

107TH CONGRESS
2D SESSION

H. R. 5288

To reaffirm the historic treatment of part-time commuter students from Canada and Mexico as temporary visitors for purposes of entry into the United States.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2002

Mr. LAFALCE (for himself, Mr. QUINN, Mr. HOUGHTON, Mr. STUPAK, Mr. OBERSTAR, Mr. LARSEN of Washington, and Mr. MCDERMOTT) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reaffirm the historic treatment of part-time commuter students from Canada and Mexico as temporary visitors for purposes of entry into the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commuter Students
5 From Border Nations Act of 2002”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) Citizens of the United States, Canada, and
2 Mexico have always freely crossed the northern and
3 southern borders for purposes of travel for com-
4 merce, business, or pleasure.

5 (2) The North American Free Trade Agreement
6 gives preferential designation to United States, Ca-
7 nadian, and Mexican nationals who regularly travel
8 as part of their business to engage in trade or com-
9 merce among the three nations.

10 (3) The Jay Treaty of 1794 provides that citi-
11 zens of the United States and Canada “shall at all
12 times be free to . . . pass and repass by land or in-
13 land navigation” into each other countries.

14 (4) The United States and Canada have a
15 “Special Agreement” that has historically imple-
16 mented immigration and commercial policies rooted
17 in a common history and founded upon principles of
18 “grace and courtesy” first enunciated in the Jay
19 Treaty of 1794.

20 (5) Immigration and Naturalization Service
21 regulations acknowledge that “a visa is not required
22 of a Canadian national in any case. . . ,” thereby re-
23 affirming that Canadians are free to enter the
24 United States for business and for pleasure, without
25 a visa.

1 (6) Canadians and Mexicans who regularly
2 commute to study in the United States have always
3 been granted entry to the United States in the same
4 manner as Canadians and Mexicans who are granted
5 regular entry for recreation, to shop or to engage in
6 commercial activities.

7 (7) United States schools and their Canadian
8 and Mexican commuter students both reap substan-
9 tial cultural, educational, and economic benefits
10 from the ability of the students to commute to class-
11 es in communities along the northern and southern
12 borders.

13 (8) The policy announcement of May 22, 2002,
14 by the Immigration and Naturalization Service to
15 deny admission to part-time commuter students
16 from Canada and Mexico is contrary to the Jay
17 Treaty, the Immigration and Naturalization Act, the
18 North American Free Trade Agreement, and long-
19 standing Immigration and Naturalization Service
20 practice to admit part-time commuter students.

21 (9) The May 22, 2002 policy of the Immigra-
22 tion and Naturalization Service to deny admission to
23 part-time commuter students from Canada and Mex-
24 ico is detrimental to our amicable relations with
25 Canada and Mexico.

1 **SEC. 3. REAFFIRMATION OF THE STATUS OF PART-TIME**
2 **COMMUTER STUDENTS FROM CANADA OR**
3 **MEXICO AS TEMPORARY VISITORS FOR PUR-**
4 **POSES OF ENTRY INTO UNITED STATES.**

5 Notwithstanding the Immigration and Nationality
6 Act or any other provision of law, a nonimmigrant alien—

7 (1) who is a national of Canada or Mexico, who
8 maintains actual residence and place of abode in the
9 country of nationality;

10 (2) who is described in section 101(a)(15)(F)(i)
11 or (M)(i) of the Immigration and Nationality Act (8
12 U.S.C. 1101(a)(15)(F)(i) or (M)(i)) except that the
13 nonimmigrant alien's qualifications for and actual
14 course of study is less than full-time; and

15 (3) who commutes to the United States institu-
16 tion or place of study from Canada or Mexico;

17 shall be treated in the same manner for purposes of entry
18 as a nonimmigrant alien under section 101(a)(15)(B) (8
19 U.S.C. 1101(a)(15)(B)) of such Act.

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