

which enacted this subchapter and sections 611a and 1437y of Title 42, The Public Health and Welfare, and amended section 1383 of Title 42. For complete classification of this subtitle to the Code, see Tables.

§ 1615. Requirements relating to provision of benefits based on citizenship, alienage, or immigration status under the Richard B. Russell National School Lunch Act, the Child Nutrition Act of 1966, and certain other Acts

(a) School lunch and breakfast programs

Notwithstanding any other provision of this Act, an individual who is eligible to receive free public education benefits under State or local law shall not be ineligible to receive benefits provided under the school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) on the basis of citizenship, alienage, or immigration status.

(b) Other programs

(1) In general

Nothing in this Act shall prohibit or require a State to provide to an individual who is not a citizen or a qualified alien, as defined in section 1641(b) of this title, benefits under programs established under the provisions of law described in paragraph (2).

(2) Provisions of law described

The provisions of law described in this paragraph are the following:

(A) Programs (other than the school lunch program and the school breakfast program) under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(B) Section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(C) The Emergency Food Assistance Act of 1983 [7 U.S.C. 7501 et seq.].

(D) The food distribution program on Indian reservations established under section 2013(b) of title 7.

(Pub. L. 104–193, title VII, § 742, Aug. 22, 1996, 110 Stat. 2307; Pub. L. 106–78, title VII, § 752(b)(6), Oct. 22, 1999, 113 Stat. 1169.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b)(1), is Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105, as amended, known as the “Personal Responsibility and Work Opportunity Reconciliation Act of 1996”. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 1305 of Title 42, The Public Health and Welfare, and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsecs. (a) and (b)(2)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (b)(2)(A), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of Title 42. For complete classification of

this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

Section 4 of the Agriculture and Consumer Protection Act of 1973, referred to in subsec. (b)(2)(B), is section 4 of Pub. L. 93–86, which is set out as a note under section 612c of Title 7, Agriculture.

The Emergency Food Assistance Act of 1983, referred to in subsec. (b)(2)(C), is title II of Pub. L. 98–8, Mar. 24, 1983, 97 Stat. 35, as amended, which is classified generally to chapter 102 (§7501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 7501 of Title 7, and Tables.

CODIFICATION

Section was enacted as part of title VII of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and not as part of title IV of that Act which comprises this chapter.

AMENDMENTS

1999—Pub. L. 106–78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act” in section catchline and in two places in text.

SUBCHAPTER II—ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

§ 1621. Aliens who are not qualified aliens or nonimmigrants ineligible for State and local public benefits

(a) In general

Notwithstanding any other provision of law and except as provided in subsections (b) and (d), an alien who is not—

(1) a qualified alien (as defined in section 1641 of this title),

(2) a nonimmigrant under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], or

(3) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for less than one year,

is not eligible for any State or local public benefit (as defined in subsection (c)).

(b) Exceptions

Subsection (a) shall not apply with respect to the following State or local public benefits:

(1) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition (as defined in section 1396b(v)(3) of title 42) of the alien involved and are not related to an organ transplant procedure.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General’s sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assist-

ance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(c) "State or local public benefit" defined

(1) Except as provided in paragraphs (2) and (3), for purposes of this subchapter the term "State or local public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect;

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General; or

(C) to the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States.

(3) Such term does not include any Federal public benefit under section 1611(c) of this title.

(d) State authority to provide for eligibility of illegal aliens for State and local public benefits

A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility.

(Pub. L. 104-193, title IV, §411, Aug. 22, 1996, 110 Stat. 2268; Pub. L. 105-33, title V, §§5565, 5581(b)(1), Aug. 5, 1997, 111 Stat. 639, 642; Pub. L. 105-306, §5(b), Oct. 28, 1998, 112 Stat. 2927.)

Editorial Notes

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsecs. (a)(2) and (c)(2)(B), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally

to chapter 12 (§1101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658, referred to in subsec. (c)(2)(A), means section 141 of the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, which is contained in section 201 of Pub. L. 99-239, set out as a note under section 1901 of Title 48, Territories and Insular Possessions, and section 141 of the Compact of Free Association between the United States and the Government of Palau, which is contained in section 201 of Pub. L. 99-658, set out as a note under section 1931 of Title 48.

AMENDMENTS

1998—Subsec. (c)(2)(C). Pub. L. 105-306 added subpar. (C).

1997—Subsec. (c)(2)(A). Pub. L. 105-33, §5565, inserted before semicolon “, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect”.

Subsec. (c)(3). Pub. L. 105-33, §5581(b)(1), made technical amendment to reference in original act which appears in text as reference to section 1611(c) of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of this title.

PILOT PROGRAMS ON LIMITING ISSUANCE OF DRIVER'S LICENSE TO ILLEGAL ALIENS

Pub. L. 104-208, div. C, title V, §502, Sept. 30, 1996, 110 Stat. 3009-671, provided that pursuant to guidelines by the Attorney General, all States could conduct pilot programs to determine the viability, advisability, and cost-effectiveness of denying driver's licenses to aliens not lawfully present in the United States and, not later than 3 years after Sept. 30, 1996, the Attorney General should submit a report to the Judiciary Committees of Congress.

§ 1622. State authority to limit eligibility of qualified aliens for State public benefits

(a) In general

Notwithstanding any other provision of law and except as provided in subsection (b), a State is authorized to determine the eligibility for any State public benefits of an alien who is a qualified alien (as defined in section 1641 of this title), a nonimmigrant under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], or an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for less than one year.

(b) Exceptions

Qualified aliens under this subsection shall be eligible for any State public benefits.

(1) Time-limited exception for refugees and asylees

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157] until 5 years after the date of an alien's entry into the United States.

(B) An alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158] until 5 years after the date of such grant of asylum.