attorney General shall record the lawful admission for permanent residence of the alien and minor children as of the date of the payment of the required visa fees.”

1984—Subsec. (a). Pub. L. 98–454 inserted “No alien admitted to Guam without a visa pursuant to section 1182 (l) of this title may be authorized to enter or stay in the United States other than in Guam or to remain in Guam for a period exceeding fifteen days from date of admission to Guam.”

1970—Subsec. (c). Pub. L. 91–225, § 3(a), inserted reference to subpar. (L) of section 1101 (a)(15) of this title.

Subsec. (d). Pub. L. 91–225, § 3(b), added subsec. (d).

Effective Date of 2008 Amendment

Amendment by Pub. L. 110–457 effective Dec. 23, 2008, and applicable to applications for immigration benefits filed on or after Dec. 23, 2008, see section 201(f) of Pub. L. 110–457, set out as a note under section 1101 of this title.

Amendment by Pub. L. 110–229 effective on the transition program effective date described in section 1806 of Title 48, Territories and Insular Possessions, see section 705(b) of Pub. L. 110–229, set out as an Effective Date note under section 1806 of Title 48.

Effective Date of 2006 Amendment

Pub. L. 109–364, div. A, title X, § 1074(c), Oct. 17, 2006, 120 Stat. 2403, provided that: “The amendments made by this section [amending this section and provisions set out as a note under this section] shall take effect on October 1, 2006. If this section is enacted after October 1, 2006, the amendments made by this section shall take effect as if enacted on such date.”

Pub. L. 109–162, title VIII, § 832(a)(3), Jan. 5, 2006, 119 Stat. 3068, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date that is 60 days after the date of the enactment of this Act [Jan. 5, 2006].”

Effective Date of 2005 Amendment

Pub. L. 109–13, div. B, title IV, § 402(b), May 11, 2005, 119 Stat. 318, as amended by Pub. L. 109–364, div. A, title X, § 1074(b), Oct. 17, 2006, 120 Stat. 2403, provided that:

“(1) In general.—The amendment in subsection (a) [amending this section] shall take effect as if enacted on October 1, 2004.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

“(2) Implementation.—Not later than 14 days after the date of the enactment of this Act [May 11, 2005], the Secretary of Homeland Security shall begin accepting and processing petitions filed on behalf of aliens described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act [8 U.S.C. 1101 (a)(15)(H)(ii)(b)], in a manner consistent with this section [amending this section] and the amendments made by this section. Notwithstanding section 214(g)(9)(B) of such Act [8 U.S.C. 1184 (g)(9)(B)], as added by subsection (a), the Secretary of Homeland Security shall allocate additional numbers for fiscal year 2005 based on statistical estimates and projections derived from Department of State data.”

Pub. L. 109–13, div. B, title IV, § 403(c), May 11, 2005, 119 Stat. 319, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1356 of this title] shall take effect 14 days after the date of the enactment of this Act [May 11, 2005] and shall apply to filings for a fiscal year after fiscal year 2005.”

Pub. L. 109–13, div. B, title IV, § 404(b), May 11, 2005, 119 Stat. 320, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2005.”

Effective Date of 2004 Amendment

Pub. L. 108–447, div. J, title IV, § 412(b), Dec. 8, 2004, 118 Stat. 3352, provided that: “The amendment made by subsection (a) [amending this section] shall apply to petitions filed on or after the effective date of this subtitle [subtitle A, effective 180 days after Dec. 8, 2004, see below], whether for initial, extended, or amended classification.”

Pub. L. 108–447, div. J, title IV, § 413(b), Dec. 8, 2004, 118 Stat. 3352, provided that: “The amendment made by subsection (a) [amending this section] shall apply only to petitions for initial classification filed on or after the effective date of this subtitle [subtitle A, effective 180 days after Dec. 8, 2004, see below].”

Pub. L. 108–447, div. J, title IV, § 417, Dec. 8, 2004, 118 Stat. 3353, provided that: “This subtitle [subtitle A (§§ 411–417) of title IV of div. J of Pub. L. 108–447, enacting section 1380 of this title, amending this section, and enacting provisions set out as notes under this section and section 1101 of this title] and the amendments made by this subtitle shall take effect 180 days after the date of enactment of this Act [Dec. 8, 2004].”

Amendment by sections 422(b) and 426(a) of Pub. L. 108–447 effective Dec. 8, 2004, and amendment by section 425(a) of Pub. L. 108–447 effective 90 days after Dec. 8, 2004, see section 430 of Pub. L. 108–447, set out as a note under section 1182 of this title.

Pub. L. 108–447, div. J, title IV, § 426(c), Dec. 8, 2004, 118 Stat. 3358, provided that: “The amendments made by this section [amending this section and section 1356 of this title] shall take effect on the date of enactment of this Act [Dec. 8, 2004], and the fees imposed under such amendments shall apply to petitions under section 214(c) of the Immigration and Nationality Act [8 U.S.C. 1184 (c)], and applications for nonimmigrant visas under section 222 of such Act [8 U.S.C. 1202], filed on or after the date that is 90 days after the date of the enactment of this Act.”

Effective and Termination Dates of 2003 Amendments

Amendment by Pub. L. 108–78 effective on the date the United States-Singapore Free Trade Agreement enters into force (Jan. 1, 2004), and ceases to be effective on the date the Agreement ceases to be in force, see section 107 of Pub. L. 108–78, set out in a note under section 3805 of Title 19, Customs Duties.

Amendment by Pub. L. 108–77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and ceases to be effective on the date the Agreement ceases to be in force, see section 107 of Pub. L. 108–77, set out as a note under section 3805 of Title 19, Customs Duties.

Effective Date of 2002 Amendment

Amendment by Pub. L. 107–273 effective as if enacted May 31, 2002, see section 11018(d) of Pub. L. 107–273, set out as a note under section 1182 of this title.

Effective Date of 2000 Amendments

Amendment by section 1 (a)(2) [title XI, § 1102(b), (d)(1)] of Pub. L. 106–553 effective Dec. 21, 2000, and applicable to alien who is beneficiary of classification petition filed under section 1154 of this title on or before Dec. 21, 2000, see section 1 (a)(2) [title XI, § 1102(e)] of Pub. L. 106–553, set out as a note under section 1101 of this title.

Amendment by section 1 (a)(2) [title XI, § 1103(b), (c)(1)] of Pub. L. 106–553 effective Dec. 21, 2000, and applicable to alien who is beneficiary of classification petition filed under section 1154 of this title before, on, or after Dec. 21, 2000, see section 1 (a)(2) [title XI, § 1103(d)] of Pub. L. 106–553, set out as a note under section 1101 of this title.

Pub. L. 106–313, title I, § 105(b), Oct. 17, 2000, 114 Stat. 1253, provided that: “The amendment made by subsection (a) [amending this section] shall apply to petitions filed before, on, or after the date of enactment of this Act [Oct. 17, 2000].”

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscp.html>).

Pub. L. 106–311, § 2, Oct. 17, 2000, 114 Stat. 1247, provided that: “The amendment made by section 1 (2) [amending this section] shall apply only to petitions that are filed on or after the date that is 2 months after the date of the enactment of this Act [Oct. 17, 2000].”

Effective Date of 1998 Amendment

Pub. L. 105–277, div. C, title IV, § 411(b), Oct. 21, 1998, 112 Stat. 2681–642, provided that: “The amendment made by subsection (a) [amending this section] applies beginning with fiscal year 1999.”

Effective Date of 1996 Amendment

Amendment by section 308(e)(1)(D), (2)(B), (f)(1)(G), (H), (3)(B), (g)(5)(A)(i), (7)(A) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

Amendment by section 625(a)(1) of Pub. L. 104–208 applicable to individuals who obtain status of nonimmigrant under section 1101 (a)(15)(F) of this title after end of 60-day period beginning Sept. 30, 1996, including aliens whose status as such a nonimmigrant is extended after end of such period, see section 625(c) of Pub. L. 104–208, set out as a note under section 1101 of this title.

Amendment by section 671(a)(3)(A) of Pub. L. 104–208 effective as if included in the enactment of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103–322, see section 671(a)(7) of Pub. L. 104–208, set out as a note under section 1101 of this title.

Effective Date of 1994 Amendment

Amendment by Pub. L. 103–416 applicable to aliens admitted to United States under section 1101 (a)(15)(J) of this title, or acquiring such status after admission to United States, before, on, or after Oct. 25, 1994, and before June 1, 2008, see section 220(c) of Pub. L. 103–416, as amended, set out as an Effective and Termination Dates of 1994 Amendments note under section 1182 of this title.

Effective Date of 1993 Amendment

Amendment by Pub. L. 103–182 effective on date the North American Free Trade Agreement enters into force with respect to the United States (Jan. 1, 1994), see section 342 of Pub. L. 103–182, set out as a note under section 3401 of Title 19, Customs Duties.

Effective Date of 1991 Amendment

Amendment by sections 202(a), 203(b), 204, 205(d), (e), 206(a), (c)(2), 207(a), (c)(1) of Pub. L. 102–232 effective Apr. 1, 1992, see section 208 of Pub. L. 102–232, set out as a note under section 1101 of this title.

Amendment by section 303 (a)(10)–(12) 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.

Effective Date of 1990 Amendment

Amendment by section 202(a) of Pub. L. 101–649 effective 60 days after Nov. 29, 1990, see section 202(c) of Pub. L. 101–649, set out as a note under section 1182 of this title.

Amendment by sections 205(a), (b), (c)(2), 206(b), and 207(b) of Pub. L. 101–649 effective Oct. 1, 1991, see section 231 of Pub. L. 101–649, set out as a note under section 1101 of this title.

Effective and Termination Dates of 1988 Amendments

Amendment by 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 an Effective Date of 1988 Amendment note under section 1101 of this title.

Amendment by Pub. L. 100–449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

Effective Date of 1986 Amendments

Section 3(d)(1), (3) of Pub. L. 99–639 provided that:

“(1) The amendments made by subsection (a) [amending this section] shall apply to petitions approved on or after the date of the enactment of this Act [Nov. 10, 1986].”

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscp.html>).

“(3) The amendment made by subsection (c) [amending this section] shall apply to aliens issued visas under section 101(a)(15)(K) of the Immigration and Nationality Act [8 U.S.C. 1101 (a)(15)(K)] on or after the date of the enactment of this Act.”

Amendment by section 301(b) of Pub. L. 99–603 applicable to petitions and applications filed under sections 1184 (c) and 1188 of this title on or after the first day of the seventh month beginning after Nov. 6, 1986, see section 301(d) of Pub. L. 99–603, as amended, set out as an Effective Date note under section 1188 of this title.

Transfer of Functions

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of Title 22, Foreign Relations and Intercourse.

Abolition of Immigration and Naturalization Service and Transfer of Functions

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

Limitation on Use of Certain Information

Pub. L. 109–162, title VIII, § 832(b), Jan. 5, 2006, 119 Stat. 3068, provided that: “The fact that an alien described in clause (i) or (ii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(15)(K)) is aware of any information disclosed under the amendments made by this section [amending this section] or under section 833 [enacting section 1375a of this title and repealing section 1375 of this title] shall not be used to deny the alien eligibility for relief under any other provision of law.”

Exemption From Administrative Procedure Act

Pub. L. 109–13, div. B, title IV, § 407, May 11, 2005, 119 Stat. 321, provided that: “The requirements of chapter 5 of title 5, United States Code (commonly referred to as the ‘Administrative Procedure Act’) or any other law relating to rulemaking, information collection or publication in the Federal Register, shall not apply to any action to implement sections 402, 403, and 405 [amending this section and section 1356 of this title and enacting provisions set out as notes under this section] or the amendments made by such sections to the extent the Secretary Homeland of Security, the Secretary of Labor, or the Secretary of State determine that compliance with any such requirement would impede the expeditious implementation of such sections or the amendments made by such sections.”

L Visa Interagency Task Force and Inspector General Report

Pub. L. 108–447, div. J, title IV, §§ 415, 416, Dec. 8, 2004, 118 Stat. 3352, provided that:

“SEC. 415. INSPECTOR GENERAL REPORT ON L VISA PROGRAM.

“Not later than 6 months after the date of enactment of this Act [Dec. 8, 2004], the Inspector General of the Department of Homeland Security shall, consistent with the authority granted the Department under section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236), examine and report to the Committees on the Judiciary of the House of Representatives and the Senate on the vulnerabilities and potential abuses in the visa program carried out under section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184 (c)) with respect to nonimmigrants described in section 101(a)(15)(L) of such Act (8 U.S.C. 1101 (a)(15)(L)).

“SEC. 416. ESTABLISHMENT OF TASK FORCE.

“(a) Establishment.—Not later than 6 months after the date of enactment of this Act [Dec. 8, 2004], there shall be established an L Visa Interagency Task Force that consists of representatives from the Department of Homeland Security, the Department of Justice, and the Department of State. The Secretaries of each Department and each relevant bureau of the Department of Homeland Security shall appoint designees to the L Visa Interagency Task Force. The L Visa Interagency Task Force shall consult with other agencies deemed appropriate.

“(b) Report.—Not later than 6 months after the submission of the report by the Inspector General of the Department of Homeland Security in accordance with section 6 [probably means section 415 of div. J. of Pub. L. 108–447], the L Visa Interagency Task Force shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the efforts to implement the recommendations set forth by the Inspector General’s report. The L Visa Interagency Task Force shall note specific areas of agreement and disagreement, and make recommendations to Congress on the findings of the Task Force, including any suggestions for legislation. The Task Force shall also review other additional issues as may be raised by the Inspector General’s report or by the Task Force’s own deliberations regarding the policies and purposes of the visa program relative to national goals and transnational commerce.”

Statistical Information on Country of Origin, Occupation, Educational Level and Compensation

Pub. L. 108–447, div. J, title IV, § 425(b), Dec. 8, 2004, 118 Stat. 3356, provided that: “Beginning on the date of enactment of this Act [Dec. 8, 2004], the Secretary of Homeland Security shall maintain statistical information on the country of origin and occupation of, educational level maintained by, and compensation paid to, each alien who is issued a visa or otherwise provided nonimmigrant status and is exempt under section 214(g)(5) of the Immigration and Nationality Act (8 U.S.C. 1184 (g)(5)) for each fiscal year. The statistical information shall be included in the annual report to Congress under section 416(c) of the American Competitiveness and Workforce Improvement Act of 1998 (Public Law 105–277; 112 Stat. 2681–655) [set out below].”

Additional Visas for Fiscal Years 1999 and 2000

Pub. L. 106–313, title I, § 102(b), Oct. 17, 2000, 114 Stat. 1251, provided that:

“(1) In general.—(A) Notwithstanding section 214(g)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1184 (g)(1)(A)(ii)), the total number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act [8 U.S.C. 1101 (a)(15)(H)(i)(b)] in fiscal year 1999 is increased by a number equal to the number of aliens who are issued such a visa or provided such status during the period beginning on the date on which the limitation in such section 214 (g)(1)(A)(ii) is reached and ending on September 30, 1999.

“(B) In the case of any alien on behalf of whom a petition for status under section 101 (a)(15)(H)(i)(b) is filed before September 1, 2000, and is subsequently approved, that alien shall be counted toward the numerical ceiling for fiscal year 2000 notwithstanding the date of the approval of the petition. Notwithstanding section 214(g)(1)(A)(iii) of the Immigration and Nationality Act, the total number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act in fiscal year 2000 is increased by a number equal to the number of aliens who may be issued visas or otherwise provided nonimmigrant status who filed a petition during the period beginning on the date on which the limitation in such section 214 (g)(1)(A)(iii) is reached and ending on August 31, 2000.

“(2) Effective date.—Paragraph (1) shall take effect as if included in the enactment of section 411 of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105–277) [see Effective Date of 1998 Amendment note above].”

One-Time Protection Under Per Country Ceiling

Pub. L. 106–313, title I, § 104(c), Oct. 17, 2000, 114 Stat. 1253, provided that: “Notwithstanding section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184 (g)(4)), any alien who—

“(1) is the beneficiary of a petition filed under section 204(a) of that Act [8 U.S.C. 1154 (a)] for a preference status under paragraph (1), (2), or (3) of section 203(b) of that Act [8 U.S.C. 1153 (b)]; and

“(2) is eligible to be granted that status but for application of the per country limitations applicable to immigrants under those paragraphs,

may apply for, and the Attorney General may grant, an extension of such nonimmigrant status until the alien’s application for adjustment of status has been processed and a decision made thereon.”

Special Provisions in Cases of Lengthy Adjudications

Pub. L. 106–313, title I, § 106(a), (b), Oct. 17, 2000, 114 Stat. 1253, 1254, as amended by Pub. L. 107–273, div. C, title I, § 11030A, Nov. 2, 2002, 116 Stat. 1836, provided that:

“(a) Exemption From Limitation.—The limitation contained in section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184 (g)(4)) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act (8 U.S.C. 1101 (a)(15)(H)(i)(b)), if 365 days or more have elapsed since the filing of any of the following:

“(1) Any application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182 (a)(5)(A)), in a case in which certification is required or used by the alien to obtain status under section 203(b) of such Act (8 U.S.C. 1153 (b)).

“(2) A petition described in section 204(b) of such Act (3 U.S.C. 1154 (b)) [8 U.S.C. 1154 (b)] to accord the alien a status under section 203(b) of such Act.

“(b) Extension of H–1B Worker Status.—The Attorney General shall extend the stay of an alien who qualifies for an exemption under subsection (a) in one-year increments until such time as a final decision is made—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

“(1) to deny the application described in subsection (a)(1), or, in a case in which such application is granted, to deny a petition described in subsection (a)(2) filed on behalf of the alien pursuant to such grant;

“(2) to deny the petition described in subsection (a)(2); or

“(3) to grant or deny the alien’s application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence.”

Exclusion of Certain “J” Nonimmigrants From Numerical Limitations Applicable To “H-1B” Nonimmigrants

Pub. L. 106–313, title I, § 114, Oct. 17, 2000, 114 Stat. 1262, provided that: “The numerical limitations contained in section 102 of this title [amending this section and enacting provisions set out as a note above] shall not apply to any nonimmigrant alien granted a waiver that is subject to the limitation contained in paragraph (1)(B) of the first section 214(l) of the Immigration and Nationality Act [8 U.S.C. 1184 (l)] (relating to restrictions on waivers).”

Improving Count of H-1B and H-2B Nonimmigrants

Pub. L. 105–277, div. C, title IV, § 416, Oct. 21, 1998, 112 Stat. 2681–655, as amended by Pub. L. 109–13, div. B, title IV, § 406, May 11, 2005, 119 Stat. 320, provided that:

“(a) Ensuring Accurate Count.—The Secretary of Homeland Security shall take such steps as are necessary to maintain an accurate count of the number of aliens subject to the numerical limitations of section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184 (g)(1)) who are issued visas or otherwise provided nonimmigrant status.

“(b) Revision of Petition Forms.—The Secretary of Homeland Security shall take such steps as are necessary to revise the forms used for petitions for visas or nonimmigrant status under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(15)(H)) so as to ensure that the forms provide the Secretary of Homeland Security with sufficient information to permit the Secretary of Homeland Security accurately to count the number of aliens subject to the numerical limitations of section 214(g)(1) of such Act (8 U.S.C. 1184 (g)(1)) who are issued visas or otherwise provided nonimmigrant status.

“(c) Provision of Information.—

“(1) Quarterly notification.—Beginning not later than 60 days after the first day of fiscal year 1999, the Secretary of Homeland Security shall notify, on a quarterly basis, the Committees on the Judiciary of the United States House of Representatives and the Senate of the numbers of aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act [8 U.S.C. 1101 (a)(15)(H)(i)(b)] during the preceding 3-month period.

“(2) Annual submission.—Beginning with fiscal year 2000, the Secretary of Homeland Security shall submit on an annual basis, to the Committees on the Judiciary of the United States House of Representatives and the Senate, information on the countries of origin and occupations of, educational levels attained by, and compensation paid to, aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act [8 U.S.C. 1101 (a)(15)(H)(i)(b)] during the previous fiscal year. With respect to the first submission under this paragraph, the information shall relate solely to aliens provided nonimmigrant status after the date that is 60 days after the date on which final regulations are issued to carry out section 412 (a) [amending section 1182 of this title].

“(3) Specification of number of petitions filed by certain employers.—Each notification under paragraph (1), and each submission under paragraph (2), shall include the number of aliens who were issued visas or otherwise provided nonimmigrant status pursuant to petitions filed by institutions or organizations described in section 212(p)(1) of the Immigration and Nationality Act [8 U.S.C. 1182 (p)(1)] (as added by section 415 of this title).

“(d) Provision of Information.—

“(1) Semiannual notification.—Beginning not later than March 1, 2006, the Secretary of Homeland Security and the Secretary of State shall notify, on a semiannual basis, the Committees on the Judiciary of the House of Representatives and the Senate of the number of aliens who during the preceding 1-year period—

“(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(15)(H)(ii)(b)); or

“(B) had such a visa or such status be revoked or otherwise terminated.

“(2) Annual submission.—Beginning in fiscal year 2007, the Secretary of Homeland Security and the Secretary of State shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

“(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(15)(H)(ii)(b)) during the previous fiscal year;

“(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

“(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

“(3) Information maintained by state.—If the Secretary of Homeland Security determines that information maintained by the Secretary of State is required to make a submission described in paragraph (1) or (2), the Secretary of State shall provide such information to the Secretary of Homeland Security upon request.”

Reporting on Studies Showing Economic Impact of H–1B Nonimmigrant Increase

Pub. L. 105–277, div. C, title IV, § 418(b), Oct. 21, 1998, 112 Stat. 2681–657, provided that: “The Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Chair of the Council of Economic Advisers, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, and any other member of the Cabinet, shall promptly report to the Congress the results of any reliable study that suggests, based on legitimate economic analysis, that the increase effected by section 411 (a) of this title [amending this section] in the number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act [8 U.S.C. 1101 (a)(15)(H)(i)(b)] has had an impact on any national economic indicator, such as the level of inflation or unemployment, that warrants action by the Congress.”

Deadline for First Report With Respect to Petitions

Section 207(c)(2) of Pub. L. 102–232 provided that: “The first report under section 214(c)(8) of the Immigration and Nationality Act [8 U.S.C. 1184 (c)(8)] shall be provided not later than April 1, 1993.”

Delay Until April 1, 1992, in Application of Subsection (g)(1)(C) of This Section

See section 3 of Pub. L. 102–110, set out as a Delay Until April 1, 1992, in Implementation of Provisions Relating to Nonimmigrant Artists, Athletes, Entertainers, and Fashion Models note under section 1101 of this title.

Work Authorization During Pending Labor Disputes

Section 207(c) of Pub. L. 101–649, as amended by Pub. L. 102–232, title III, § 303(a)(13), Dec. 12, 1991, 105 Stat. 1748, provided that:

“(1) In the case of an alien admitted as a nonimmigrant (other than under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act [8 U.S.C. 1101 (a)(15)(H)(ii)(a)]) and who is authorized to be employed in an occupation, if nonimmigrants constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer which strike or lockout is pending on the date of the enactment of this Act [Nov. 29, 1990] the alien—

“(A) continues to be authorized to be employed in the occupation for that employer, and

“(B) is authorized to be employed in any occupation for any other employer so long as such strike or lockout continues with respect to that occupation and employer.

“(2) In the case of an alien admitted as a nonimmigrant (other than under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act) and who is authorized to be employed in an occupation, if nonimmigrants do not constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer which strike or lockout is pending on the date of the enactment of this Act the alien—

“(A) is not authorized to be employed in the occupation for that employer, and

“(B) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

“(3) With respect to a nonimmigrant described in paragraph (1) or (2) who does not perform unauthorized employment, any limit on the period of authorized stay shall be extended by the period of the strike or lockout, except that any such extension may not continue beyond the maximum authorized period of stay.

“(4) The provisions of this subsection shall take effect on the date of the enactment of this Act.”

Off-Campus Work Authorization for Students (F Nonimmigrants)

Section 221 of Pub. L. 101-649, as amended by Pub. L. 102-232, title III, § 303(b)(1), (2), Dec. 12, 1991, 105 Stat. 1748; Pub. L. 103-416, title II, § 215(a), Oct. 25, 1994, 108 Stat. 4315, provided that:

“(a) 5-Year Provision.—With respect to work authorization for aliens admitted as nonimmigrant students described in subparagraph (F) of section 101(a)(15) of the Immigration and Nationality Act [8 U.S.C. 1101 (a)(15)] during the 5-year period beginning October 1, 1991, the Attorney General shall grant such an alien work authorization to be employed off-campus if—

“(1) the alien has completed 1 academic year as such a nonimmigrant and is maintaining good academic standing at the educational institution,

“(2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the actual wage level for the occupation at the place of employment or, if greater, the prevailing wage level for the occupation in the area of employment, and

“(3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-time basis during vacation periods and between academic terms).

If the Secretary of Labor determines that an employer has provided an attestation under paragraph (2) that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an alien student under this subsection.

“(b) Report to Congress.—Not later than April 1, 1996, the Commissioner of Immigration and Naturalization and the Secretary of Labor shall prepare and submit to the Congress a report on—

“(1) whether the program of work authorization under subsection (a) should be extended, and

“(2) the impact of such program on prevailing wages of workers.”

Limitation on Admission of Aliens Seeking Employment in the Virgin Islands

Notwithstanding any other provision of law, the Attorney General not to be authorized, on or after Sept. 30, 1982, to approve any petition filed under subsec. (c) of this section in the case of importing any alien as a nonimmigrant under section 1101 (a)(15)(H)(ii) of this title for employment in the Virgin Islands of the United States other than as an entertainer or as an athlete and for a period not exceeding 45 days, see section 3 of Pub. L. 97-271, set out as a note under section 1255 of this title.

Importation of Shepherders; Termination of Quota Deductions

Quota deductions authorized by acts June 30, 1950, ch. 423, 64 Stat. 306; Apr. 9, 1952, ch. 171, 66 Stat. 50, terminated effective July 1, 1957.

Cancellation of Certain Nonimmigrant Departure Bonds

Pub. L. 85-531, July 18, 1958, 72 Stat. 375, authorized the Attorney General, upon application made not later than July 18, 1963, to cancel any departure bond posted pursuant to the Immigration Act of 1924, as amended, or the Immigration and Nationality Act [this chapter], on behalf of any refugee who entered the United States as a nonimmigrant after May 6, 1945, and prior to July 1, 1953, and who had his immigration status adjusted to that of an alien admitted for permanent residence pursuant to any public or private law.