Public Law 97-116
97th Congress

An Act

To amend the Immigration and Nationality Act, and for other purposes.

Dec. 29, 1981
[H.R. 4327]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Immigration and Nationality Act Amendments of 1981".

Immigration and Nationality Act Amendments of 1981.
8 USC 1101 note.

(b) Except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

SEC. 2. (a) Subsection (a)(15) of section 101 (8 U.S.C. 1101) is amended—

(1) by striking out "institution of learning or other recognized place of study" in subparagraph (F) and inserting in lieu thereof "college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program"; and

(2) by adding after subparagraph (L) the following new subparagraph:

"(M)(i) an alien having a residence in a foreign country which he has no intention of abandoning who seeks to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an established vocational or other recognized nonacademic institution (other than in a language training program) in the United States particularly designated by him and approved by the Attorney General, after consultation with the Secretary of Education, which institution shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant nonacademic student and if any such institution fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him.".

(b) Subsection (b) of such section is amended by striking out "fourteen" in subparagraphs (E) and (F) and inserting in lieu thereof "sixteen".

(c) Subsection (f) of such section is amended—

(1) by striking out paragraph (2); and

(2) by striking out "paragraphs (9), (10), and (23) of section 212(a)" in paragraph (3) and inserting in lieu thereof "paragraphs (9) and (10) of section 212(a) and paragraph (23) of such section (except as such paragraph relates to a single offense of simple possession of 30 grams or less of marihuana)".

SEC. 3. Section 204 (8 U.S.C. 1154) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d) and the subsection (f), which was renumbered by section 3 of Public Law 95-417, as subsection (e).

92 Stat. 917.

SEC. 4. Section 212 (8 U.S.C. 1182) is amended—

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(1) by inserting "and who seek admission within five years of the date of such deportation or removal," in subsection (a)(17) after "section 242(b),";

(2) by striking out the second sentence of paragraph (6) of subsection (d); and

(3) by striking out "paragraphs (9), (10), or (12) of this section" in subsection (h) and inserting in lieu thereof "paragraphs (9), (10), or (12) of subsection (a) or paragraph (23) of such subsection as such paragraph relates to a single offense of simple possession of 30 grams or less of marihuana".

SEC. 5. (a)(1) Section 212 (8 U.S.C. 1182) is amended by striking out the semicolon at the end of paragraph (32) of subsection (a) and inserting in lieu thereof a period and the following: "For the purposes of this paragraph, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners examination if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date;".

(2) Subsection (j)(1)(B) of such section is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "For the purposes of this subparagraph, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners examination if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.".

8 USC 1182 note.

(3) Section 602 of the Health Professions Educational Assistance Act of 1976 (Public Law 94-484), added by section 307(q)(3) of Public Law 95-83, is amended by striking out subsections (a) and (b).

8 USC 1101, 1101 note, 1182 note. 8 USC 1182.

(b) Subsection (j) of section 212 is amended—

(1) by inserting "as follows" after "education or training are" in paragraph (1) in the matter before subparagraph (A);

(2) by striking out "(including any extension of the duration thereof under subparagraph (D))" in paragraph (1)(C);

(3) by striking out "Commissioner of Education" and "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Secretary of Education" and "Secretary of Health and Human Services", respectively;

(4) by striking out the semicolon at the end of subparagraph (A) and "; and" at the end of subparagraph (C) and inserting in lieu thereof a period in each case;

Medical education.

(5) by amending subparagraph (D) of paragraph (1) to read as follows:

"(D) The duration of the alien's participation in the program of graduate medical education or training for which the alien is coming to the United States is limited to the time typically required to complete such program, as determined by the Director of the International Communication Agency at the time of the alien's entry into the United States, based on criteria which are established in coordination with the Secretary of Health and Human Services and which take into consideration the published requirements of the medical specialty board which administers such education or training program; except that—

"(i) such duration is further limited to seven years unless the alien has demonstrated to the satisfaction of the Director that the country to which the alien will return at the end of such specialty education or training has an exceptional need for an individual trained in such specialty, and

"(ii) the alien may, once and not later than two years after the date the alien enters the United States as an exchange visitor or acquires exchange visitor status, change the alien's designated program of graduate medical education or training if the Director approves the change and if a commitment and written assurance with respect to the alien's new program have been provided in accordance with subparagraph (C).";

Affidavit.

(6) by inserting after subparagraph (D) the following new subparagraph:

"(E) The alien furnishes the Attorney General each year with an affidavit (in such form as the Attorney General shall prescribe) that attests that the alien (i) is in good standing in the program of graduate medical education or training in which the alien is participating, and (ii) will return to the country of his nationality or last residence upon completion of the education or training for which he came to the United States.";

(7)(A) by striking out "(ii)" in paragraph (1)(B) and inserting in lieu thereof "(ii)(I)";

(B) by inserting, in paragraph (1)(B), "(II)" before "has competency", "(III)" before "will be able to adapt", and "(IV)" before "has adequate prior education";

(C) by striking out "December 31, 1981" in paragraph (2)(A) and inserting in lieu thereof "December 31, 1983";

(D) by striking out "and (B) of paragraph (1)" in paragraph (2)(A) and inserting in lieu thereof "and (B)(ii)(I) of paragraph (1)";

(E) by inserting after "if" in paragraph (2)(A) the following: "(i) the Secretary of Health and Human Services determines, on a case-by-case basis, that";

Plan to reduce reliance on alien physicians.

(F) by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof the following:

", and (ii) the program has a comprehensive plan to reduce reliance on alien physicians, which plan the Secretary of Health and Human Services finds, in accordance with criteria published by the Secretary, to be satisfactory and to include the following:

"(I) A detailed discussion of specific problems that the program anticipates without such waiver and of the alternative resources and methods (including use of physician extenders and other paraprofessionals) that have been considered and have been and will be applied to reduce such disruption in the delivery of health services.

"(II) A detailed description of those changes of the program (including improvement of educational and medical services training) which have been considered and which have been or will be applied which would make the program more attractive to graduates of medical schools who are citizens of the United States.

"(III) A detailed description of the recruiting efforts which have been and will be undertaken to attract graduates of medical schools who are citizens of the United States.

"(IV) A detailed description and analysis of how the program, on a year-by-year basis, has phased down and will phase down its dependence upon aliens who are graduates of foreign medical schools so that the program will not be dependent upon the admission to the program of any additional such aliens after December 31, 1983."; and

(G) by inserting at the end of paragraph (2)(B) the following:

Waivers.

"The Secretary of Health and Human Services, in coordination with the Attorney General and the Director of the International Communication Agency, shall (i) monitor the issuance of waivers under subparagraph (A) and the needs of the communities (with respect to which such waivers are issued) to assure that quality medical care is provided, and (ii) review each program with such a waiver to assure that the plan described in subparagraph (A)(ii) is being carried out and that participants in such program are being provided appropriate supervision in their medical education and training.

Report to Congress.

"(C) The Secretary of Health and Human Services, in coordination with the Attorney General and the Director of the International Communication Agency, shall report to the Congress at the beginning of fiscal years 1982 and 1983 on the distribution (by geography, nationality, and medical specialty or field of practice) of foreign medical graduates in the United States who have received a waiver under subparagraph (A), including an analysis of the dependence of the various communities on aliens who are in medical education or training programs in the various medical specialties."; and

Report to Congress.

(8) by adding at the end the following new paragraph:-

"(3) The Director of the International Communication Agency annually shall transmit to the Congress a report on aliens who have submitted affidavits described in paragraph (1)(E), and shall include in such report the name and address of each such alien, the medical education or training program in which such alien is participating, and the status of such alien in that program.".

8 USC 1182 note.

(c) The amendments made by paragraphs (2), (5), and (6) of subsection (b) shall apply to aliens entering the United States as exchange visitors (or otherwise acquiring exchange visitor status) on or after January 10, 1978.

(d)(1) Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (F), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; or", and by adding after subparagraph (G) the following new subparagraph:

"(H) an immigrant, and his accompanying spouse and children, who—

"(i) has graduated from a medical school or has qualified to practice medicine in a foreign state,

"(ii) was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date,

"(iii) entered the United States as a nonimmigrant under subsection (a)(15)(H) or (a)(15)(J) before January 10, 1978, and

"(iv) has been continuously present in the United States in the practice or study of medicine since the date of such entry.".

(2) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by inserting "or a special immigrant described in section 101(a)(27)(H)" after "an immediate relative as defined in section 201(b)".

Report to Congress.
8 USC 1101 note.

(e) The Secretary of Health and Human Services, after consultation with the Attorney General, the Secretary of State, and the Director of the International Communication Agency, shall evaluate the effectiveness and value to foreign nations and to the United States of exchange programs for the graduate medical education or training of aliens who are graduates of foreign medical schools, and shall report to Congress, not later than January 15, 1983, on such evaluation and include in such report such recommendations for changes in legislation and regulations as may be appropriate.

SEC. 6. Section 223(b) (8 U.S.C. 1203(b)) is amended by striking out "one year from the date of issuance: *Provided*, That the Attorney General may in his discretion extend the validity of the permit for a period or periods not exceeding one year in the aggregate" and inserting in lieu thereof "two years from the date of issuance and shall not be renewable".

Deportation.

SEC. 7. (a) Subsection (a) of section 237 (8 U.S.C. 1227) is amended to read as follows:

"(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 on which he arrived in the United States, unless the alien boarded such vessel or aircraft in foreign 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, subject, or national of, or does not have a residence in, such foreign contiguous territory or adjacent island, in which case 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 and 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, within one hundred and twenty days of the date on which the alien was last 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 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 (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.

Detention expenses.

"(2) If the government of the country designated in paragraph (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, either to—

Nonacceptance of deported aliens.

"(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) Subsection (b) of such section is amended—

(1) by striking out "to the country whence he came" in clause (3) and inserting in lieu thereof "to the country to which his deportation has been directed"; and

(2) by striking out "collector of customs" each place it appears and inserting in lieu thereof "district director of customs".

Transportation expense.

(c) Subsection (c) of such section is amended to read as follows:

"(c) An alien shall be deported on a vessel or aircraft owned by the same person who owns the vessel or aircraft on which the alien arrived in the United States, unless it is impracticable to so deport the alien within a reasonable time. The transportation expense 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 expense 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.".

Deportation.

SEC. 8. Section 241(f) (8 U.S.C. 1251(f)) is amended to read as follows:

"(f)(1)(A) The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure or have procured visas or other documentation, or entry into the United States, by fraud or misrepresentation, whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in subsection (a)(19)) who—

"(i) is the spouse, parent, or child of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

"(ii) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds of inadmissibility specified under paragraphs (14), (20), and (21) of section 212(a) which were a direct result of that fraud or misrepresentation.

8 USC 1182.

Waiver of deportation.

"(B) A waiver of deportation for fraud or misrepresentation granted under subparagraph (A) shall also operate to waive deportation based on the grounds of inadmissibility at entry described under subparagraph (A)(ii) directly resulting from such fraud or misrepresentation.

"(2) The provisions of subsection (a)(11) as relate to a single offense of simple possession of 30 grams or less of marihuana may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in subsection (a)(19)) who—

"(A) is the spouse or child of a citizen of the United States or of an alien lawfully admitted for permanent residence, or

"(B) has a child who is a citizen of the United States or an alien lawfully admitted for permanent residence,

if it is established to the satisfaction of the Attorney General that the alien's deportation would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or child of such alien and that such waiver would not be contrary to the national welfare, safety, or security of the United States.".

SEC. 9. Subsection (f) of section 244 (8 U.S.C. 1254) is amended to read as follows:

"(f) The provisions of subsection (a) shall not apply to an alien who—

"(1) entered the United States as a crewman subsequent to June 30, 1964;

"(2) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

8 USC 1101.

8 USC 1182.

"(3)(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training, (B) is subject to the two-year foreign residence requirement of section 212(e), and (C) has not fulfilled that requirement or received a waiver thereof.".

Nonimmigrant classification.

SEC. 10. Section 248 (8 U.S.C. 1258) is amended by striking out "except" and all that follows through the end and inserting in lieu thereof the following: "except in the case of—

"(1) an alien classified as a nonimmigrant under subparagraph (C), (D), or (K) of section 101(a)(15),

"(2) an alien classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who came to the United States or acquired such classification in order to receive graduate medical education or training, and

"(3) an alien (other than an alien described in paragraph (2)) classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who is subject to the two-year foreign residence requirement of section 212(e) and has not received a waiver thereof, unless such alien applies to have the alien's classification changed from classification under subparagraph (J) of section 101(a)(15) to a classification under subparagraph (A) or (G) of such section.".

Alien registration and address changes.

SEC. 11. Section 265 (8 U.S.C. 1305) is amended to read as follows:

"SEC. 265. (a) Each alien required to be registered under this title who is within the United States shall notify the Attorney General in writing of each change of address and new address within ten days from the date of such change and furnish with such notice such additional information as the Attorney General may require by regulation.

"(b) The Attorney General may in his discretion, upon ten days notice, require the natives of any one or more foreign states, or any class or group thereof, who are within the United States and who are required to be registered under this title, to notify the Attorney General of their current addresses and furnish such additional information as the Attorney General may require.

"(c) In the case of an alien for whom a parent or legal guardian is required to apply for registration, the notice required by this section shall be given to such parent or legal guardian.".

Conveyances used in customs laws violation.

SEC. 12. Subsection (b) of section 274 (8 U.S.C. 1324) is amended to read as follows:

"(b)(1) Any conveyance, including 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 that—

"(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the

owner or other person in charge of such conveyance was a consenting party or privy to the illegal act; and

"(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner 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 warrant if there is probable cause to believe the conveyance has been used in a violation of subsection (a) and circumstances exist where a warrant is not constitutionally required.

"(3) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for the violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; 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 conveyances under the customs laws shall be performed with respect to seizures 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; or

"(C) require that the General Services Administration take custody of the conveyance and remove it for disposition in accordance with law.

"(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. In determining whether probable cause exists, any of the following shall be prima facie evidence that an alien involved in the alleged violation was not lawfully entitled to enter, or reside within, the United States:

"(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 was not lawfully entitled to enter, or reside within, the United States.

"(B) Official records of the Service showing that the alien was not lawfully entitled to enter, or reside within, the United States.

"(C) Testimony, by an immigration officer having personal knowledge of the facts concerning that alien's status, that the alien was not entitled to enter, or reside within, the United States.".

SEC. 13. Section 286 (8 U.S.C. 1356) is amended—

(1) by redesignating subsection (b) as subsection (c) and by inserting "and subsection (b)" in that subsection after "Except as otherwise provided in subsection (a)", and

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

"(b) Moneys expended from appropriations for the Service for the purchase of evidence and subsequently recovered shall be reimbursed to the current appropriation for the Service.".

SEC. 14. Section 316(b) (8 U.S.C. 1427(b)) is amended by adding at the end the following: "The spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection shall also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.".

SEC. 15. (a) Section 329(b) (8 U.S.C. 1440(b)) is amended by inserting "and" at the end of paragraph (3), by striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period, and by striking out paragraph (5).

(b) Section 334(a) (8 U.S.C. 1445(a)) is amended by striking out "and duly verified by two witnesses,".

(c) Section 335 (8 U.S.C. 1446) is amended—

(1) by striking out "and the oaths of petitioner's witnesses to the petition for naturalization" in the second sentence of subsection (b);

(2) by striking out subsections (f), (g), and (h); and

(3) by redesignating subsection (i) as subsection (f).

(d) Section 336 (8 U.S.C. 1447) is amended—

(1) by striking out "and the witnesses" each place it appears in subsections (a) and (b);

(2) by striking out subsection (c);

(3) by redesignating subsection (d) as subsection (c);

(4) by redesignating subsection (e) as subsection (d) and striking out the last sentence thereof; and

(5) by redesignating subsection (f) as subsection (e).

(e) Section 328(b)(2) (8 U.S.C. 1439(b)(2)) is amended by striking out "and section 336(c)" and "and the witnesses".

SEC. 16. Section 344(c) (8 U.S.C. 1455(c)) is amended by striking out "$6,000" each place it appears and inserting in lieu thereof "$40,000".

SEC. 17. Section 13(b) of the Act of September 11, 1957 (71 Stat. 642; 8 U.S.C. 1255b(b)), is amended by inserting after "Attorney General" the first place it appears the following: "that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest,".

SEC. 18. (a) Section 101 (8 U.S.C. 1101) is amended—

(1) by striking out "Office of Education of the United States" in subsection (a)(15)(F) and inserting in lieu thereof "Secretary of Education";

(2) by striking out the period at the end of each of subparagraphs (H), (J), and (K) of subsection (a)(15) and inserting in lieu thereof a semicolon;

(3) by striking out the period at the end of subparagraph (L) of subsection (a)(15) and inserting in lieu thereof "; or";

(4) by striking out the second sentence of subsection (a)(33); and

(5)(A) by striking out "or" at the end of subparagraphs (A) and (B) of subsection (b)(1),

(B) by striking out the period at the end of subparagraph (C) of such subsection and inserting in lieu thereof a semicolon, and

(C) by striking out the period at the end of subparagraph (E) of such subsection and inserting in lieu thereof "; or".

(b) Section 106(a)(1) (8 U.S.C. 1105a(a)(1)) is amended by striking out the period at the end and inserting in lieu thereof a semicolon.

(c) Section 202(b) (8 U.S.C. 1152(b)) is amended by inserting "and" before "(4)".

(d) Section 204(a) (8 U.S.C. 1154(a)) is amended by striking out "of the relationships described in paragraphs" and inserting in lieu thereof "of a relationship described in paragraph".

(e) Section 212 (8 U.S.C. 1182) is amended—

(1) by inserting ")" in subsection (a)(32) after "is in the United States", and

Alien admittance.

(2) by adding at the end the following new subsection:

"(k) Any alien, excludable from the United States under paragraph (14), (20), or (21) of subsection (a), who is in possession of an immigrant visa may, if otherwise admissible, be admitted in the discretion of the Attorney General if the Attorney General is satisfied that exclusion was not known to, and could not have been ascertained by the exercise of reasonable diligence by, the immigrant before the time of departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory or, in the case of an immigrant coming from foreign contiguous territory, before the time of the immigrant's application for admission.".

(f) Section 221(a) (8 U.S.C. 1201(a)) is amended by striking out the period after "is charged" and inserting in lieu thereof a comma.

(g) Section 231(d) (8 U.S.C. 1221(d)) is amended by striking out "subsections" and inserting in lieu thereof "subsection".

(h)(1)(A) The eleventh sentence of subsection (b) of section 242 (8 U.S.C. 1252) is amended by striking out "or (18)" and inserting in lieu thereof "(18), or (19)".

(B) Subsection (e) of such section is amended by striking out "or (18)" and inserting in lieu thereof "(18), or (19)".

(2) Subsection (a) of section 244 (8 U.S.C. 1254) is amended by inserting "(other than an alien described in section 241(a)(19))" after "in the case of an alien" in the matter before paragraph (1).

(i) The fourth sentence of section 243(a) (8 U.S.C. 1253(a)) is amended by inserting a comma after "subject".

(j) Section 244(d) (8 U.S.C. 1254(d)) is amended—

(1) by striking out "nonpreference", and

(2) by striking out "203(a)(7)" and inserting in lieu thereof "201(a) or 202(a)".

(k)(1) Section 291 (8 U.S.C. 1361) is amended by striking out "quota immigrant, or nonquota immigrant" and inserting in lieu thereof "immigrant, special immigrant, immediate relative, or refugee".

(2) Section 349(a)(1) (8 U.S.C. 1481(a)(1)) is amended by striking out "nonquota immigrant" and inserting in lieu thereof "special immigrant".

(l) Section 309 (8 U.S.C. 1409) is amended—

(1) by striking out "(3), (4), (5), and (7) of section 301(a)" in subsection (a) and inserting in lieu thereof "(c), (d), (e), and (g) of section 301", and

(2) by striking out "301(a)(7)" in subsection (b) and inserting in lieu thereof "301(g)".

(m) Sections 320(b), 321(b), and 322(b) (8 U.S.C. 1431(b), 1432(b), 1433(b)) are each amended by striking out "a child adopted while under the age of sixteen years who" and inserting in lieu thereof "an adopted child only if the child".

(n) Section 322 (8 U.S.C. 1433) is further amended by adding after subsection (b) the following new subsection:

"(c) In the case of an adopted child (1) who is in the United States at the time of naturalization, and (2) one of whose adoptive parents (A) petitions for naturalization of the child under this section, (B) meets the criteria of clauses (A), (B), and (C) of section 319(b)(1), and (C) declares before the naturalization court in good faith an intention to take up residence within the United States immediately upon the termination of the employment described in section 319(b)(1)(B), no specified period of residence within the jurisdiction of the naturalization court or proof thereof shall be required.". 8 USC 1430.

(o) The fourth sentence of section 337(a) (8 U.S.C. 1448(a)) is amended by striking out "or 323".

(p) Section 341 (8 U.S.C. 1452) is amended by striking out "(3), (4), (5), or (7) of section 301(a)" and inserting in lieu thereof "(c), (d), (e), or (g) of section 301".

(q) Section 349 (8 U.S.C. 1481), as amended by section 4 of Public Law 95-432, is amended by striking out the second "(a)" after "349.".

(r) Section 351 (8 U.S.C. 1483) is amended—

(1) by striking out "paragraphs (7), (8), and (9) of section 349" in subsection (a) and inserting in lieu thereof "paragraphs (6) and (7) of section 349(a)", and

(2) by striking out "(5), and (6)" in subsection (b) and inserting in lieu thereof "and (5)".

(s) Section 404 (8 U.S.C. 1101 note) is amended by inserting "(other than chapter 2 of title IV)" after "this Act".

(t) The table of contents is amended by striking out the items relating to sections 345, 350, 352, 353, 354, and 355.

(u)(1) Section 1429 of title 18, United States Code, is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(2) The Act of March 16, 1956 (8 U.S.C. 1401a) is amended by striking out "301(a)(7)" and inserting in lieu thereof "301(g)".

SEC. 19. The numerical limitations contained in sections 201 and 202 of the Immigration and Nationality Act shall not apply to any alien who is present in the United States and who, on or before June 1, 1978— 8 USC 1151 note. 8 USC 1151, 1152.

(1) qualified as a nonpreference immigrant under section 203(a)(8) of such Act (as in effect on June 1, 1978); 8 USC 1153.

(2) was determined to be exempt from the labor certification requirement of section 212(a)(14) of such Act because the alien had actually invested, before such date, capital in an enterprise in the United States of which the alien became a principal manager and which employed a person or persons (other than the spouse or children of the alien) who are citizens of the United States or aliens lawfully admitted for permanent residence; and 8 USC 1182.

(3) applied for adjustment of status to that of an alien lawfully admitted for permanent residence.

SEC. 20. Section 201(a) (8 U.S.C. 1151(a)) is amended by inserting after "two hundred seventy thousand" the following: ": *Provided*, That to the extent that in a particular fiscal year the number of aliens who are issued immigrant visas or who may otherwise acquire the status of aliens lawfully admitted for permanent residence, and who are subject to the numerical limitations of this section, together with the aliens who adjust their status to aliens lawfully admitted for permanent residence pursuant to subparagraph (H) of section 101(a)(27) or section 19 of the Immigration and Nationality Amendments Act of 1981, exceed the annual numerical limitation in effect 8 USC 1101. *Supra*.

pursuant to this section for such year, the Secretary of State shall reduce to such extent the annual numerical limitation in effect pursuant to this section for the following fiscal year".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended by inserting after "year" the following: ": *And provided further,* That to the extent that in a particular fiscal year the number of such natives who are issued immigrant visas or who may otherwise acquire the status of aliens lawfully admitted for permanent residence and who are subject to the numerical limitation of this section, together with the aliens from the same foreign state who adjust their status to aliens lawfully admitted for permanent residence pursuant to subparagraph (H) of section 101(a)(27) or section 19 of the Immigration and Nationality Amendments Act of 1981, exceed the numerical limitation in effect for such year pursuant to this section, the Secretary of State shall reduce to such extent the numerical limitation in effect for the natives of the same foreign state pursuant to this section for the following fiscal year".

8 USC 1101.
Ante, p. 1621.

Effective dates.
8 USC 1101 note.

SEC. 21. (a) Except as provided in subsection (b) and in section 5(c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by section 2(a) shall apply on and after the first day of the sixth month beginning after the date of the enactment of this Act.

(2) The amendment made by section 16 shall apply to fiscal years beginning on or after October 1, 1981.

Approved December 29, 1981.

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