



STRIVE ACT AT-A-GLANCE

To embrace and uphold our tradition as a nation of immigrants.

This summary is based on a preliminary reading of the bill and will be revised as needed.

Certification Requirements (Triggers) Prior to Implementation of New Worker and Legalization Programs: DHS may not implement the new worker program and legalization programs until DHS certifies that: 1) a report to Congress on the implementation of the border surveillance technology improvements, including target dates has been submitted; (2) the systems and infrastructure necessary to improve immigration document security have been tested and are ready for use; and (3) the first phase of the Electronic Employment Verification System for critical infrastructure employers has been implemented.

TITLE I – BORDER ENFORCEMENT: Title I includes a number of enhancements to border enforcement. For example:

- Requires DHS to increase personnel such as port of entry inspectors, immigration and customs enforcement investigators, border patrol agents, and Deputy U.S. Marshals; boost technologies such as unmanned aerial vehicles, cameras, poles, sensors, and satellites; and create border security plans and strategies.
- Requires DHS to provide CBP officers with training on document fraud detection and identification; and requires that every document used as evidence of an alien’s authorization to travel be machine readable, tamper resistance and incorporate a biometric identifier.
- Requires DHS to collect statistics relating to deaths occurring at the US-Mexico border; and to work with Mexico to address border security, human trafficking, drug trafficking, gang activity, etc.
- Includes a provision titled “Safe and Secure Detention” which contains enhanced safeguards and protections for asylum seekers and immigrants facing detention, including legal orientation programs, creation of a new office for detention oversight, and establishment of a secure alternatives program.

TITLE II–INTERIOR ENFORCEMENT: Title II includes a number of enhancements to interior enforcement. For example:

- Enhances crimes associated with the money laundering and firearms offenses.
- Creates new immigration penalties for people convicted of gang crimes and bars such individuals from receiving TPS.
- Creates new immigration penalties for multiple drunk driving convictions (certain safeguards apply).
- Narrowly expands expedited removal by allowing DHS to use expedited procedures against non-lawful permanent resident aliens convicted of espionage, sabotage or sedition crimes that establish the alien’s deportability.
- Enhances the address reporting requirements by spelling out the process for notifying the Attorney General and DHS of address changes, among other things.
- Expands DHS’s authority to detain certain aliens with removal orders beyond the 90 day removal period (certain safeguards apply).

- Expands the types of crimes and increases penalties related to passport, visa and document fraud (includes an exemption for refugees and other vulnerable populations; please see additional exemption in Title VI).
- Clarifies the statutory authority of state and local law enforcement to enforce *criminal* immigration laws.
- Includes reimbursements to States for the direct and indirect costs related to the incarceration of illegal aliens.
- Requires DHS to increase the number of detention beds holding aliens by 20,000.
- Expands the aggravated felony definition slightly to include alien smuggling cases where the offense is part of an ongoing commercial organization or enterprise that involved multiple aliens and the aliens were transported in a way that presented a danger to the aliens' lives or the aliens posed a life-threatening health risk to the US people.
- Increases the criminal penalties associated with illegal reentry; failure to depart after removal; and the unauthorized employment of aliens.
- Narrowly modifies the criminal offenses and penalties associated with alien smuggling (includes a humanitarian exception)

TITLE III- EMPLOYMENT VERIFICATION

- Creates a new electronic work authorization system that will ultimately replace the paper-based, fraud-prone I-9 system, to be phased in gradually.
- Includes privacy safeguards and antidiscrimination provisions for employees
- Includes stiff penalties for employers who misuse the system or hire undocumented aliens.
- Includes a process for administrative and judicial review for workers and process for collecting lost wages.

TITLE IV- NEW WORKER PROGRAM: Creates a new worker program (“H-2C” visa) for up to 400,000 workers annually which may be modified annually based on the market with a path to legal permanent residence (including family members). In any fiscal year, no more than 600,000 visas may be issued. To qualify for an H-2C visa, the applicant would have to:

- provide evidence of a job offer;
- complete appropriate background checks;
- pay a \$500 application fee;
- undergo a medical exam; and
- be admissible (A limited number of inadmissibility grounds, including the 3 and 10 year bars, related to unlawful status would not apply; others could be waived for humanitarian reasons. Criminal or security-related grounds of inadmissibility could not be waived).

Features of the H-2C program

- Employers that seek to employ an H-2C nonimmigrant must first offer the job to any eligible US worker who applies, is qualified for the job and is available at the time of need. The employer must also meet rigorous recruiting requirements.
- New workers are prohibited from working in areas with an unemployment rate of 9 percent or more.
- The H-2C visa would be valid for three years, and could be renewed once for three more years. International commuters are not subject to the time limitations.
- H-2C workers receive a number of protections including: portability to another employer and the same labor conditions and benefits as provided to U.S. workers. In addition, H-2C workers

may not be hired where there is an ongoing labor dispute; may not be treated as independent contractors; and must be paid *the greater of* the actual wage paid to other similarly-situated workers or the prevailing wage for the occupational classification in the area of employment, taking into account experience and skill levels of employees. H-2C workers also receive travel authorization.

- If the worker is unemployed for 60 days, she must leave the US. (exceptions apply for reasons related to disability; authorized leave such as maternity, vacation or medical leave; and a major disaster or emergency).

Other Provisions in Title IV

- Aliens who unlawfully enter, attempt to enter, or cross the border after the date of the enactment of this section, and are physically present in the US after such date in violation of the immigration laws are barred from receiving several immigration benefits for 10 years.
- The bill annually increases by not less than 2000, the number of positions for DOL compliance investigators devoted to compliance with this title.

Path to Permanent Residency: The bill provides qualified H-2C workers and their families with two avenues to apply for permanent residency: 1) Employer Sponsored: at any time the employer may file an immigrant visa petition on behalf of an H-2C worker; 2) Self-Petition: the worker may self petition if she has been in H-2C visa status for at least five years. In both cases, the applicant must show he is admissible. (A limited number of inadmissibility grounds related to unlawful status with respect to conduct that occurred before the effective date of the STRIVE Act would not apply; others could be waived for humanitarian reasons. Criminal or security-related grounds of inadmissibility could not be waived).

The H-2C self-petitioner must: meet employment and presence requirements; meet English and civics learning requirements; and pay a \$500 application fee. The H-2C self-petitioner will first receive lawful permanent residence status on a conditional basis and during the 90 day period before his two year anniversary of receiving such status must petition DHS to have these conditions removed. Each petition for removal of conditional status must include: evidence of continued employment; evidence of compliance with payment of income taxes, basic citizenship skills, completion of security and law enforcement background checks, among other things.

TITLE V- VISA REFORMS: Title V makes significant changes to the family and employment-based visa systems.

- Increases the employment-based immigrant visa cap (“green card”) from 140,000 to 290,000.
- Increases the availability of family visas by taking “immediate relatives” (immigrant spouses, parents, and children of US citizens) out of the family visa cap of 480,000.
- Raises the current per-country limit on green cards slightly and exempts several categories of highly-skilled workers (and their spouses and children) from the employment-based immigrant visa cap.
- Increases the cap on H-1B visas to 115,000 (which can be increased in a subsequent year if the cap is reached during a given fiscal year).
- Makes some changes to the Haitian Refugee Immigration Fairness Act of 1998.
- Exempts sons and daughters of Filipino WWII veterans from the annual numerical limitations.

TITLE VI- LEGALIZATION OF UNDOCUMENTED INDIVIDUALS: Title VI creates a legal channel for qualified undocumented immigrants living and working in the United States and their families. Eligible immigrants will receive “conditional nonimmigrant” status which is valid for a period of six years. This program includes a number of safeguards and protections for applicants, including: protection from detention and removal; confidentiality of information provided in the application; eligibility for certain immigrants facing removal (including certain individuals with removal orders); and access to judicial and administrative review. Applicants also receive travel and work authorization. To qualify for conditional nonimmigrant status, the applicant must show:

- unlawful physical presence before June 1, 2006;
- meet other presence and employment requirements;
- undergo security and background checks;
- pay a \$500 fine and fees (fine waived for minors); and
- be admissible (A limited number of inadmissibility grounds, including the 3 and 10 year bars, related to unlawful status would not apply; others could be waived for humanitarian reasons. Criminal or security-related grounds of inadmissibility could not be waived).

In addition, DHS must conclude that the applicant 1) has not been convicted of a felony or three or more misdemeanors; 2) has not participated in the persecution of another person on account of race, religion, nationality, membership in a particular social group or political opinion; and 3) is not an alien--(i) who has been convicted by final judgment of a particularly serious crime and constitutes a danger to the community of the US; (ii) for whom there are reasonable grounds for believing that the alien has committed a particularly serious crime outside the US before arriving in the US; or (iii) for whom there are reasonable grounds for regarding the alien as a danger to the security of the US.

Path to Permanent Residency: The bill provides qualified conditional nonimmigrants and their dependents with a path to permanent residence. Safeguards include administrative and judicial review and a robust confidentiality provision to protect information provided in the application. Green card beneficiaries will not be counted towards the visa caps but must go to the “back of the line” so that existing backlogs are first cleared. To qualify for a green card, conditional nonimmigrants must:

- meet employment requirements (exceptions to the employment requirement apply for certain minors, those with disabilities, and those who are pregnant);
- undergo medical, security, and background checks;
- meet English and civics learning requirements;
- pay back taxes;
- register for the selective service;
- pay a \$1500 fine and fees (fine waived for dependent children), including a \$500 state impact assistance fee;
- be admissible (A limited number of inadmissibility grounds related to unlawful status would not apply; others could be waived for humanitarian reasons. Criminal or security-related grounds of inadmissibility could not be waived).
- principal applicants must meet a reentry (touchback) requirement. This requires the applicant to exit and re-enter through any port of entry during the six-year period in conditional nonimmigrant status but no later than 90 days before filing an application for a green card. Paperwork processing is performed in the U.S. An exception applies to children; elderly; those who suffer from an ongoing physical or mental disability; single parent heads of household; reasons of extreme hardship to the alien or an immediate family member; and for other reasons.

Title VI also includes the AgJOBS Act of 2007, DREAM Act of 2007, and the Strengthening American Citizenship Act.

Document Fraud Fix: The STRIVE Act expands the scope of document fraud offenses punishable under criminal law, but it is still a big improvement from last year's Senate bill. Whereas last year's Senate bill created new and stiff immigration penalties and automatic bars to legalization for many hardworking immigrants and their families, the STRIVE Act does not contain these barriers. The STRIVE Act also exempts traditional legalization, DREAM Act, and AgJOBS applicants from some of the bill's new document fraud criminal penalties. Together, these changes enhance the functionality of the legalization program, and ensure eligibility for those in the legalization, DREAM or AgJOBS programs.

TITLE VII- MISCELLANEOUS: Title VII includes several miscellaneous provisions, including an increase in court personnel such as immigration judges, trial attorneys, attorneys in the Office of Immigration Litigation, attorneys in the US Attorney's Office, etc.

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