

H.R. 1333 The NO BAN Act-Section by Section

Section 1. Short Title. Section 1 sets forth the short titles of the Act as the “National Origin-Based Antidiscrimination for Nonimmigrants Act” or the “NO BAN Act.”

Section 2. Expansion of Nondiscrimination Provision. Section 2 broadens section 202(a)(1) of the Immigration and Nationality Act (INA), which currently prohibits discrimination in the issuance of immigrant visas (i.e., green cards) based on race, sex, nationality, place of birth, or place of residence. The statute is expanded to include religion as a prohibited factor as well as prohibiting discrimination in the issuance of nonimmigrant visas, entry into the United States, and the approval or revocation of any immigration benefit. An exception allows such factors to be considered if such consideration is otherwise authorized by statute (e.g., persecution based on religion for asylum purposes).

Section 3. Transfer and Limitations on Authority to Suspend or Restrict the Entry of a Class of Aliens. Section 3 amends section 212(f) of the INA to:

- allow the president to suspend or restrict the entry of any aliens or class of aliens only if the Secretary of State, in consultation with the Secretary of Homeland Security, determines based on credible facts that the entry of such aliens would undermine the security or public safety of the United States, human rights, democratic processes or institutions, or international stability; and
- establish procedural safeguards with respect to the exercise of 212(f) authority, including requiring specific evidence to support the suspension or restriction, as well as the proposed duration; requiring that the suspension or restriction be narrowly tailored to

address a compelling governmental interest; requiring the least restrictive means to achieve the specified interest; and requiring waivers for class-based restrictions and suspensions, with a rebuttable presumption in favor of granting family-based and humanitarian waivers.

Section 3 also requires the President, the Secretary of State, and the Secretary of Homeland Security to consult with Congress before exercising 212(f) authority, and to brief and provide a written report to Congress within 48 hours of exercising such authority. If such briefing is not provided and updated every 30 days thereafter, the suspension or restriction will terminate absent congressional action.

Section 3 also ensures transparency and accountability by requiring the Secretary of State and the Secretary of Homeland Security publish information regarding the suspension or termination in the Federal Register and provides for judicial review for individuals or classes of individuals who are injured.

Section 4. Visa Applicants Report. Section 4 requires the Secretary of State to submit a report to Congress, not later than 90 days after the date of enactment of the Act, describing the implementation of Executive Orders 13769, 13780, and 13815 and Presidential Proclamations 9645, 9822, and 9983, and providing data on the number of individuals impacted by Presidential Proclamations 9645 and 9983. With respect to any future use of section 212(f), Section 4 also requires periodic reporting to Congress on impacted individuals.