

Rewarding Employers that Abide by the Law and Guaranteeing Uniform Enforcement to Stop Terrorism (REAL GUEST) Act of 2005

Title I – Rewarding Employers that Abide by the Law

- ➤ Delineates a truly temporary guest worker program, which is responsive to market conditions and does not include any amnesty component; delays the implementation of the temporary guest worker program until measurable enforcement goals (enumerated in Title II) have been satisfied. The current H nonimmigrant programs will continue normal operations until the new H nonimmigrant program is implemented.
- ➤ Eliminates current H-1B (high-tech), H-1B1 (Chile/Singapore high-tech), H-1C (nurses), H-2A (agricultural), and H-2B (seasonal or temporary) nonimmigrant visas and replaces them with a single H nonimmigrant visa for all needed workers, skilled and unskilled.
- ➤ Prescreens foreign workers and makes them available to employers who can establish a true need for additional, short-term labor, while ensuring that U.S. workers are not harmed.
- ➤ Requires sponsoring employers to file a petition for H workers with the Department of Labor; allows H nonimmigrant visas to be issued only when no qualified and lawfully present workers are currently available to perform the work, and no such workers could be trained in less than one year.
- ➤ Limits H nonimmigrants' period of authorized admission to 365 days during any two-year period, but allows H nonimmigrants to renew their visas upon the expiration of each two-year period.
- ➤ Requires an alien seeking H nonimmigrant status to sign a legally enforceable affidavit attesting that, among other things, the alien understands that he/she will be ineligible to adjust to lawful permanent resident status or to change status to any other nonimmigrant classification.
- ➤ Prohibits spouses and children from accompanying or following to join H nonimmigrants.
- ➤ Directs DoL to ensure that all State employment agencies and all employers can acquire secure, password-protected access to an Internet-based job database known as "America's Job Bank," and requires employers seeking to hire H nonimmigrants to post available jobs on America's Job Bank.
- ➤ Bars an alien who violates a term or condition of his H nonimmigrant visa from receiving any immigrant or nonimmigrant visa for 10 years. (This section encompasses visa overstays)
- ➤ Amends current law to clarify that a child born in the United States to an H nonimmigrant parent is not a U.S. citizen at birth, unless the child's other parent is a citizen or a lawful permanent resident.

Title II – Guaranteeing Uniform Enforcement to Stop Terrorism

- ➤ Enumerates several enforcement goals which are necessary to secure the borders, reduce immigration fraud and identity theft, curb illegal immigration, and reestablish the rule of law. These enforcement measures will make it more difficult for terrorists to abuse the immigration system and are critical to the success of the new H nonimmigrant program, since, under current law, there is no way to ensure that temporary workers leave when they are supposed to; there is no adequate labor market test to ensure that employers are not simply importing cheap labor to replace U.S. workers; and the costs of illegal immigration are being borne by our own native poor, while the benefits accrue almost exclusively to the wealthy.
- ➤ Recites the sense of Congress that the President should deploy U.S. military troops, when feasible, to conduct training exercises in supporting functions for the Border Patrol.
- ➤ Amends the criminal statute barring the use of the Army or the Air force as a posse comitatus to exempt their use at or near the border to prevent illegal entry into the United States.
- ➤ Increases substantially the number of USCBP immigration inspectors, detention and removal officers, attorneys for the USICE Legal Program, and criminal investigators for benefits fraud, and provides funding for related training and support.
- ➤ Suspends the Visa Waiver Program until DHS makes certain certifications to the Congress.
- ➤ Makes unlawful presence in the U.S. a felony, punishable by fine, imprisonment, and asset forfeiture.
- ➤ Authorizes consular officers to require H nonimmigrant visa applicants to obtain a visa term compliance bond to ensure that the nonimmigrants comply with all laws regarding their stay in and departure from the United States; requires DHS to take into custody any alien who violates the terms of a visa and is produced by the obligor on a visa term compliance bond.
- ➤ Establishes identification standards for receiving federal benefits; requires states and localities to meet certain minimum standards in issuing birth certificates.
- ➤ Implements measures designed to make it difficult for illegal aliens to live, work, and remain in the United States illegally. These measures are based on a theory of attrition which dictates that illegal aliens who face a high risk of apprehension, are unable to find work, and are unable to profit from their presence in the United States will have no choice but to return to their home countries.
- ➤ Renames the current Basic Pilot program the “Employment Authorization Status Instant Check” (EASI Check system) and makes use of the program mandatory for all employers, but phases employers in over three years, beginning with federal agencies, and the industries where illegal aliens are most concentrated; requires all employers to verify current employees, in addition to new hires, by no later than the fourth year after enactment; requires employers to terminate employees for whom a final nonconformation is received.
- ➤ Increases significantly the fines to which employers are subject for knowingly hiring illegal aliens; makes violators ineligible to petition for H nonimmigrant workers; subjects employers who engage in a pattern or practice of violations to imprisonment.

- ➤ Prohibits states from granting in-state tuition rates to illegal aliens on the basis of graduation from a U.S. high school (in addition to residence) unless they offer the same rate to all U.S. citizens.
- ➤ Affirms the inherent authority of State and local law enforcement officers to enforce the immigration laws of the United States; requires Federal immigration authorities to respond to requests for assistance from State and local authorities.
- ➤ Establishes a “demonstration project” to assess the feasibility of establishing a nationwide “e-learning training course,” covering basic immigration law enforcement issues. State, local, and tribal law enforcement officers will use the “e-learning training course” to improve and enhance their ability, during their routine course of duties, to assist Federal immigration officers in the enforcement of Federal immigration laws.

Title III – Revision of Federal Reimbursement of Emergency Health Care Services Furnished to Illegal Aliens

- ➤ Appropriates funds necessary to fully reimburse providers of federally mandated emergency medical treatment of illegal aliens, but only if the individual provider collects and reports to DHS all citizenship information and other non-clinical information concerning each illegal alien treated.