

**Editorial Notes**

## REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (d)(3), (4)(A), 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

2008—Subsec. (b)(1)(G). Pub. L. 110-229 added subpar. (G).

1996—Pub. L. 104-208, §302(a), amended section generally, revising and restating former subsecs. (a) to (d) relating to inspection of aliens arriving in the United States, powers of immigration officers, detention of aliens for further inquiry, temporary and permanent exclusion of aliens, and collateral attacks on orders of exclusion and deportation.

Pub. L. 104-208, §371(b)(4), substituted “an immigration judge” for “a special inquiry officer”, “immigration judge” for “special inquiry officer”, and “immigration judges” for “special inquiry officers”, wherever appearing in subsecs. (a) to (c).

Subsec. (b). Pub. L. 104-132, §422(a), which directed the general amendment of subsec. (b) by substituting pars. (1) to (3) relating to asylum interviews and hearings, detention for further inquiry, and challenges of favorable decisions, for former subsec. (b) consisting of single par., was repealed by Pub. L. 104-208, §308(d)(5). See Construction of 1996 Amendment note below.

Subsec. (d). Pub. L. 104-132, §423(b), added subsec. (d) which read as follows: “In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 1325 or section 1326 of this title, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 1226 and 1252 of this title.”

1990—Subsec. (c). Pub. L. 101-649 substituted “subparagraph (A) (other than clause (ii)), (B), or (C) of section 1182(a)(3) of this title” for “paragraph (27), (28), or (29) of section 1182(a) of this title”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-229 effective on the transition program effective date described in section 1806 of Title 48, Territories and Insular Possessions, see section 705(b) of Pub. L. 110-229, set out as an Effective Date note under section 1806 of Title 48.

## EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 302(a) of 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.

Pub. L. 104-208, div. C, title III, §308(d)(5), Sept. 30, 1996, 110 Stat. 3009-619, provided that the amendment made by section 308(d)(5) is effective as of Apr. 24, 1996. See Construction of 1996 Amendment note below.

Amendment by section 371(b)(4) of Pub. L. 104-208 effective Sept. 30, 1996, see section 371(d)(1) of Pub. L. 104-208, set out as a note under section 1101 of this title.

Pub. L. 104-132, title IV, §422(c), Apr. 24, 1996, 110 Stat. 1272, which provided that the amendments made by section 422 of Pub. L. 104-132 [amending this section and former section 1227 of this title] were to take effect on the first day of the first month that began more than 180 days after Apr. 24, 1996, was repealed by Pub. L. 104-208, div. C, title III, §308(d)(5), Sept. 30, 1996, 110 Stat. 3009-619. See Construction of 1996 Amendment note below.

## EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by 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.

## CONSTRUCTION OF 1996 AMENDMENT

Pub. L. 104-208, div. C, title III, §308(d)(5), Sept. 30, 1996, 110 Stat. 3009-619, provided that: “Effective as of the date of the enactment of the Antiterrorism and Effective Death Penalty Act of 1996 [Pub. L. 104-132, approved Apr. 24, 1996], section 422 of such Act [amending this section and section 1227 of this title, and enacting provisions set out as a note above] is repealed and the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] shall be applied as if such section had not been enacted.”

## 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.

## GAO STUDY ON OPERATION OF EXPEDITED REMOVAL PROCEDURES

Pub. L. 104-208, div. C, title III, §302(b), Sept. 30, 1996, 110 Stat. 3009-584, required the Comptroller General to conduct a study on the implementation and effectiveness of the expedited removal procedures under subsec. (b)(1) of this section and submit to Congress a report on the study no later than 18 months after Sept. 30, 1996.

## REFERENCES TO ORDER OF REMOVAL DEEMED TO INCLUDE ORDER OF EXCLUSION AND DEPORTATION

For purposes of this chapter, any reference in law to an order of removal is deemed to include a reference to an order of exclusion and deportation or an order of deportation, see section 309(d)(2) of Pub. L. 104-208, set out in an Effective Date of 1996 Amendments note under section 1101 of this title.

**§ 1225a. Preinspection at foreign airports****(a) Establishment of preinspection stations**

(1) NEW STATIONS.—Subject to paragraph (5), not later than October 31, 1998, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 5 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of inadmissible alien passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to September 30, 1996.

(2) REPORT.—Not later than October 31, 1998, the Attorney General shall report to the Committees on the Judiciary of the House of Representatives and of the Senate on the implementation of paragraph (1).

(3) DATA COLLECTION.—Not later than November 1, 1997, and each subsequent November 1, the Attorney General shall compile data identifying—

(A) the foreign airports which served as last points of departure for aliens who arrived by air at United States ports of entry without valid documentation during the preceding fiscal years;

(B) the number and nationality of such aliens arriving from each such foreign airport; and

(C) the primary routes such aliens followed from their country of origin to the United States.

(4) Subject to paragraph (5), not later than January 1, 2008, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish preinspection stations in at least 25 additional foreign airports, which the Secretary of Homeland Security, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively facilitate the travel of admissible aliens and reduce the number of inadmissible aliens, especially aliens who are potential terrorists, who arrive from abroad by air at points of entry within the United States. Such preinspection stations shall be in addition to those established before September 30, 1996, or pursuant to paragraph (1).

(5) **CONDITIONS.**—Prior to the establishment of a preinspection station, the Attorney General, in consultation with the Secretary of State, shall ensure that—

(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection;

(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety; and

(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951), or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967), or that an alien in the country otherwise has recourse to avenues of protection from return to persecution.

**(b) Establishment of carrier consultant program and immigration security initiative**

The Secretary of Homeland Security shall assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which, based on the records maintained pursuant to subsection (a)(3), served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station exists. Beginning not later than December 31, 2006, the number of airports selected for an assignment under this subsection shall be at least 50.

(June 27, 1952, ch. 477, title II, ch. 4, §235A, as added Pub. L. 104–208, div. C, title I, §123(a), Sept. 30, 1996, 110 Stat. 3009–560; amended Pub. L. 108–458, title VII, §§7206(a), 7210(d)(1), Dec. 17, 2004, 118 Stat. 3817, 3825.)

**Editorial Notes**

**CODIFICATION**

September 30, 1996, referred to in subsec. (a)(1), was in the original “the date of the enactment of such Act”, which was translated as meaning the date of enactment of Pub. L. 104–208, which enacted this section, to reflect the probable intent of Congress.

**AMENDMENTS**

2004—Subsec. (a)(4). Pub. L. 108–458, §7210(d)(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “(4) **ADDITIONAL STATIONS.**—Subject

to paragraph (5), not later than October 31, 2000, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 5 additional foreign airports which the Attorney General, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively reduce the number of aliens who arrive from abroad by air at points of entry within the United States who are inadmissible to the United States. Such preinspection stations shall be in addition to those established prior to September 30, 1996, or pursuant to paragraph (1).”

Subsec. (b). Pub. L. 108–458, §7206(a), inserted “and immigration security initiative” after “program” in heading, substituted “Secretary of Homeland Security” for “Attorney General” in text, and inserted at end “Beginning not later than December 31, 2006, the number of airports selected for an assignment under this subsection shall be at least 50.”

**Statutory Notes and Related Subsidiaries**

**ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS**

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**EXCHANGE OF TERRORIST INFORMATION AND INCREASED PREINSPECTION AT FOREIGN AIRPORTS**

Pub. L. 108–458, title VII, §7210(a), (b), Dec. 17, 2004, 118 Stat. 3824, provided that:

“(a) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

“(1) The exchange of terrorist information with other countries, consistent with privacy requirements, along with listings of lost and stolen passports, will have immediate security benefits.

“(2) The further away from the borders of the United States that screening occurs, the more security benefits the United States will gain.

“(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

“(1) the Federal Government should exchange terrorist information with trusted allies;

“(2) the Federal Government should move toward real-time verification of passports with issuing authorities;

“(3) where practicable, the Federal Government should conduct screening before a passenger departs on a flight destined for the United States;

“(4) the Federal Government should work with other countries to ensure effective inspection regimes at all airports;

“(5) the Federal Government should work with other countries to improve passport standards and provide foreign assistance to countries that need help making the transition to the global standard for identification; and

“(6) the Department of Homeland Security, in coordination with the Department of State and other Federal agencies, should implement the initiatives called for in this subsection.”

**§ 1226. Apprehension and detention of aliens**

**(a) Arrest, detention, and release**

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

(1) may continue to detain the arrested alien; and