

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.

Statutory Notes and Related Subsidiaries

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), 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.)

Editorial Notes

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, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner. The provisions of section 1225 of this title for detention of aliens for examination before immigration judges and the right of appeal provided for in section 1226 of this title shall not apply to aliens who arrive as stowaways and no such alien shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the ultimate departure or removal or deportation of such alien from the United States."

1994—Subsec. (b). Pub. L. 103-416, § 219(p), in first sentence substituted "Commissioner" for "collector of customs" before "to the alien".

Pub. L. 103-416, § 209(a)(1), as amended by Pub. L. 104-208, § 671(b)(7), substituted "a fine of \$3,000" for "the sum of \$3,000".

Pub. L. 103-416, § 209(a)(2), (4), in first sentence substituted "an amount equal to" for "a sum equal to" and "such latter fine" for "such latter sum", and in second sentence substituted "such fine or while such fine" for "such sums or while such sums" and "cover such fine" for "cover such sums".

Subsec. (c). Pub. L. 103-416, § 209(a)(4), (5), substituted "Except as provided in subsection (e), such fine" for "Such sums".

Subsec. (d). Pub. L. 103-416, § 216, amended first sentence generally. Prior to amendment, first sentence 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 thereof who fails to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer, or who fails to detain such stowaway on board or at such other designated place after inspection if ordered to do so by an immigration officer, or who fails to deport such stowaway on the vessel or aircraft on which he arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which he arrived when required to do so by an immigration officer, shall pay to the Commissioner the sum of \$3,000 for each alien stowaway, in respect of whom any such failure occurs."

Pub. L. 103-416, § 209(a)(1), which directed that subsec. (d) be amended by substituting "a fine of \$3,000" for "the sum of \$3000", was executed in the first sentence by making the substitution for "the sum of \$3,000", to reflect the probable intent of Congress.

Pub. L. 103-416, § 209(a)(3), in second sentence substituted "an amount" for "a sum" before "sufficient to cover such fine".

Subsec. (e). Pub. L. 103-416, § 209(a)(6), added subsec. (e).

1991—Subsec. (b). Pub. L. 102-232 substituted "Commissioner" for "collector of customs" before period at end of second sentence.

1990—Subsec. (a). Pub. L. 101-649, § 201(b)(1), inserted "a valid passport and" before "an unexpired visa".

Subsec. (b). Pub. L. 101-649, § 543(a)(10)(A), substituted "Commissioner the sum of \$3,000" for "collector of customs of the customs district in which the port of arrival is located the sum of \$1,000".

Subsec. (c). Pub. L. 101-649, § 201(b)(2), inserted "valid passport or" before "visa was required".

Subsec. (d). Pub. L. 101-649, § 543(a)(10)(B), substituted "Commissioner the sum of \$3,000" for "collector of customs of the customs district in which the port of arrival is located the sum of \$1,000" in first sentence and "Commissioner" for "collector of customs" in second sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(c)(3), (e)(13) 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.

Amendment by section 371(b)(8) 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.

Amendment by section 671(b)(6), (7) of Pub. L. 104-208 effective as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, see section 671(b)(14) of Pub. L. 104-208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-416, title II, § 209(b), Oct. 25, 1994, 108 Stat. 4312, as amended by Pub. L. 104-208, div. C, title VI, § 671(b)(8), Sept. 30, 1996, 110 Stat. 3009-722, provided that: "The amendments made by this section [amending this section] shall apply with respect to aliens brought to the United States more than 60 days after the date of enactment of this Act [Oct. 25, 1994]."

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

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 543(a)(10) 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.

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.

§ 1324. Bringing in and harboring certain aliens**(a) Criminal penalties**

(1)(A) Any person who—

(i) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

(ii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

(iii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation;

(iv) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law; or

(v)(I) engages in any conspiracy to commit any of the preceding acts, or

(II) aids or abets the commission of any of the preceding acts,

shall be punished as provided in subparagraph (B).

(B) A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—

(i) in the case of a violation of subparagraph (A)(i) or (v)(I) or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain, be fined under title 18, imprisoned not more than 10 years, or both;

(ii) in the case of a violation of subparagraph (A)(ii), (iii), (iv), or (v)(II), be fined under title 18, imprisoned not more than 5 years, or both;

(iii) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) during and in

relation to which the person causes serious bodily injury (as defined in section 1365 of title 18) to, or places in jeopardy the life of, any person, be fined under title 18, imprisoned not more than 20 years, or both; and

(iv) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life, fined under title 18, or both.

(C) It is not a violation of clauses¹ (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each alien in respect to whom a violation of this paragraph occurs—

(A) be fined in accordance with title 18 or imprisoned not more than one year, or both; or

(B) in the case of—

(i) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,

(ii) an offense done for the purpose of commercial advantage or private financial gain, or

(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined under title 18 and shall be imprisoned, in the case of a first or second violation of subparagraph (B)(iii), not more than 10 years, in the case of a first or second violation of subparagraph (B)(i) or (B)(ii), not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years.

(3)(A) Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in subparagraph (B) shall be fined under title 18 or imprisoned for not more than 5 years, or both.

¹ So in original. Probably should be "clause".