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(3) The burden of proof shall be on the alien to establish that he qualifies for asylum under this section.

(4) No alien who meets the refugee definition set forth in section 101(a)(42)(A), and who meets the requirements of subsections (1)(C), (D), and (E) of this section shall be returned to the country or place where he would face persecution, as determined by the asylum officer.

(5) An alien against whom proceedings are instituted under section 236 or 242 of this Act, who has not previously made a claim for asylum, must make any application for asylum to the asylum officer under this section within 14 days of the service of the notice instituting such proceedings. An alien who does not make such a timely claim shall not be allowed to initiate an asylum claim absent a clear showing of changed circumstances in the country of the alien's nationality, or in the case of an alien having no nationality, the country of the alien's last habitual residence.

(6) An asylum officer may not reopen a proceeding under this section except upon a clear showing of changed circumstances in the country of the alien's nationality, or in the case of an alien having no nationality, the country of the alien's last habitual residence.

(b) Asylum granted under subsection (a) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that the alien is (A) no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or in the case of an alien having no nationality, in the country in which the alien last habitually resided; or (B) the alien was not a refugee within the meaning of section 101(a)(42)(A) at the time he was granted asylum; or (C) the alien is no longer eligible for asylum on any of the grounds set forth in (a)(1) above.

(c) A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (a) may, if not otherwise eligible for asylum under such subsection, be granted the same status as the alien if accompanying, or following to join, such alien.

(d) Notwithstanding any other provision of law, a denial of an application for asylum and the procedures established to adjudicate asylum claims under this section shall be subject to judicial review only in a proceeding challenging the validity of an exclusion or deportation order as provided for in section 106(a)(1) of the Immigration and Nationality Act, 8 U.S.C. 1105a, and shall not be subject to review under 5 U.S.C. 702. The denial of an application for asylum may be set aside, or the cause remanded for further proceedings, only upon a showing that such denial was arbitrary and capricious, or was otherwise not in accordance with law.

**GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND
EXCLUDED FROM ADMISSION; WAIVERS OF INADMISSIBILITY**

SEC. 212. [8 U.S.C. 1182] (a) Except as otherwise provided in this Act,²⁷ the following classes of aliens shall be ineligible to

receive visas and shall be excluded from admission into the United States:

- (1) Aliens who are mentally retarded;
- (2) Aliens who are insane;
- (3) Aliens who have had one or more attacks of insanity;
- (4) Aliens afflicted with psychopathic personality, or sexual deviation, or a mental defect;
- (5) Aliens who are narcotic drug addicts or chronic alcoholics;
- (6) Aliens who are afflicted with any dangerous contagious disease;
- (7) Aliens not comprehended within any of the foregoing classes who are certified by the examining surgeon as having a physical defect, disease, or disability, when determined by the consular or immigration officer to be of such a nature that it may affect the ability of the alien to earn a living, unless the alien affirmatively establishes that he will not have to earn a living;
- (8) Aliens who are paupers, professional beggars, or vagrants;
- (9) Aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense), or aliens who admit having committed such a crime, or aliens who admit committing acts which constitute the essential elements of such a crime; except that aliens who have committed only one such crime while under the age of eighteen years may be granted a visa and admitted if the crime was committed more than five years prior to the date of the application for a visa or other documentation, and more than five years prior to date of application for admission to the United States, unless the crime resulted in confinement in a prison or correctional institution, in which case such alien must have been released from such confinement more than five years prior to the date of the application for a visa or other documentation, and for admission, to the United States. Any alien who would be excludable because of the conviction of a misdemeanor classifiable as a petty offense under the provisions of section 1(3) of title 18, United States Code, by reason of the punishment actually imposed, or who would be excludable as one who admits the commission of an offense that is classifiable as a misdemeanor under the provisions of section 1(2) of title 18, United States Code, by reason of the punishment which might have been imposed upon him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided*, That the alien has committed only one such

offense, or admits the commission of acts which constitute the essential elements of only one such offense.

(10) Aliens who have been convicted of two or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were five years or more;

(11) Aliens who are polygamists or who practice polygamy or advocate the practice of polygamy;

(12) Aliens who are prostitutes or who have engaged in prostitution, or aliens coming to the United States solely, principally, or incidentally to engage in prostitution; aliens who directly or indirectly procure or attempt to procure, or who have procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution or for any other immoral purpose; and aliens who are or have been supported by, or receive or have received, in whole or in part, the proceeds of prostitution or aliens coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution;

(13) Aliens coming to the United States to engage in any immoral sexual act;

(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified ²⁸ to the Secretary of State and the Attorney General that (A) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a) (3) and (6), and to nonpreference immigrant aliens described in section 203(a)(7);

(15) Aliens who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General

at the time of application for admission, are likely at any time to become public charges;²⁰

(16) Aliens who have been excluded from admission and deported and who again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their reapplying for admission;

(17) Aliens who have been arrested and deported, or who have fallen into distress and have been removed pursuant to this or any prior act, or who have been removed as alien enemies, or who have been removed at Government expense in lieu of deportation pursuant to section 242(b), unless prior to their embarkation or reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their applying or reapplying for admission;

(18) Aliens who are stowaways;

(19) Any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation, or seeks to enter the United States, by fraud, or by willfully misrepresenting a material fact;

(20) Except as otherwise specifically provided in this Act, any immigrant who at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General pursuant to section 211(a);

(21) Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission whose visa has been issued without compliance with the provisions of section 203;

(22) Aliens who are ineligible to citizenship, except aliens seeking to enter as nonimmigrants; or persons who have departed from or who have remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency, except aliens who were at the time of such departure nonimmigrant aliens and who seek to reenter the United States as nonimmigrants;

(23) Any alien who has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, or any salt derivative or preparation of opium or coca leaves, or isonipocaine or any addiction-forming or addiction-sustaining opiate; or any alien who

the consular officer or immigration officers know or have reason to believe is or has been an illicit trafficker in any of the aforementioned drugs;

(24) Aliens (other than aliens described in 101(a)(27)(A) and aliens born in the Western Hemisphere) who seek admission from foreign contiguous territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory line, or if signatory, a noncomplying transportation line under section 238(a) and who have not resided for at least two years subsequent to such arrival in such territory or adjacent islands;

(25) Aliens (other than aliens who have been lawfully admitted for permanent residence and who are returning from a temporary visit abroad) over sixteen years of age, physically capable of reading, who cannot read and understand some language or dialect;

(26) Any nonimmigrant who is not in possession of (A) a passport valid for a minimum period of six months from the date of the expiration of the initial period of his admission or contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period; and (B) at the time of application for admission a valid nonimmigrant visa or border crossing identification card;

(27)³⁰ Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States;

(28)³⁰ Aliens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C)³¹ Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now

bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this Act, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) ³¹ Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) ³¹ Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950,³² unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) ³¹ Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the

unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) ³¹ Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in paragraph (G);

(I) ³¹ Any alien who is within any of the classes described in subparagraphs (B), (C), (D), (E), (F), (G), and (H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the Congress in the case of each alien who is or shall be admitted into the United States under (ii) of this subparagraph;

(29) ³² Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be

prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950;²⁴

(30) Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 237(e), whose protection or guardianship is required by the alien ordered excluded and deported;

(31) Any alien who at any time shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(32) Aliens who are graduates of a medical school not accredited by a body or bodies approved for the purpose by the Commissioner of Education (regardless of whether such school of medicine is in the United States[]) and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed²⁵ parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7);

(33) Any alien who during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government in Germany,

(B) any government in any area occupied by the military forces of the Nazi government of Germany,

(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

(b) The provisions of paragraph (25) of subsection (a) shall not be applicable to any alien who (1) is the parent, grandparent, spouse, daughter, or son of an admissible alien, or any alien lawfully admitted for permanent residence, or any citizen of the United States, if accompanying such admissible alien, or coming to join such citizen or alien lawfully admitted, and if otherwise admissible, or (2) proves that he is seeking admission to the United States to avoid religious persecution in the country of his last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against such alien or any group to which he belongs because of his religious faith. For the purpose of ascertaining whether an alien can read under paragraph (25) of subsection (a), the consular officers and immigration officers shall be furnished with slips of uniform size, prepared under direction of the Attorney General, each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type, in one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made and shall be required to read and understand the words printed on the slip in such language or dialect.

(c) Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of paragraph (1) through (25) and paragraphs (30) and (31) of subsection (a). Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 211(b).

(d)(1) The provisions of paragraphs (11) and (25) of subsection (a) shall not be applicable to any alien who in good faith is seeking to enter the United States as a nonimmigrant.

(2) The provisions of paragraph (28) of subsection (a) of this section shall not be applicable to any alien who is seeking to enter the United States temporarily as a nonimmigrant under paragraph (15)(A)(iii) or (15)(G)(v) of section 101(a).

(3) Except as provided in this subsection,** an alien (A) who is applying for a nonimmigrant visa and is known or believed by the

consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27), (29), and (33)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27), (29), and (33)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General.

(4) Either or both of the requirements of paragraph (26) of subsection (a) may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 238(d).

(5)(A) ^{77A-C} The Attorney General may, except as provided in subparagraph (B), in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of

the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(B) ⁷⁷ The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.

(6) The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this subsection. The Attorney General shall make a detailed report to the Congress in any case in which he exercises his authority under paragraph (3) of this subsection on behalf of any alien excludable under paragraphs (9), (10), and (28) of subsection (a).

(7) The provisions of subsection (a) of this section, except paragraphs (20), (21), and (26), shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 237(a) of this Act.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (26), (27), and (29) of subsection (a) of this section.

(9) ⁷⁷ The provisions of paragraph (7) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101(a)(27).

(10) ⁷⁷ The provisions of paragraph (15) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101(a)(27) and who applies for admission as such a special immigrant not later than March 31, 1982.

(e) No person admitted under section 101(a)(15)(J) or acquiring such status after admission (i) whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence, (ii) who at the time of admission or

acquisition of status under section 101(a)(15)(J) was a national or resident of a country which the Secretary of State " pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged, or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) 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 a least two years following departure from the United States: *Provided*, That upon the favorable recommendation of the Secretary of State, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest: *And provided further*, That, except in the case of an alien described in clause (iii), the Attorney General may, upon the favorable recommendation of the Secretary of State, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Secretary of State a statement in writing that it has no objection to such waiver in the case of such alien.

[(f) Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.]

(f)(1) In order to prevent the illegal migration of aliens to the United States, the President is authorized to conclude arrangements with other countries for the purpose of preventing such illegal migration. Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country, on such terms and conditions as he may determine, for the control of the immigration of persons from such country to the United States.

(f)(2) Notwithstanding any provision of law, the President may direct the Coast Guard or any other federal agency including the Army, Navy and Air Force, to stop and examine, on the high seas, vessels of the United States, vessels subject to United States jurisdiction, or foreign flag vessels for which the United States Government has an arrangement authorizing such action. Upon boarding, the Coast Guard or other federal agency may make inquiries of those on board, examine documents, and take such actions as are necessary to establish the registry, condition, and destination of the vessel and the status of those on board the vessel. When these measures indicate that an offense against United States immigration laws, or an offense under the laws of a foreign country with which the United States has an agreement to assist is being committed, the Coast Guard or other federal agency may return the vessel and passengers to the country from whence they came or to some other location. An alien who qualifies as a refugee under the terms of the United Nations Convention and Protocol Relating to the Status of Refugees may not be returned to a country where such person's life or freedom would be threatened

on account of his race, religion, nationality, membership in a particular social group, or political opinion.

(f)(3) Notwithstanding any other provision of law, the Attorney General is authorized to establish by regulation, procedures to determine the admissibility of those aliens who have not landed in the United States.

(f)(4) Nothing contained in this section shall be construed as limiting the President in any way from exercising his Constitutional powers.

(f)(5) For purposes of this section the terms "vessel of the United States" and "vessel subject to the jurisdiction of the United States" shall have the same meaning as set forth in 21 U.S.C. 955b.

(g) Any alien who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien afflicted with tuberculosis in any form who (A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or (B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence in accordance with such terms, conditions, and controls, if any, including the giving of a bond, as the Attorney General, in his discretion after consultation with the

Surgeon General of the United States Public Health Service," may by regulations prescribe. Any alien excludable under paragraph (3) of subsection (a) of this section because of past history of mental illness who has one of the same family relationships as are prescribed in this subsection for aliens afflicted with tuberculosis and whom the Surgeon General of the United States Public Health Service finds to have been free of such mental illness for a period of time sufficient in the light of such history to demonstrate recovery shall be eligible for a visa in accordance with the terms of this subsection.

(h) Any alien, who is excludable from the United States under paragraphs [paragraph] (9), (10), or (12) of this section, who (A) is the spouse or child, including a minor unmarried adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or (B) has a son or daughter who is a United States citizen or an alien lawfully admitted for permanent residence, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence (1) if it shall be established to the satisfaction of the Attorney General that (A) the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or son or daughter of such alien, and (B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States; and (2) if the Attorney General, in his discretion, and pursuant to such terms, conditions, and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa and for admission to the United States.

(i) Any alien who is the spouse, parent, or child of a United States citizen or of an alien lawfully admitted for permanent residence and who is excludable because (1) he seeks, has sought to procure, or has procured, a visa or other documentation, or entry into the United States, by fraud or misrepresentation, or (2) he admits the commission of perjury in connection therewith, may be granted a visa and admitted to the United States for permanent residence, if otherwise admissible, if the Attorney General in his discretion has consented to the alien's applying or reapplying for a visa and for admission to the United States.

(j)(1) The additional requirements referred to in section 101(a)(15)(J) for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are:

(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Commissioner of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated

hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement;

(B) Before making such agreement, the accredited school has been satisfied that the alien (i) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Commissioner of Education (regardless of whether such school of medicine is in the United States); or (ii) has passed " parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare [Secretary of Health and Human Services]), has competency in oral and written English, will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States;

(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of the education or training for which he is coming to the United States (including any extension of the duration thereof under subparagraph (D)), and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health, Education, and Welfare [Secretary of Health and Human Services], that there is a need in that country for persons with the skills the alien will acquire in such education or training; and

(D) The duration of the alien's participation in the program for which he is coming to the United States is limited to not more than 2 years, except that such duration may be extended for one year at the written request of the government of his nationality or last residence, if (i) the accredited school providing or arranging for the provision of his education or training agrees in writing to such extension, and (ii) such extension is for the purpose of continuing the alien's education or training under the program for which he came to the United States.

(2)(A) Except as provided in subparagraph (B), the requirements of subparagraphs (A) and (B) of paragraph (1) shall not apply between the effective date of this subsection and December 31, 1980, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of his failure to meet such requirements, to enter the United States to participate in such program.

(B) In the administration of this subsection, the Attorney General shall take such action as may be necessary to ensure that the total number of aliens participating (at any time) in programs described in subparagraph (A) does not, because of the exemption provided by such subparagraph, exceed the total number of aliens participating in such programs on the effective date of this subsection.

Nowwithstanding the provisions of section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a) is hereby amended to read as follows:

(a)(34) "Aliens seeking to enter the United States
purpose of performing skilled or unskilled labor, unless the
Secretary of Labor has determined and certified to the
Secretary of State and the Attorney General that at the time
of application (A) there are not sufficient workers available
in the United States in the occupations in which the aliens
will be employed and (B) the employment of aliens in such
occupations will not adversely affect the wages and working
conditions of workers in the United States who are similarly
employed. In making such determinations, the Secretary of
Labor may use labor market information without reference to
the specific job opportunity for which certification is
requested. An alien on behalf of whom a certification is
sought must have an offer of employment from an employer in
the United States, except that the Secretary of Labor may
waive this requirement in the case of an alien of exceptional
ability. The exclusion of aliens under this paragraph shall
apply to preference immigrant aliens described in section
203(a)(3) and (6), and to nonpreference immigrant aliens
described in section 203(a)(7). Notwithstanding any other
provision of law, decisions of the Secretary of Labor made
pursuant to this paragraph, including the issuance and content
of regulations and the use of labor market information under
this paragraph, shall be reviewable by the appropriate United
States district court, but the court shall not set aside such
a decision unless there is compelling evidence that the
Secretary made such decision in an arbitrary and capricious
manner;".

INSPECTION BY IMMIGRATION OFFICERS

SEC. 235. [8 U.S.C. 1225] (a) The inspection, other than the physical and mental examination, of aliens (including alien crewmen) seeking admission or readmission to, or the privilege of passing through the United States shall be conducted by immigration officers, except as otherwise provided in regard to special inquiry officers. All aliens arriving at ports of the United States shall be examined by one or more immigration officers at the discretion of the Attorney General and under such regulations as he may prescribe. Immigration officers are hereby authorized and empowered to board and search any vessel, aircraft, railway car, or other conveyance, or vehicle in which they believe aliens are being brought into the United States. The Attorney General and any immigration officer, including special inquiry officers, shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and, where such action may be necessary,

to make a written record of such evidence. Any person coming into the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain in the United States, whether or not he intends to remain in the United States permanently and, if an alien, whether he intends to become a citizen thereof, and such other items of information as will aid the immigration officer in determining whether he is a national of the United States or an alien and, if the latter, whether he belongs to any of the excluded classes enumerated in section 212. The Attorney General and any immigration officer, including special inquiry officers, shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and special inquiry officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States. Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer or special inquiry officer may, in the event of neglect or refusal to respond to a subpoena issued under this subsection or refusal to testify before an immigration officer or special inquiry officer, issue an order requiring such persons to appear before an immigration officer or special inquiry officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 273(d), who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before a special inquiry officer for further inquiry.]

(b) Provided that an "Immigration
Emergency" has not been declared an

immigration officer shall inspect each alien who is
required to have documentation seeking entry to the United States
and shall make a determination on each alien's admissibility.

(1) The decision of the immigration officer on admissibility of an alien shall
be final, and not subject to further agency review or to judicial review, if
the immigration officer determines an alien to be an alien crewman, a stowaway
under section 273(d) of this Act, or an alien who does not present documentary
evidence of U.S. citizenship, or lawful admission for permanent residence, or a
visa or other entry document, or a certificate of identity issued under section
360(b) to support a claim of admissibility. (2) Any alien not excluded under
paragraph one of this subsection who does not appear to the examining
immigration officer to be clearly and beyond a doubt entitled to admission
shall be detained for further inquiry by a special inquiry officer under
section 236."

(c) Any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during the examination before either of such officers to be excludable under paragraph (27), (28), or (29) of section 212(a) shall be temporarily excluded, and no further inquiry by a special inquiry officer shall be conducted until after the case is reported to the Attorney General together with any such written statement and accompanying information, if any, as the alien or his representative may desire to submit in connection therewith and such an inquiry or further inquiry is directed by the Attorney General. If the Attorney General is satisfied that the alien is excludable under any of such paragraphs on the basis of information of a confidential nature, the disclosure of which the Attorney General, in the exercise of his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his

discretion order such alien to be excluded and deported without any inquiry or further inquiry by a special inquiry officer. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

IMMEDIATE DEPORTATION OF ALIENS EXCLUDED FROM ADMISSION OR
ENTERING IN VIOLATION OF LAW

SEC. 237. [8 U.S.C. 1227] (a) Any alien (other than an alien crewman) arriving in the United States who is excluded under this Act, shall be immediately deported to the country whence he came, in accommodations of the same class in which he arrived, on the vessel or aircraft bringing him, unless the Attorney General, in an individual case, in his discretion, concludes that immediate deportation is not practicable or proper. The cost of the maintenance including detention expenses and expenses incident to detention of any such alien while he is being detained, as well as the transportation expense of his deportation from the United States, shall be borne by the owner or owners of the vessel or aircraft on which he arrived, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) if the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if the owner or owners of such vessel or aircraft established to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (3) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority.

"Sec. 237(a)(1) Any alien (other than an alien crewman) arriving in the United States who is excluded under this Act, shall be immediately deported, in accommodations of the same class in which he arrived, unless the Attorney General, in an individual case in his discretion, concludes that immediate deportation is not practicable or proper. Deportation shall be to the country in which the alien boarded the vessel or aircraft in foreign territory. If such boarding occurred in territory contiguous to the United States, or in any island adjacent thereto or adjacent to the United States and the alien is not a native, citizen, or subject or national of, or does not have residence in, such foreign contiguous territory or adjacent island, the deportation shall instead be to the country in which is located the port at which the alien embarked for such foreign contiguous territory or adjacent island. The cost of the maintenance, including detention expenses incident to detention of any such alien while he is being detained, shall be borne by the owner or owners of the vessel or aircraft on which he arrived, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation

line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (A) the alien was in possession of a valid, unexpired immigrant visa, or (B) the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States, or an unexpired reentry permit issued to him, and (i) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, examined and admitted by the Service, or (ii) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if the owner or owners of such vessels or aircraft establishes to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (C) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority.

(2) If the government of the country designated in subsection (a)⁽¹⁾ will not accept the alien into its territory, the alien's deportation shall be directed by the Attorney General, in his discretion and without necessarily giving any priority or preference because of their order as herein set forth, to —

(A) the country of which the alien is a subject, citizen, or national;

(B) the country in which he was born;

(C) the country in which he has a residence; or

(D) any country which is willing to accept the alien into its territory, if deportation to any of the foregoing countries is impracticable, inadvisable or impossible.

(b) It shall be unlawful for any master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft (1) to refuse to receive any alien (other than an alien crewman) ordered deported under this section back on board such vessel or aircraft or another vessel or

aircraft owned or operated by the same interests; (2) to fail to detain any alien (other than an alien crewman) on board any such vessel or at the airport of arrival of the aircraft when required by this Act or if so ordered by an immigration officer, or to fail or refuse to deliver him for medical or other inspection, or for further medical or other inspection, as and when so ordered by such officer; (3) to refuse or fail to remove him from the United States to the country to which his exclusion and deportation has been directed; (4) to fail to pay the cost of his maintenance while being detained as required by this section or section 233 of this title; (5) to take any fee, deposit, or consideration on a contingent basis to be kept or returned in case the alien is landed or excluded; or (6) knowingly to bring to the United States any alien (other than an alien crewman) excluded or arrested and deported under any provision of law until such alien may be lawfully entitled to reapply for admission to the United States. If it shall appear to the satisfaction of the Attorney General that any such master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft has violated any of the provisions of this section or of section 233 of this title, such master, commanding officer, purser, person in charge, agent, owner, or consignee shall pay to the district director of customs of the district in which the port of arrival is situated or in which any vessel or aircraft of the line may be found, the sum of \$500 for each violation. No such vessel or aircraft shall have clearance from any port of the United States while any such fine is unpaid or while the question of liability to pay any such fine is being determined, nor shall any such fine be remitted or refunded; except that clearance may be granted prior to the determination of such question upon the deposit with the district director of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such fine.

(c) An alien shall be deported on a vessel or an aircraft owned by the same person who owns the vessel or aircraft on which such alien arrived in the United States, unless it is impracticable to so deport the alien within a reasonable time. The transportation expenses of the alien's deportation shall be borne by the owner or owners of the vessel or aircraft on which the alien arrived. If the deportation is effected on a vessel or aircraft not owned by such owner or owners, the transportation expenses of the alien's deportation may be paid from the appropriation for the enforcement of this Act and recovered by civil suit from any owner, agent, or consignee of the vessel or aircraft on which the alien arrived.

(d) The Attorney General, under such conditions as are by regulations prescribed, may stay the deportation of any alien deportable under this section, if in his judgment the testimony of such alien is necessary on behalf of the United States in the prosecution of offenders against any provision of this Act or other laws of the United States. The cost of maintenance of any person so detained resulting from a stay of deportation under this subsection and a witness fee in the sum of \$1 per day for each day such person is so detained may be paid from the appropriation for the enforcement of this title. Such alien may be released under bond in the penalty of not less than \$500 with security approved by the Attorney General on condition that such alien shall be produced when required as a witness and for deportation, and on such other conditions as the Attorney General may prescribe.

(e) Upon the certificate of an examining medical officer to the effect that an alien ordered to be excluded and deported under this section is helpless from sickness or mental and physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by the alien ordered excluded and deported, such accompanying alien may also be excluded and deported, and the master, commanding officer, agent owner, or consignee of the vessel or aircraft in which such alien and accompanying alien arrived in the United States shall be required to return the accompanying alien in the same manner as other aliens denied admission and ordered deported under this section."

RECORDS OF ADMISSION

Sec. 240. [8 U.S.C. 1230] (a) The Attorney General shall cause to be filed, as a record of admission of each immigrant, the immigrant visa required by section 221(e) to be surrendered at the port of entry by the arriving alien to an immigration officer.

(b) The Attorney General shall cause to be filed such record of the entry into the United States of each immigrant admitted under section 211(b) and of each nonimmigrant as the Attorney General deems necessary for the enforcement of the immigration laws.

240A. Declaration of Immigration Emergency

(a) The President may declare an immigration emergency with respect to any specifically designated foreign country or countries or geographical area or areas, if the President, in his judgment, determines that:

a substantial number of aliens who lack documents authorizing entry to the United States appear to be ready to embark or have already embarked for the United States, and the aliens will travel from, or are likely to travel in transit through, the foreign country or countries or the foreign geographical area or areas; and

the normal procedures of the Immigration and Nationality Act or the current resources of the Immigration and Naturalization Service would be inadequate to respond effectively to the influx of these aliens.

(b) Within 48 hours of the declaration of any immigration emergency, the President shall inform the Speaker of the House and the President pro-tempore of the Senate of the reasons prompting

the declaration. The President shall cause the declaration to be published in the Federal Register as soon as practicable. The declaration shall expire automatically 120 days after its proclamation, unless ended sooner by the President. The President may extend the declaration for additional periods of 120 days by following the procedures set forth in this subsection, if, in his judgment, the conditions listed in subsection (a) continue to exist.

Chapter 240B. Emergency Powers and Procedures

(a) Upon the declaration of an immigration emergency under Section 240A, the President may invoke the following emergency powers and procedures:

- (1) Any or all United States vessels, vehicles and aircraft, and any other vessel, vehicle or aircraft which is owned or operated by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any political subdivision thereof, bound directly or indirectly for a designated foreign country or foreign geographical area may be precluded from departing from the United States or may be intercepted while en route and required to return to the United States if feasible, or to any other reasonable location until such time as it is feasible to return to the United States, or, if appropriate, allowed to proceed to any other reasonable location.

The arrival in the United States of any aliens or class of aliens who lack documents authorizing entry

to the United States or who are otherwise
inadmissible and who are traveling directly
or indirectly from or in transit through a
designated foreign country or foreign geographical
area may be prevented by returning or requiring
the return of such alien or any vessel,
vehicle, or aircraft carrying any such alien
to the designated country or area, or to some
other reasonable location.

The exclusion or admission to the United States
of any alien, regardless of nationality, who is
traveling or has traveled to the United States directly or
indirectly from or through the designated foreign
country or foreign geographical area and who is not in
possession of a visa or other entry document
required for admission to the United States by
statute or regulation may be determined under
procedures established by the Attorney General
(whether by regulation or otherwise), and no such
alien shall be presented for inquiry before a
special inquiry officer unless such presentation
is authorized by the Attorney General pursuant to
regulation.

(ii) Notwithstanding section 208, or any other provision
of law, the Attorney General may establish by regu-
lation or otherwise a separate procedure to consider
an asylum claim advanced by an alien whose admissi-
bility is to be determined in accordance with this
paragraph.

(iii) Any alien found inadmissible to the United States pursuant to the procedures established by the Attorney General under this paragraph shall be deported to the country from whence he came. If the Attorney General determines that the alien should not or cannot practicably be removed to the country from whence the alien came, the Attorney General may deport the alien to any country described in section 243(a), without regard to the designation of the alien or the order of countries set forth in section 243(a).

(iv) Any alien admitted to the United States under this paragraph shall be admitted for such time and under such conditions as may be prescribed by the Attorney General, including the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe to insure compliance with the terms and conditions of the alien's admission.

(v) No court shall have jurisdiction to review the determination of admissibility or nonadmissibility, or the determination of any asylum claim with respect to any alien who is subject to this paragraph.

(4) Every alien who is subject to the provisions of this section shall be detained pending a final determination of admissibility, or pending release on parole,

or pending deportation if the alien is found
excludable, unless an examining officer finds
that the alien is clearly and beyond a doubt
entitled to be admitted to the United States.
Such detention shall be in any prison or other
detention facility or elsewhere, whether main-
tained by the Federal Government or otherwise,
as the Attorney General may direct. The Attorney
General may at any time transfer an alien from
one place of detention to another. No alien
shall be released from detention pending a final
determination of admissibility, or pending depor-
tation if the alien is found excludable, except
in the discretion of the Attorney General, and
under such conditions as the Attorney General may
prescribe, including release on bond. Any alien
applying for admission from foreign contiguous
territory may, in the discretion of the Attorney
General, be required to remain outside of the
United States pending a final determination of
admissibility. No court shall review any decision
of the Attorney General made pursuant to this
paragraph to detain, to transfer or to release
an alien, except that any person so detained may
obtain review, in habeas corpus proceedings, on
the question of whether that person falls within
the category of aliens subject to detention.
Nothing in this paragraph shall relieve a carrier

or any other person of any liability, duty
or consequence pertaining to the detention
of aliens which may arise under any other
provision of the Act or other law.

- (5) (i) The President may exempt any source of
any department, agency, or instrumentality in
the executive branch from applicable environ-
mental requirements pursuant to section 1323(a)
of title 33 and sections 300j-6(b), 4903, 6961,
and 7418(b) of title 42 of the United States
Code.

(ii) Upon a Presidential finding, transmitted to
Congress, that an exemption is necessary to
respond to an immigration emergency, the President
may exempt any source or action of any department,
agency, or instrumentality in the executive branch
which is directly and substantially related to an
immigration emergency from applicable requirements
of the National Environmental Policy Act, 42 U.S.C.
4331 et seq., the Coastal Zone Management Act, 46
U.S.C. 1451 et seq., the Endangered Species Act, 16
U.S.C. 1531 et seq., The Fish and Wildlife Coordina-
tion Act, 16 U.S.C. 661 et seq., the Historic
Preservation Act, 16 U.S.C. 470 et seq., and from
the applicable requirements of any other Federal,
state or local law which is intended principally to
protect or preserve the environment, wildlife, or
aspects of the history or heritage of the United
States.

(iii) Except with respect to matters concerning the detention of aliens, an exemption under this paragraph shall lapse upon termination of an immigration emergency. In no event shall any exemption under this paragraph last more than one year. An exemption with respect to matters concerning the detention of aliens shall last until terminated by the President, or the expiration of one year, whichever occurs first. During the time period in which an exemption applies the President may, in his discretion, require that a source nonetheless meet certain environmental standards without thereby creating a private right of action to enforce that requirement.

(b)(1) During the existence of the immigration emergency, the President may order the closing or sealing of any harbor, port, airport, road or any other place, structure or location which may be used as a point of departure from the United States to a designated foreign country or foreign geographical area, if, in the President's judgment, such action is necessary to prevent the arrival in the United States of aliens who are inadmissible and who are traveling from or in transit through a designated country or area.

(2) No person shall cause any vessel, or aircraft to depart from or beyond or enter into a closed or sealed harbor, port, airport, road, place, structure or location during an immigration emergency, unless written permission has been obtained for

such departure prior to the actual departure
of the vessel, or aircraft.

- (3) Permission for departure from or beyond or entry into a
closed or sealed harbor, port, airport, road,
or any other place, structure or location shall
be given only for those vessels, vehicles,
aircraft which are clearly shown not to be
destined for a designated foreign country or foreign
geographical area. The agency designated by
the President under subsection (c) of this
section shall prescribe the procedures to be
followed in requesting departure permission.
In the absence of such procedures, permission
may be sought from any agency directly involved
in the closing or sealing of the harbor, port,
airport, road, or other place, structure or
location. A final decision shall be made on
any request for departure permission within 72
hours of the request, unless the person seeking
such permission consents to a longer period. If
no action is taken on the request within the
requisite period, the request for departure
permission shall be deemed denied.
- (4) The district courts of the United States shall
have jurisdiction to review any final decision
denying permission to depart under paragraph (3)
of this subsection, except that review may be
obtained prior to a final administrative decision
with respect to any vessel, vehicle or aircraft if

irreparable injury would occur before a
final administrative decision could be
obtained.

(c) Although the President may not delegate the authority to
initiate those emergency powers of this section which expressly
require Presidential invocation, the President may designate one
or more agencies of the Federal Government to administer the pro-
visions of chapters 240B through 240D. In the course of enforce-
ment of these provisions, the designated agency may promulgate
regulations and may request assistance from any state or local
agency or from any civilian Federal agency. The President may
direct that any component of the Department of Defense, including
the Army, Navy, and Air Force, provide assistance, any statute,
rule or regulation to the contrary notwithstanding. Any such
agency or military component may assist in the actual detention,
removal and transportation of an alien to the country to which he
is being deported.

(d) Notwithstanding any other provision of law, any agency
or military component requested or directed to render assistance
or services during an immigration emergency is authorized to stop,
board, make arrest of persons, inspect and seize any vessel, vehicle
or aircraft which is subject to the provisions of chapters 240B through 240D.

(e) In providing assistance under chapters 240B through
240D, agencies shall have the same authority as for disaster
relief under 42 U.S.C. 5149.

(f) The provisions of paragraphs (3) and (4) of subsection
(a) of this section shall continue to govern any aliens subject to
those provisions, regardless of the termination of the immigration
emergency.

(g) The President may direct the enforcement of subsection (a) of this section beyond the territorial limits of the United States including on the high seas.

(h) Nothing in this section shall relieve any carrier or any other person of any civil or criminal liability, duty, or consequence that may arise from the transportation or the bringing of any alien to the United States.

Chapter 240C. Travel Restrictions and Licensing

(a) Upon the declaration of an immigration emergency under Chapter 240A, it shall be unlawful for any person to cause any United States vessel, vehicle or aircraft, or any other vessel, vehicle or aircraft which is owned by, chartered to or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any political subdivision thereof, to travel or be transported to a designated foreign country or foreign geographical area or to within such distance therefrom as the President may specify, unless prior approval has been obtained from an agency designated by the President.

(b) The designated agency may, for authorized purposes, grant prior approval for travel to or around a designated foreign country or geographical area by regulation for certain classes or categories of vessels, vehicles and aircraft. The owner or operator of any vessel, vehicle, or aircraft not authorized by regulation to travel to or around a designated country or area may apply to the designated agency for a license granting permission for one or more trips to that country or area. The designated agency shall establish by regulation the procedures governing the application for and the approval and revocation of such licenses.

The designated agency may authorize officials of any other United States agency to accept and transmit applications for licenses to the designated agency or to grant or deny such licenses under standards established by the designated agency.

(c) No travel to or within such distance as the President may specify from a designated foreign country or area shall be approved if it appears that such travel may result in or contribute to a violation of any statute or regulation relating to the immigration of aliens to the United States.

(d) Nothing in this section shall be construed to require the agency designated by the President to approve the travel of any vessel, vehicle or aircraft to a designated country or area or within the specified distance therefrom.

Chapter 240D Penalties

(a)(1) Any vessel, vehicle or aircraft involved in a violation of chapter 240B(b)(2) or chapter 240C(a) shall be forfeited and the owner, operator, and any person causing such vessel, vehicle or aircraft to be involved in the violation shall be subject to a civil fine of \$10,000 for each separate act in violation of those sections. This subsection shall become effective on the day following the day of publication of the declaration of the immigration emergency in the Federal Register, except that this subsection shall be immediately effective as to any person who has learned or been informed of the existence of the declaration.

(2) All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeiture;

and the compromise of claims and the award of compensation to
informers in respect of such forfeitures shall apply to seizures
and forfeitures incurred or alleged to have been incurred, under
the provisions of this section insofar as applicable and not
inconsistent with the provisions hereof, except that duties
imposed on customs officers or other persons regarding the seizure
and forfeiture of property under the customs laws may be performed
with respect to seizure and forfeitures carried out under the pro-
visions of this section by such officers or persons authorized for
that purpose by the Attorney General.

(3) Whenever a conveyance is forfeited under this section
the Attorney General may:

- (i) retain the conveyance for official use;
- (ii) sell the conveyance, in which case proceeds
from any such sale shall be used to pay all
proper expenses of the proceedings for for-
feiture and sale including expenses of seizure;
maintenance of custody, advertising, and court
costs, with the remaining proceeds, if any,
turned over to the United States Treasury;
- (iii) require that the General Services Administra-
tion, or the Federal Maritime Commission if
appropriate under 40 U.S.C. 484(i), take custody
of the conveyance and remove it for disposition in
accordance with law; or
- (iv) dispose of the conveyance in accordance with
the terms and conditions of any petition of
remission or mitigation of forfeiture granted
by the Attorney General.

(4) In all suits or actions brought for the forfeiture of
any conveyance seized under this section, where the conveyance is

claimed by any person, the burden of proof shall lie upon such claimant: Provided, that probable cause shall be first shown for the institution of such suit or action, to be judged of by the court.

(b) Any person who knowingly engages or attempts to engage in any conduct prohibited by the terms of chapter 240B(b)(2) or chapter 240C(a) shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$50,000 or by imprisonment for a term not exceeding five years, or both, for each separate prohibited act. This subsection shall become effective on the day following the day of publication of the declaration of the immigration emergency in the Federal Register, except that this subsection shall be immediately effective as to any person who has learned or been informed of the existence of the declaration.

(c) Any alien who willfully violates a condition of his admission under chapter 240B shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(d) The requirements and sanctions imposed by this section shall be in addition to those set forth by other provisions of law.

(e) Violations of any provisions of the Immigration and Nationality Act committed during the immigration emergency may be investigated by the Federal Bureau of Investigation, the Immigration and Naturalization Service, the Coast Guard, or any component of the Department of Treasury. Assistance in investigating or enforcing this section may be provided by any Federal, with the approval of the Attorney General, state or local agency including the Army,

Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

Chapter 240E. Definitions

As used in chapters 240A through 240D:

- (1) The term "vessel" means any ship, boat, barge submarine, raft, or other craft or structure capable of being used as a means of transportation on, under or immediately above the water.
- (2) The term "vehicle" means any automobile, motorcycle, bus, truck, cart, train, or other device or structure capable of being used as a means of transportation on land.
- (3) The term "aircraft" means any airplane, helicopter, glider, balloon, blimp, or other craft or structure capable of being used as a means of transportation in the air.
- (4) The terms "United States vessel, vehicle or aircraft" include any vessel, vehicle, or aircraft documented, registered, licensed, or numbered under the laws of the United States or any political subdivision thereof.
- (5) The term "agency" includes any executive department and components thereof, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency."

COUNTRIES TO WHICH ALIENS SHALL BE DEPORTED; COST OF
DEPORTATION

SEC. 243. [8 U.S.C. 1253] (a) The deportation of an alien in the United States provided for in this Act, or any other Act or treaty,

shall be directed by the Attorney General to a country promptly designated by the alien if that country is willing to accept him into its territory, unless the Attorney General, in his discretion, concludes that deportation to such country would be prejudicial to the interests of the United States. No alien shall be permitted to make more than one such designation, nor shall any alien designate, as the place to which he wishes to be deported, any foreign territory contiguous to the United States or any island adjacent thereto or adjacent to the United States unless such alien is a native, citizen, subject, or national of, or had a residence in such designated foreign contiguous territory or adjacent island. If the government of the country designated by the alien fails finally to advise the Attorney General within three months following original inquiry whether that government will or will not accept such alien into its territory, such designation may thereafter be disregarded. Thereupon deportation of such alien shall be directed to any country of which such alien is a subject [,] national, or citizen if such country is willing to accept him into its territory. If the government of such country fails finally to advise the Attorney General or the alien within three months following the date of original inquiry, or within such other period as the Attorney General shall deem reasonable under the circumstances in a particular case, whether that government will or will not accept such alien into its territory, then such deportation shall be directed by the Attorney General within his discretion and without necessarily giving any priority or preference because of their order as herein set forth either—

(1) to the country from which such alien last entered the United States;

(2) to the country in which is located the foreign port at which such alien embarked for the United States or for foreign contiguous territory;

(3) to the country in which he was born;

(4) to the country in which the place of his birth is situated at the time he is ordered deported;

(5) to any country in which he resided prior to entering the country from which he entered the United States;

(6) to the country which had sovereignty over the birthplace of the alien at the time of his birth; or

(7) if deportation to any of the foregoing places or countries is impracticable, inadvisable, or impossible, then to any country which is willing to accept such alien into its territory.

(b) If the United States is at war and the deportation, in accordance with the provisions of subsection (a), of any alien who is deportable under any law of the United States shall be found by the Attorney General to be impracticable, inadvisable, inconvenient, or impossible because of enemy occupation of the country from which such alien came or wherein is located the foreign port at which he embarked for the United States or because of reasons connected with the war, such alien may, in the discretion of the Attorney General, be deported as follows:

(1) If such alien is a citizen or subject of a country whose recognized government is in exile, to the country in which is located that government in exile if that country will permit him to enter its territory; or

(2) if such alien is a citizen or subject of a country whose recognized government is not in exile, then to a country or any political or territorial subdivision thereof which is proximate to the country of which the alien is a citizen or subject, or, with the consent of the country of which the alien is a citizen or subject, to any other country.

(c) If deportation proceedings are instituted at any time within five years after the entry of the alien for causes existing prior to or at the time of entry, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this Act, and the deportation from such port shall be at the expense of the owner or owners of the vessels, aircraft, or other transportation lines by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this Act: *Provided*, That the costs of the deportation of any such alien from such port shall not be assessed against the owner or owners of the vessels, aircraft, or other transportation lines in the case of any alien who arrived in possession of a valid unexpired immigrant visa and who was inspected and admitted to the United States for permanent residence. In the case of an alien crewman, if deportation proceedings are instituted at any time within five years after the granting of the last conditional permit to land temporarily under the provisions of section 252, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this Act and the deportation from such port shall be at the expense of the owner or owners of the vessels or aircraft by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this Act.

(d) If deportation proceedings are instituted later than five years after the entry of the alien, or in the case of an alien crewman later than five years after the granting of the last conditional permit to land temporarily, the cost thereof shall be payable from the appropriation for the enforcement of this Act.

(e) A failure or refusal on the part of the master, commanding officer, agent, owner, charterer, or consignee of a vessel, aircraft, or other transportation line to comply with the order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this Act, or a failure or refusal by any such person to comply with an order of the Attorney General to pay deportation expenses in accordance with the requirements of this section, shall be punished by the imposition of a penalty in the sum and manner prescribed in section 237(b).

(f) When in the opinion of the Attorney General the mental or physical condition of an alien being deported is such as to require personal care and attendance, the Attorney General shall, when necessary, employ a suitable person for that purpose who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed, and any failure or refusal to defray such expenses shall be punished in the manner prescribed by subsection (e) of this section.

(g) Upon the notification by the Attorney General that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Secretary of State shall instruct consular officers performing their duties in the territory of such country to discontinue the issuance of immigrant visas to nationals, citizens, subjects, or residents of such country, until such time as the Attorney General shall inform the Secretary of State that such country has accepted such alien.

[(h)(1) The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(C) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States.]

Section 243(h) of the Immigration and Nationality Act
(8 U.S.C. 1253(h)) is hereby repealed.

UNLAWFUL BRINGING OF ALIENS INTO UNITED STATES

SEC. 273. [8 U.S.C. 1323] (a) It shall be unlawful for any person, including any transportation company, or the owner, master, commanding officer, agent, charterer, or consignee of any vessel or aircraft, to bring to the United States from any place outside thereof (other than from foreign contiguous territory) any alien who does not have an unexpired visa, if a visa was required under this Act or regulations issued thereunder.

(b) If it appears to the satisfaction of the Attorney General that any alien has been so brought, such person, or transportation company, or the master, commanding officer, agent, owner, charterer, or consignee of any such vessel or aircraft, shall pay to the

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collector of customs of the customs district in which the port of arrival is located the sum of ~~[\$1,000]~~ \$ ~~3000~~ for each alien so brought and, except in the case of any such alien who is admitted, or permitted to land temporarily, in addition, a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter sum to be delivered by the collector of customs to the alien on whose account the assessment is made. No vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such sums or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs.

"Such sums shall be a lien upon the vessel or aircraft involved in a violation of the provisions of subsection (a) of this section, and such vessel or aircraft may be libeled therefore in the appropriate United States Court. In addition, pending the determination of liability to the payment of such sums or while such sums remain unpaid, said vessel or aircraft may be denied clearance, or summarily seized, or both, unless a deposit is made of an amount sufficient to cover such sums or of a bond with sufficient surety to secure the payment thereof satisfactory to the Attorney General."

BRINGING IN AND HARBORING CERTAIN ALIENS

SEC. 274. [8 U.S.C. 1324] (a) Any person, including the owner, operator, pilot, master, commanding officer, agent or consignee of any means of transportation who—

(1) brings into or lands in the United States, by any means of transportation or otherwise, or attempts, by himself or through another, to bring into or land in the United States, by any means of transportation or otherwise;

(2) knowing that he is in the United States in violation of law, and knowing or having reasonable grounds to believe that his last entry into the United States occurred less than three years prior thereto, transports, or moves, or attempts to transport or move, within the United States by means of transportation or otherwise, in furtherance of such violation of law;

(3) willfully or knowingly conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, in any place, including any building or any means of transportation; or

(4) willfully or knowingly encourages or induces, or attempts to encourage or induce, either directly or indirectly, the entry into the United States of—

any alien, including an alien crewman, not duly admitted by an immigration officer or not lawfully entitled to enter or reside within the United States under the terms of this Act or any other law relating to the immigration or expulsion of aliens, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$2,000 or by imprisonment for a term not exceeding five years, or both, for each alien in respect to whom any violation of this subsection occurs: *Provided, however,* That for the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring.

(b)(1) Any vessel, vehicle, or aircraft which is used in the commission of a violation of subsection (a) shall be subject to seizure and forfeiture, except when—

(A) the owner, master, or other person in charge of such vessel, vehicle, or aircraft, was not, at the time of the alleged illegal act, a consenting party or privy thereto; or

(B) the alleged illegal act occurred while such vessel, vehicle, or aircraft was in the illegal possession of any person other than the owner, as established by the criminal laws of the United States, or of any States.

(2) The Attorney General shall, within one hundred and eighty days from the date of enactment of this Act, promulgate regulations setting forth procedures for the expeditious return to the owner, master, or other person in charge of any vessel, vehicle, or aircraft seized in violation of paragraph (1). In any such case, the owner, master, or other person in charge of such vessel, vehicle, or aircraft shall not incur any expenses, including costs of transportation, storage, damage, and attorney fees, associated with such seizure and forfeiture. In the case of a vehicle seized and forfeited pursuant to paragraph (1) subject to a valid lien or other third-party interest, the regulations shall provide for satisfaction of the third party interest without expense to the interestholder.

(3) Any conveyance subject to seizure under this section may be seized without a warrant if there is probable cause to believe the conveyance has been used in violation of subsection (a) and circumstances exist where a warrant is not constitutionally required.

(4) All provisions of law relating to the seizure, forfeiture, and disposition of vessels, vehicles, and aircraft for violations of customs law shall apply to violations of the provisions of this chapter: *Provided, That—*

(A) duties imposed on customs officers or other persons regarding the seizure of such conveyances under customs law shall apply to seizures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General; and

(B) proceedings instituted under this subsection respecting vessels shall be subject to the Supplemental Rules of Certain Admiralty and Maritime Claims.

(c) No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.]

(a) Any person who—

knowing or in reckless disregard of the fact that
the alien has not received prior official authori-
zation to come to, enter, or reside in the United
States, brings to or attempts to bring to the United
States in any manner whatsoever, any alien, regardless
of any official action which may later be taken with
respect to such alien,

(1) shall, for each transaction constituting a
violation of this subsection, regardless of the number
of aliens involved, be guilty of a misdemeanor and
upon conviction shall be punished by a mandatory fine
of \$2500, the imposition of which shall not be sus-
pending by the court, and, in the court's discretion,
may be punished by an additional fine of not more than
an amount equal to \$2500 for each such alien in
respect to whom any violation of this paragraph
occurs, or by imprisonment for a term not exceeding
one year, or both; or

(2)(A) for a second offense under this section;

(B) for an offense done for the purpose of
commercial advantage or private financial gain;

(C) for an offense in which the alien is not
upon arrival immediately brought and presented to an
appropriate immigration official; or

(D) for an offense during which either the
offender or the alien with the knowledge of the
offender, makes any false or misleading statement, or
engages in any act or conduct intended to mislead any
officer, agent, or employee of the United States,
shall be guilty of a felony and upon conviction shall
be punished by a fine not exceeding \$10,000 or by
imprisonment for a term not exceeding five years, or
both, for each alien in respect to whom any violation
of this paragraph occurs.

(b) Any person who—

(1) knowing or having reason to know that the
person is an alien, brings to or attempts to
bring to the United States in any manner whatso-
ever, any such person at a place other than a
designated port of entry or place other than as
designated by the Commissioner of the Immigration
and Naturalization Service regardless of whether
such alien has received prior official authoriza-
tion to come to, enter, or reside in the United
States and regardless of any future official
action which may be taken with respect to such
alien;

(2) knowing or in reckless disregard of the
fact that the alien has come to, entered, or
remains in the United States in violation of law,
transports, or moves or attempts to transport or
move any such alien within the United States by
means of transportation or otherwise, in further-
ance of such violation of law;

(3) knowing or in reckless disregard of the
fact that the alien has come to, entered, or
remains in the United States in violation of law,
conceals, harbors, or shields from detection, any
such alien in any place, including any building
or any means of transportation; or

(4) knowing or having reason to know that a
person is an alien, willfully encourages or
induces or attempts to encourage or induce,
either directly or indirectly, the entry without
prior official authorization, into the United
States of any such alien—

shall be guilty of a felony, and upon conviction thereof shall be
punished by a fine not exceeding \$10,000 or by imprisonment for a
term not exceeding five years, or both, for each alien in respect
to whom any violation of this subsection occurs: ~~Provided,~~ however,
that for the purposes of this section, employment (including the
usual and normal practices incident to employment) shall not be
deemed to constitute harboring.

(c)(1) any conveyance, including any vessel,
vehicle, or aircraft, which has been, is being, or is
intended to be used, in the commission of a violation
of subsections (a) or (b) shall be seized and subject
to forfeiture except that—

(A) no conveyance used by any person as a
common carrier shall be forfeited under the pro-
visions of this section if the offense occurs
when the conveyance is being used in the business
as a common carrier unless the owner, operator,
or other person in charge of the conveyance at
the time of the offense was a consenting party
or privy to the illegal act; and

(B) no conveyance shall be forfeited under
the provisions of this section if the offense
occurred while such conveyance was unlawfully in
the possession of a person other than the owner
in violation of the criminal laws of the United
States or of any State.

(2) Any conveyance subject to seizure under this section may
be seized without a warrant if there is probable cause to believe
the conveyance has been, is being, or is intended to be used in a
violation of subsection (a) or (b) and circumstances exist where a
warrant is not constitutionally required.

(3) All provisions of the customs laws relating to the seizure,
summary and judicial forfeiture, and condemnation of property; the
disposition of such property or the proceeds from the sale thereof;
the remission or mitigation of such forfeiture; and the compromise
of claims and the award of compensation to informers in respect of

such forfeitures shall apply to seizures and forfeitures incurred
or alleged to have been incurred, under the provisions of this
section insofar as applicable and not inconsistent with the
provisions hereof, except that duties imposed on customs officers
or other persons regarding the seizure and forfeiture of property
under the customs laws may be performed with respect to seizure and
forfeitures carried out under the provisions of this section by
such officers or persons authorized for that purpose by the
Attorney General.

(4) Whenever a conveyance is forfeited under this section the
Attorney General may—

(A) retain the conveyance for official use;

(B) sell the conveyance, in which case the proceeds
from any such sale shall be used to pay all proper expenses
of the proceedings for forfeiture and sale including expenses
of seizure, maintenance of custody, advertising, and court
costs;

(C) require that the General Services Administration,
or the Federal Maritime Commission if appropriate under 40 U.S.C. 484(i),
take custody of the conveyance and remove it for disposition in
accordance with law; or

(D) dispose of the conveyance in accordance with the
terms and conditions of any petition of remission or
mitigation of forfeiture granted by the Attorney General.

(5) In all suits or actions brought for the forfeiture of any
conveyance seized under this section, where the conveyance is
claimed by any person, the burden of proof shall lie upon such

claimant: Provided, that probable cause shall be first shown for
the institution of such suit or action, to be judged of by the
court. In determining whether probable cause exists, any of the
following shall be prima facie evidence, of the presumption that an alien involved
in the alleged violation had not received prior official authorization
to come to, enter, or reside in the United States or that such
alien had come to, entered, or remained in the United States in
violation of laws.'

(A) Records of any judicial or administrative proceeding
in which that alien's status was an issue and in which it was
determined that the alien had not received prior official
authorization to come to, enter, or reside in the United
States or that such alien had come to, entered, or remained
in the United States in violation of law;

(B) Official records of the Immigration and
Naturalization Service or State Department showing that the
alien had not received prior authorization to come to, enter,
or reside in the United States or had come to, entered, or
remained in the United States in violation of law; and

(C) Testimony, by an immigration officer having personal
knowledge of the facts concerning that alien's status, that the
alien had not received prior authorization to come to, enter, or
reside in the United States or had come to, entered, or remained
in the United States in violation of law.

(6) Any officer or employee of the Service designated
by the Attorney General, either individually or as a member
of a class, and all other Federal officers and officers of a
state or political subdivision thereof whose duty it is to
enforce criminal laws shall have authority to make any arrest
for a violation of any provision of this section.

(d)(1) It shall be unlawful for an employer knowingly to hire an alien for employment in the United States, unless at the time of employment the alien has been lawfully admitted for permanent residence or is an alien who has been authorized to be employed by the Attorney General. Provided, that this provision shall not apply to an employer who establishes that he or she did not employ four or more persons, at the time of violation.

(2) If an alien has been employed in violation of this subsection, the employer shall be subject to a civil penalty of \$500 per alien employed without authorization upon determination of a first violation. Upon determination of a subsequent violation, the employer shall pay the sum of \$1000 per alien employed without authorization. Payment shall be made to the district director of the Immigration and Naturalization Service in the district where the violation occurred. In the discretion of the Attorney General, payment may be recovered by civil suit in a United States district court in the name of the United States from any employer made liable under this subsection. The Attorney General shall establish by regulation a procedure for implementing this subsection.

(3) Whenever the Attorney General has reasonable cause to believe that an employer has engaged in a pattern or practice of employment in violation of this subsection, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint setting forth facts pertaining to such pattern or practice and requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order.

against the employer as the Attorney General deems necessary. For purposes of this paragraph the term "district court" shall include a United States magistrate."

(4) For the purposes of this section, an employer shall be presumed to have knowingly employed an alien who is not authorized for employment in the United States if the employer does not request and obtain evidence that the individual is authorized for employment as set forth in (d)(5) below; Provided, that the foregoing shall not prevent the Government from establishing knowing employment by any other means.

(5) The Attorney General shall establish by regulation a form by which every employer as described in subsection (d)(1) above, and every prospective employee of such employer, shall attest that the prospective employee is a United States citizen, a national of the United States, or has the status of an alien lawfully admitted for permanent residence, or has been authorized for employment by the Attorney General, and that the employer has examined such documents as may, by regulation, be prescribed by the Attorney General relating to such citizenship, permanent resident status, or employment authorization. Such forms shall be retained by the employer and shall be available for inspection by officers of the Immigration and Naturalization Service, for the duration of the employee's employment, and for one year following the termination of the employment.

(6)(1) Section 6(f) of the Farm Labor Contractor Registration Act of 1963, as amended, is hereby repealed.

(2) Section 5(b)(6) of the Farm Labor Contractor Registration Act of 1963, as amended, is revised to read as follows:

(6) has been found to have knowingly employed an alien not lawfully admitted for permanent residence or not authorized for permanent residence or not authorized by the Attorney General to accept employment in violation of section 274 of the Immigration and Nationality Act.

(2) by inserting after new subsection (d) the following new subsection:

(e) The provisions of this section are intended to preempt any state or local laws imposing civil or criminal sanctions upon those who employ aliens not authorized to work in the United States.

(3) the title of section 274 of such Act is amended to read as follows:

"BRINGING IN, HARBORING, AND EMPLOYING CERTAIN ALIENS."

(4) the designation of section 274 in the table of contents (Title II -Immigration, Chapter 8) of such Act is amended to read as follows:

"Section 274. Bringing in, harboring, and employing certain aliens."

ENTRY OF ALIEN AT IMPROPER TIME OR PLACE; MISREPRESENTATION
AND CONCEALMENT OF FACTS

SEC. 275. [8 U.S.C. 1325] [Any alien who (1) enters the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offenses, be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment for not more than six months, or by a fine of not more than \$500, or by both, and for a subsequent commission of any such offenses shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than two years, or by a fine of not more than \$1,000, or both.]

"275 ENTRY OF ALIEN AT IMPROPER TIME OR PLACE; MISREPRESENTATION AND CONCEALMENT OF FACTS; MISREPRESENTATION OF EMPLOYMENT STATUS."

(a) Any alien who (1) enters the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offenses, be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment for not more than six months, or by a fine of not more than \$500, or both, and for a subsequent commission of any such offenses shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than two years, or by a fine of not more than \$1000, or both.

(b) Any person who with unlawful intent photographs, prints, or in any other manner makes, or executes, any engraving, photograph, print, or impression in the likeness of any document presented to establish United States citizenship, lawful permanent resident status or employment authorization granted by the Attorney General, as required by subsection 274(d)(5) of the Act or regulations issued thereunder; or any person who with unlawful intent presents or uses such documents, shall upon conviction be fined not to exceed \$5,000 or be imprisoned not more than five years, or both.

(c) Any alien who does not have the status of an alien lawfully admitted for permanent residence, or who has not been authorized to be employed by the Attorney General, who willfully and knowingly possesses and presents any document relating to another person for the purpose of obtaining employment in the United States, shall upon conviction be fined not to exceed \$5,000 or be imprisoned not more than five years, or both.

(b) the designation of section 275 in the table of contents (Title II -Immigration, Chapter 8) of such Act is amended to read as follows:

Sec. 275. Entry of alien at improper time or place; misrepresentation and concealment of facts; misrepresentation of employment status.

JURISDICTION OF DISTRICT COURTS

SEC. 279. ~~a~~ [8 U.S.C. 1329] The district courts of the United States shall have jurisdiction of all causes, civil and criminal, arising under any of the provisions of this title. It shall be the duty of the United States attorney of the proper district to prosecute every such suit when brought by the United States. Notwithstanding any other law, such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with a violation under section 275 or 276 may be apprehended. No suit or proceeding for a violation of any of the provisions of this title shall be settled, compromised, or discontinued without the consent of the court in which it is pending and any such settlement, compromise, or discontinuance shall be entered of record with the reasons therefor.

"(b) An action for judicial review of any administrative action arising under this Act, or regulations issued pursuant to this Act, other than a final order of deportation as provided in section 106(a) of the Act, may not be filed later than 30 days from the date of the final administrative action or from the effective date of this section, whichever is the later."