

Amendment #1353-- To Increase Public Safety By Denying RPI Status to Any Alien Who Would Otherwise Be Ineligible for Admission Under Current Immigration Law

This amendment will increase public safety by denying registered provisional immigrant (RPI) status to aliens who would otherwise be ineligible for admission to the U.S. under current immigration law by eliminating the Secretary's ability to waive certain provisions of the Immigration and Nationality Act for purposes of granting RPI status.

The Bill Grants RPI Status to Illegal Aliens Who Would Otherwise Be Inadmissible Under Current Immigration Law

The bill allows illegal aliens who have violated current immigration law under the Immigration and Nationality Act (INA) and would otherwise be inadmissible under current law to apply for RPI status.

Supporters believe the exceptions to current immigration law are merely provisions that are concomitant with being present in the United States illegally.

As a result, they argue, RPI applicants must not be required to follow those provisions, otherwise, through the RPI process, we would also force them to simultaneously break current immigration law.

However, this does not paint an accurate picture of the current immigration laws we are allowing RPI applicants to break.

The bill also allows exemptions for other types of conduct that would make the alien inadmissible under current law.

For example, an illegal alien could commit the following violations of the INA and still apply for RPI status: 1) fraudulently or willfully misrepresent a material fact on official documents, 2) fail to attend a removal proceeding, or 3) frivolously file an application for asylum.

Not only does the bill specifically exempt RPI Applicants from most of current immigration law, it also provides the Secretary with the ability to waive many other types of criminal conduct that would otherwise make an alien inadmissible under current law.

The Secretary can waive ANY other inadmissibility factor under Section 212(a) of the INA, if it is for humanitarian purposes, to ensure family unity or if it is otherwise in the public interest.

This broad waiver ability allows the Secretary to define what qualifies as being “in the public interest.”

The types of criminal violations that would otherwise make an alien inadmissible under current law, but are waivable by the Secretary include:

- prostitution
- trafficking in controlled substances,
- crimes of moral turpitude and
- the alien is likely to become a public charge.

For example, waiver of the requirement that an alien NOT be likely to become a public charge runs counter to longstanding U.S. policy on immigration.

"Public charge" is a long-standing feature of U.S. immigration law. The Department of Justice accepts it as a provision that has “been part of U.S. immigration law for more than 100 years”.¹

By definition, someone who is a "public charge" relies on the U.S. government for financial support.

The issue of public charge was introduced into the immigration system in 1917 and has been maintained since then.

In fact, President Herbert Hoover depended heavily on the public charge restrictions to help the recovery process during the Great Depression.

¹ “Questions and Answers Public Charge” May 25, 1999. Press Office of the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services.

The law, while substantively the same, is applied differently by different administrations.

For example, in May 1999, the Clinton Administration published a proposed regulation clarifying which government benefits might subject an alien to the public charge consideration. Those benefits are:

- Cash assistance for income maintenance through Supplemental Security Income (SSI).
- Cash assistance from the Temporary Assistance for Needy Families (TANF).
- State or local cash assistance programs for income maintenance, often called 'General Assistance' programs.
- Government funds used to offset the cost of long-term care in a nursing home or mental health institution may also invoke public charge considerations.

Immigrants coming to the US should be expected to be able to provide for their basic necessities if they seek to become citizens.

If we hope to successfully cut government programs, fraud, waste, and abuse we must not continue to introduce new-comers to living off the government dime.

This issue highlights the problem that affects all of our citizens—American taxpayers are forced to pay into programs that are not only inefficient and wasteful, but also those that, under the Constitution, the federal government should never provide to anyone in the first place.

This Legislation Ignores the Rule of Law

One of the primary principles setting the U.S. apart from all other nations is our adherence to the rule of law. It is important to remember that liberty is dependent upon the rule of law.

When our rule of law is undermined, the defining values of our nation are jeopardized.

We cannot have a government that guarantees freedom, without a government that guarantees the rule of law.

Granting citizenship to those who broke our laws ahead of others who are pursuing citizenship through legal channels is fundamentally unfair and undermines the legal immigration process.

Unfortunately, this and many other provisions of the bill fly in the face of that principle.

The bill discourages enforcement of both our criminal law and current immigration law.

As a nation, we have an obligation to our citizens—***and to legal immigrants***—to uphold the rule of law and ensure the process is fair to all.

While this is a small step toward restoring the rule of law to this legislation, it is a necessary one.

I urge adoption of my amendment.