8 USC 1621

TITLE 8 - ALIENS AND NATIONALITY
CHAPTER 14 - RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS
SUBCHAPTER II - ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

§ 1621. Aliens who are not qualified aliens or nonimmigrants ineligible for State and local public benefits

(a) In general

Notwithstanding any other provision of law and except as provided in subsections (b) and (d) of this section, an alien who is not—

(1) a qualified alien (as defined in section 1641 of this title),
(2) a nonimmigrant under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], or
(3) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182 (d)(5)] for less than one year,
is not eligible for any State or local public benefit (as defined in subsection (c) of this section).

(b) Exceptions

Subsection (a) of this section shall not apply with respect to the following State or local public benefits:

(1) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition (as defined in section 1396b (v)(3) of title 42) of the alien involved and are not related to an organ transplant procedure.
(2) Short-term, non-cash, in-kind emergency disaster relief.
(3) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.
(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General’s sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which

(A) deliver in-kind services at the community level, including through public or private nonprofit agencies;
(B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient’s income or resources; and
(C) are necessary for the protection of life or safety.

(c) “State or local public benefit” defined

(1) Except as provided in paragraphs (2) and (3), for purposes of this subchapter the term “State or local public benefit” means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and
(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely
associated state, if section 141 of the applicable compact of free association approved in Public Law 99–239 or 99–658 (or a successor provision) is in effect;
(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General; or
(C) to the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States.

(3) Such term does not include any Federal public benefit under section 1611 (c) of this title.

(d) State authority to provide for eligibility of illegal aliens for State and local public benefits

A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) of this section only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility.


References in Text

The Immigration and Nationality Act, referred to in subsecs. (a)(2) and (c)(2)(B), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.


Amendments


1997—Subsec. (c)(2)(A). Pub. L. 105–33, § 5565, inserted before semicolon “, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99–239 or 99–658 (or a successor provision) is in effect”.

Subsec. (c)(3). Pub. L. 105–33, § 5581(b)(1), made technical amendment to reference in original act which appears in text as reference to section 1611 (c) of this title.

Effective Date of 1997 Amendment


Pilot Programs on Limiting Issuance of Driver’s License to Illegal Aliens


“(a) In General.—Pursuant to guidelines prescribed by the Attorney General not later than 6 months after the date of the enactment of this Act [Sept. 30, 1996], all States may conduct pilot programs within their State to determine the viability, advisability, and cost-effectiveness of the State’s denying driver’s licenses to aliens who are not lawfully present in the United States. Under a pilot program a State may deny a driver’s license to aliens who are not lawfully present in the United States. Such program shall be conducted in cooperation with relevant State and local authorities.
“(b) Report.—Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Judiciary Committees of the House of Representatives and of the Senate on the results of the pilot programs conducted under subsection (a).”