

**§ 1613. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit**

**(a) In general**

Notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d) of this section, an alien who is a qualified alien (as defined in section 1641 of this title) and who enters the United States on or after August 22, 1996, is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

**(b) Exceptions**

The limitation under subsection (a) of this section shall not apply to the following aliens:

**(1) Exception for refugees and asylees**

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157].

(B) An alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158].

(C) An alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208).

(D) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

(E) An alien admitted to the United States as an Amerasian immigrant as described in section 1612(a)(2)(A)(i)(V)<sup>1</sup> of this title.

**(2) Veteran and active duty exception**

An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B) or the unremarried surviving spouse of an individual described in clause (i) or (ii)<sup>2</sup> who is deceased if the marriage fulfills the requirements of section 1304 of title 38.

**(c) Application of term Federal means-tested public benefit**

(1) The limitation under subsection (a) of this section shall not apply to assistance or benefits under paragraph (2).

(2) Assistance and benefits under this paragraph are as follows:

(A) Medical assistance described in section 1611(b)(1)(A) of this title.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.].

(D) Assistance or benefits under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(E) Public health assistance (not including any assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(F) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.] for a parent or a child who would, in the absence of subsection (a) of this section, be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of such child is a qualified alien (as defined in section 1641 of this title).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq., 1101 et seq., 1134 et seq., 1135 et seq., 42 U.S.C. 2751 et seq.], and titles III, VII, and VIII of the Public Health Service Act [42 U.S.C. 241 et seq., 292 et seq., 296 et seq.].

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(J) Benefits under the Head Start Act [42 U.S.C. 9831 et seq.].

(K) Benefits under the<sup>3</sup> title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.].

(L) Assistance or benefits provided to individuals under the age of 18 under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

**(d) Benefits for certain groups**

Notwithstanding any other provision of law, the limitations under section 1611(a) of this title and subsection (a) of this section shall not apply to—

(1) an individual described in section 1612(a)(2)(G) of this title, but only with respect to the programs specified in subsections (a)(3) and (b)(3)(C) of section 1612 of this title; or

(2) an individual, spouse, or dependent described in section 1612(a)(2)(K) of this title, but

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be "subparagraph (A) or (B)".

<sup>3</sup> So in original. The word "the" probably should not appear.

only with respect to the specified Federal program described in section 1612(a)(3)(B) of this title.

(Pub. L. 104–193, title IV, §403, Aug. 22, 1996, 110 Stat. 2265; Pub. L. 105–33, title V, §§5302(c)(1), 5303(c), 5306(c), 5562, 5563, Aug. 5, 1997, 111 Stat. 599, 600, 602, 638; Pub. L. 105–185, title V, §509, June 23, 1998, 112 Stat. 580; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(3)(A), (f)(3)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–419, 2681–429; Pub. L. 106–78, title VII, §752(b)(6), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 107–171, title IV, §4401(b)(2)(A), May 13, 2002, 116 Stat. 333.)

#### REFERENCES IN TEXT

Section 243 of such Act, referred to in subsec. (b)(1)(C), is section 243 of act June 27, 1952, which is classified to section 1253 of this title. Section 1253 of this title was amended generally by Pub. L. 104–208, div. C, title III, §307(a), Sept. 30, 1996, 110 Stat. 3009–612, and, as so amended, no longer contains a subsec. (h). For effective date of section 307 of Pub. L. 104–208, see section 309 of Pub. L. 104–208, set out as an Effective Date of 1996 Amendments note under section 1101 of this title.

Section 501(e) of the Refugee Education Assistance Act of 1980, referred to in subsec. (b)(1)(D), is section 501(e) of Pub. L. 96–422, as amended, which is set out in a note under section 1522 of this title.

Section 1612(a)(2)(A)(i)(V) of this title, referred to in subsec. (b)(1)(E), was redesignated section 1612(a)(2)(A)(v) of this title by Pub. L. 105–185, title V, §503(2), (3), June 23, 1998, 112 Stat. 578.

The Richard B. Russell National School Lunch Act, referred to in subsec. (c)(2)(C), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (c)(2)(D), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (c)(2)(E), (F), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts B and E of title IV and title XIX of the Act are classified generally to parts B (§620 et seq.) and E (§670 et seq.) of subchapter IV and subchapter XIX (§1396 et seq.), respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Higher Education Act of 1965, referred to in subsec. (c)(2)(H), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42. Titles V, IX, and X of the Act are classified generally to subchapters V (§1101 et seq.), IX (§1134 et seq.), and X (§1135 et seq.), respectively, of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (c)(2)(H), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Titles III, VII, and VIII of the Act are classified generally to subchapters II (§241 et seq.), V (§292 et seq.), and VI (§296 et seq.), respectively, of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(2)(I), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of Title 20, Education. For complete classification of this Act to the

Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Head Start Act, referred to in subsec. (c)(2)(J), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (c)(2)(K), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The Food Stamp Act of 1977, referred to in subsec. (c)(2)(L), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

#### AMENDMENTS

2002—Subsec. (c)(2)(L). Pub. L. 107–171 added subpar. (L).

1999—Subsec. (c)(2)(C). Pub. L. 106–78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

1998—Subsec. (c)(2)(K). Pub. L. 105–277, §101(f) [title VIII, §405(f)(3)(A)], struck out “Job Training Partnership Act or” before “title I of”.

Pub. L. 105–277, §101(f) [title VIII, §405(d)(3)(A)], substituted “Job Training Partnership Act or title I of the Workforce Investment Act of 1998” for “Job Training Partnership Act”.

Subsec. (d). Pub. L. 105–185 substituted “Benefits for certain groups” for “SSI and medicaid benefits for certain Indians” in heading, designated provisions beginning “an individual” as par. (1), substituted “to—” for “to”, “(a)(3)” for “(a)(3)(A)”, and “; or” for period at end, and added par. (2).

1997—Subsec. (b)(1)(C). Pub. L. 105–33, §5562, substituted “section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104–208)” for “section 243(h) of such Act”.

Subsec. (b)(1)(D). Pub. L. 105–33, §5302(c)(1)(A), added subpar. (D).

Subsec. (b)(1)(E). Pub. L. 105–33, §5306(c), added subpar. (E).

Subsec. (b)(2)(A). Pub. L. 105–33, §5563(c), inserted “, 1101, or 1301, or as described in section 107” after “section 101”.

Pub. L. 105–33, §5563(a), inserted “and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38” after “alienage”.

Subsec. (b)(2)(C). Pub. L. 105–33, §5563(b), inserted before period at end “or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38”.

Subsec. (d). Pub. L. 105–33, §5303(c), added subsec. (d).

Pub. L. 105–33, §5302(c)(1)(B), struck out heading and text of subsec. (d). Text read as follows: “The limitation under subsection (a) of this section shall not apply to refugee and entrant assistance activities, authorized by title IV of the Immigration and Nationality Act [8 U.S.C. 1521 et seq.] and section 501 of the Refugee Education Assistance Act of 1980, for Cuban and Haitian entrants as defined in section 501(e)(2) of the Refugee Education Assistance Act of 1980.”

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by section 4401(b)(2)(A) of Pub. L. 107–171 effective Oct. 1, 2003, see section 4401(b)(3) of Pub. L. 107–171, set out as a note under section 2014 of Title 7, Agriculture.

## EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 101(f) [title VIII, § 405(d)(3)(A)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(3)(A)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

Amendment by Pub. L. 105-185 effective Nov. 1, 1998, see section 510(b) of Pub. L. 105-185, set out as a note under section 1612 of this title.

## EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by sections 5302(c)(1), 5303(c), and 5306(c) of Pub. L. 105-33 effective, except as otherwise provided, as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5308 of Pub. L. 105-33, set out as a note under section 1612 of this title.

Amendment by sections 5562 and 5563 of Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

**§ 1614. Notification and information reporting**

Each Federal agency that administers a program to which section 1611, 1612, or 1613 of this title applies shall, directly or through the States, post information and provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this subchapter.

(Pub. L. 104-193, title IV, § 404(a), Aug. 22, 1996, 110 Stat. 2267.)

## REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle A of title IV of Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2261, as amended, which enacted this subchapter and sections 611a and 1437y of Title 42, The Public Health and Welfare, and amended section 1383 of Title 42. For complete classification of this subtitle to the Code, see Tables.

**§ 1615. Requirements relating to provision of benefits based on citizenship, alienage, or immigration status under the Richard B. Russell National School Lunch Act, the Child Nutrition Act of 1966, and certain other acts****(a) School lunch and breakfast programs**

Notwithstanding any other provision of this Act, an individual who is eligible to receive free public education benefits under State or local law shall not be ineligible to receive benefits provided under the school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) on the basis of citizenship, alienage, or immigration status.

**(b) Other programs****(1) In general**

Nothing in this Act shall prohibit or require a State to provide to an individual who is not a citizen or a qualified alien, as defined in section 1641(b) of this title, benefits under programs established under the provisions of law described in paragraph (2).

**(2) Provisions of law described**

The provisions of law described in this paragraph are the following:

(A) Programs (other than the school lunch program and the school breakfast program) under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(B) Section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(C) The Emergency Food Assistance Act of 1983 [7 U.S.C. 7501 et seq.].

(D) The food distribution program on Indian reservations established under section 2013(b) of title 7.

(Pub. L. 104-193, title VII, § 742, Aug. 22, 1996, 110 Stat. 2307; Pub. L. 106-78, title VII, § 752(b)(6), Oct. 22, 1999, 113 Stat. 1169.)

## REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b)(1), is Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2105, as amended, known as the “Personal Responsibility and Work Opportunity Reconciliation Act of 1996”. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 1305 of Title 42, The Public Health and Welfare, and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsecs. (a) and (b)(2)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (b)(2)(A), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

Section 4 of the Agriculture and Consumer Protection Act of 1973, referred to in subsec. (b)(2)(B), is section 4 of Pub. L. 93-86, which is set out as a note under section 612c of Title 7, Agriculture.

The Emergency Food Assistance Act of 1983, referred to in subsec. (b)(2)(C), is title II of Pub. L. 98-8, Mar. 24, 1983, 97 Stat. 35, as amended, which is classified generally to chapter 102 (§7501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 7501 of Title 7, and Tables.

## CODIFICATION

Section was enacted as part of title VII of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and not as part of title IV of that Act which comprises this chapter.

## AMENDMENTS

1999—Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act” in section catchline and in two places in text.

**SUBCHAPTER II—ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS****§ 1621. Aliens who are not qualified aliens or nonimmigrants ineligible for State and local public benefits****(a) In general**

Notwithstanding any other provision of law and except as provided in subsections (b) and (d) of this section, an alien who is not—