

§ 1322. Bringing in aliens subject to denial of admission on a health-related ground; persons liable; clearance papers; exceptions; “person” defined

(a) Any person who shall bring to the United States an alien (other than an alien crewman) who is inadmissible under section 1182(a)(1) of this title shall pay to the Commissioner for each and every alien so afflicted the sum of \$3,000 unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien 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 (A) 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 (B) 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 such person establishes to the satisfaction of the Attorney General that the existence of the condition causing inadmissibility could not have been detected by the exercise of due diligence prior to the alien's embarkation.

(b) No vessel or aircraft shall be granted clearance papers pending determination of the question of liability to the payment of any fine under this section, or while the fines remain unpaid, nor shall such fines be remitted or refunded; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fines or of a bond with sufficient surety to secure the payment thereof, approved by the Commissioner.

(c) Nothing contained in this section shall be construed to subject transportation companies to a fine for bringing to ports of entry in the United States aliens who are entitled by law to exemption from the provisions of section 1182(a) of this title.

(d) As used in this section, the term “person” means the owner, master, agent, commanding officer, charterer, or consignee of any vessel or aircraft.

(June 27, 1952, ch. 477, title II, ch. 8, § 272, 66 Stat. 226; Pub. L. 89-236, § 18, Oct. 3, 1965, 79 Stat. 920; Pub. L. 101-649, title V, § 543(a)(9), title VI, § 603(a)(15), Nov. 29, 1990, 104 Stat. 5058, 5083; Pub. L. 102-232, title III, § 307(l)(7), Dec. 12, 1991, 105 Stat. 1757; Pub. L. 103-416, title II, § 219(o), Oct. 25, 1994, 108 Stat. 4317; Pub. L. 104-208, div. C, title III, § 308(d)(3)(A), (4)(I)(i), Sept. 30, 1996, 110 Stat. 3009-617, 3009-618.)

AMENDMENTS

1996—Pub. L. 104-208, § 308(d)(4)(I)(i)(I), amended section catchline.

Subsec. (a). Pub. L. 104-208, § 308(d)(3)(A), (4)(I)(i)(II), substituted “inadmissible” for “excludable” and “condition causing inadmissibility” for “excluding condition”.

Subsec. (c). Pub. L. 104-208, § 308(d)(4)(I)(i)(III), struck out “excluding” after “exemption from the”.

1994—Subsec. (a). Pub. L. 103-416 struck out comma after “every alien so afflicted”.

1991—Subsec. (a). Pub. L. 102-232 struck out comma before “shall pay”.

1990—Pub. L. 101-649, § 603(a)(15)(D), substituted “exclusion on a health-related ground” for “disability or afflicted with disease” in section catchline.

Subsec. (a). Pub. L. 101-649, § 603(a)(15)(A), substituted “excludable under section 1182(a)(1) of this title” for “(1) mentally retarded, (2) insane, (3) afflicted with psychopathic personality, or with sexual deviation, (4) a chronic alcoholic, (5) afflicted with any dangerous contagious disease, or (6) a narcotic drug addict” and “the excluding condition” for “such disease or disability”.

Pub. L. 101-649, § 543(a)(9)(A), substituted “Commissioner” for “collector of customs of the customs district in which the place of arrival is located” and “\$3,000” for “\$1,000”.

Subsec. (b). Pub. L. 101-649, § 603(a)(15)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “Any person who shall bring to the United States an alien (other than an alien crewman) afflicted with any mental defect other than those enumerated in subsection (a) of this section, or any physical defect of a nature which may affect his ability to earn a living, as provided in section 1182(a)(7) of this title, shall pay to the Commissioner for each and every alien so afflicted, the sum of \$3,000, unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien 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 (A) 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 (B) 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 such person establishes to the satisfaction of the Attorney General that the existence of such disease or disability could not have been detected by the exercise of due diligence prior to the alien's embarkation.”

Pub. L. 101-649, § 543(a)(9)(B), substituted “Commissioner” for “collector of customs of the customs district in which the place of arrival is located” and “\$3,000” for “\$250”.

Subsec. (c). Pub. L. 101-649, § 603(a)(15)(C), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Pub. L. 101-649, § 543(a)(9)(C), substituted “Commissioner” for “collector of customs”.

Subsecs. (d), (e). Pub. L. 101-649, § 603(a)(15)(C), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

1965—Subsec. (a). Pub. L. 89-236 substituted “mentally retarded” for “feeble-minded”, struck out references to epileptics and persons afflicted with tuberculosis and leprosy, and inserted reference to persons afflicted with sexual deviation.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-232, title III, § 307(l), Dec. 12, 1991, 105 Stat. 1756, provided that the amendment made by section

307(l) is effective as if included in section 603(a) of the Immigration Act of 1990, Pub. L. 101-649.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 543(a)(9) of Pub. L. 101-649 applicable to actions taken after Nov. 29, 1990, see section 543(c) of Pub. L. 101-649, set out as a note under section 1221 of this title.

Amendment by section 603(a)(15) of Pub. L. 101-649 applicable to individuals entering United States on or after June 1, 1991, see section 601(e)(1) of Pub. L. 101-649, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-236 effective, except as otherwise provided, on first day of first month after expiration of thirty days following date of enactment of Pub. L. 89-236, which was approved on Oct. 3, 1965, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1323. Unlawful bringing of aliens into United States

(a) Persons liable

(1) It shall be unlawful for any person, including any transportation company, or the owner, master, commanding officer, agent, charterer, or consignee of any vessel or aircraft, to bring to the United States from any place outside thereof (other than from foreign contiguous territory) any alien who does not have a valid passport and an unexpired visa, if a visa was required under this chapter or regulations issued thereunder.

(2) It is unlawful for an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft who is bringing an alien (except an alien crewmember) to the United States to take any consideration to be kept or returned contingent on whether an alien is admitted to, or ordered removed from, the United States.

(b) Evidence

If it appears to the satisfaction of the Attorney General that any alien has been so brought, such person, or transportation company, or the master, commanding officer, agent, owner, charterer, or consignee of any such vessel or aircraft, shall pay to the Commissioner a fine of \$3,000 for each alien so brought and, except in the case of any such alien who is admitted, or permitted to land temporarily, in addition, an amount equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter fine to be delivered by the Commissioner to the alien on whose account the assessment is made. No vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such fine or while such fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner.

(c) Remission or refund

Except as provided in subsection (e) of this section, such fine shall not be remitted or refunded, unless it appears to the satisfaction of the Attorney General that such person, and the owner, master, commanding officer, agent, charterer, and consignee of the vessel or aircraft, prior to the departure of the vessel or aircraft from the last port outside the United States, did not know, and could not have ascertained by the exercise of reasonable diligence, that the individual transported was an alien and that a valid passport or visa was required.

(d) Repealed. Pub. L. 104-208, div. C, title III, § 308(e)(13), Sept. 30, 1996, 110 Stat. 3009-620

(e) Reduction, refund, or waiver

A fine under this section may be reduced, refunded, or waived under such regulations as the Attorney General shall prescribe in cases in which—

(1) the carrier demonstrates that it had screened all passengers on the vessel or aircraft in accordance with procedures prescribed by the Attorney General, or

(2) circumstances exist that the Attorney General determines would justify such reduction, refund, or waiver.

(June 27, 1952, ch. 477, title II, ch. 8, § 273, 66 Stat. 227; Pub. L. 101-649, title II, § 201(b), title V, § 543(a)(10), Nov. 29, 1990, 104 Stat. 5014, 5058; Pub. L. 102-232, title III, § 306(c)(4)(D), Dec. 12, 1991, 105 Stat. 1752; Pub. L. 103-416, title II, §§ 209(a), 216, 219(p), Oct. 25, 1994, 108 Stat. 4312, 4315, 4317; Pub. L. 104-208, div. C, title III, §§ 308(c)(3), (e)(13), 371(b)(8), title VI, § 671(b)(6), (7), Sept. 30, 1996, 110 Stat. 3009-616, 3009-620, 3009-645, 3009-722.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-208, § 308(c)(3), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 104-208, § 671(b)(7), made technical amendment to directory language of Pub. L. 103-416, § 209(a)(1). See 1994 Amendment note below.

Pub. L. 104-208, § 671(b)(6), substituted "remains" for "remain".

Subsec. (d). Pub. L. 104-208, § 371(b)(8), substituted "immigration judges" for "special inquiry officers".

Pub. L. 104-208, § 308(e)(13), struck out subsec. (d) which read as follows: "The owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States who fails to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer, shall pay to the Commissioner a fine of \$3,000 for each alien stowaway, in respect of whom any such failure occurs. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance, except that clearance may be granted upon the deposit of an amount sufficient to cover such fine,