

Calendar No. 164105TH CONGRESS
1ST SESSION**S. 1178**

To amend the Immigration and Nationality Act to extend the visa waiver pilot program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 1997

Mr. ABRAHAM (for himself, Mr. KENNEDY, Mr. HATCH, Mr. LEAHY, Mr. MURKOWSKI, Mr. DURBIN, Mr. STEVENS, Mr. REED, Mr. GORTON, Mr. INOUE, and Mr. TORRICELLI) introduced the following bill; which was read twice and ordered placed on the calendar

A BILL

To amend the Immigration and Nationality Act to extend the visa waiver pilot program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Visa Waiver Pilot Pro-
5 gram Reauthorization Act of 1997”.

1 **SEC. 2. AMENDMENT OF THE IMMIGRATION AND NATION-**
2 **ALITY ACT.**

3 (a) DESIGNATION OF PILOT PROGRAM COUN-
4 TRIES.—Section 217(c) of the Immigration and National-
5 ity Act (8 U.S.C. 1187(c)) is amended to read as follows:

6 “(c) DESIGNATION OF PILOT PROGRAM COUN-
7 TRIES.—

8 “(1) IN GENERAL.—The Secretary of State, in
9 consultation with the Attorney General, may des-
10 ignate any country as a pilot program country if it
11 meets the requirements of paragraph (2). In order
12 to remain a pilot program country in any subsequent
13 fiscal year, a country shall be redesignated as a pilot
14 program country by the Attorney General in accord-
15 ance with the requirements of paragraph (3).

16 “(2) QUALIFICATIONS.—The Secretary of State
17 may not designate a country as a pilot program
18 country unless the following requirements are met:

19 “(A) LOW NONIMMIGRANT VISA REFUSAL
20 RATE FOR PREVIOUS 2-YEAR PERIOD.—The av-
21 erage number of refusals of nonimmigrant visi-
22 tor visas for nationals of that country during
23 the two previous full fiscal years was less than
24 3.0 percent of the total number of non-
25 immigrant visitor visas for nationals of that

1 country which were granted or refused during
2 those years.

3 “(B) LOW NONIMMIGRANT VISA REFUSAL
4 RATE FOR EACH OF 2 PREVIOUS YEARS.—The
5 average number of refusals of nonimmigrant
6 visitor visas for nationals of that country during
7 either of such two previous full fiscal years was
8 less than 3.5 percent of the total number of
9 nonimmigrant visitor visas for nationals of that
10 country which were granted or refused during
11 that year.

12 “(C) MACHINE-READABLE PASSPORT PRO-
13 GRAM.—The government of the country certifies
14 to the Secretary of State’s and the Attorney
15 General’s satisfaction that it issues machine-
16 readable and highly fraud-resistant passports to
17 its citizens.

18 “(D) LAW ENFORCEMENT INTERESTS.—
19 The Attorney General determines that the Unit-
20 ed States’ law enforcement interests would not
21 be compromised by the designation of the coun-
22 try.

23 “(E) ILLEGAL OVERSTAY AND DISQUALI-
24 FICATION.—For any country with an average
25 nonimmigrant visa refusal rate during the pre-

1 vious two fiscal years of greater than 2 and less
2 than 3 percent of the total number of non-
3 immigrant visitor visas for nationals of that
4 country which were granted or refused during
5 those years, and for any country with an aver-
6 age number of refusals during either such year
7 of greater than 2.5 and less than 3.5 percent,
8 the Attorney General shall certify to the Com-
9 mittees on the Judiciary of the Senate and the
10 House of Representatives that the sum of—

11 “(I) the total of the number of nation-
12 als of that country who were excluded from
13 admission or withdrew their application for
14 admission at a port of entry during such
15 previous fiscal year as a nonimmigrant vis-
16 itor, and

17 “(II) the total number of nationals for
18 that country who were admitted as non-
19 immigrant visitors during such previous
20 fiscal year and who violated the terms of
21 such admission,

22 is less than 2 percent of the total number of na-
23 tionals of that country who applied for admis-
24 sion as nonimmigrant visitors during such pre-
25 vious fiscal year.

1 “(3) CONTINUING AND SUBSEQUENT QUALI-
2 FICATIONS.—The Attorney General, in consultation
3 with the Secretary of State, shall assess the continu-
4 ing and subsequent qualification of countries des-
5 ignated as pilot program countries and shall redesign-
6 nate countries as pilot program countries only if the
7 requirements specified in this subsection are met.
8 For each fiscal year (within the pilot program pe-
9 riod) after the initial period the following require-
10 ments shall apply:

11 “(A) COUNTRIES PREVIOUSLY DES-
12 IGNATED.—(i) Except as provided in subsection
13 (g) of this section, in the case of a country
14 which was a pilot program country in the pre-
15 vious fiscal year, the Attorney General may not
16 redesignate such country as a pilot program
17 country unless the sum of—

18 “(I) the total of the number of nation-
19 als of that country who were excluded from
20 admission or withdrew their application for
21 admission during such previous fiscal year
22 as a nonimmigrant visitor, and

23 “(II) the total number of nationals of
24 that country who were admitted as non-
25 immigrant visitors during such previous

1 fiscal year and who violated the terms of
2 such admission,
3 was less than 2 percent of the total number of
4 nationals of that country who applied for ad-
5 mission as nonimmigrant visitors during such
6 previous fiscal year.

7 “(ii) In the case of a country which was a
8 pilot program country in the previous fiscal
9 year, the Attorney General may not redesignate
10 such country as a pilot program country unless
11 the Attorney General has made a precise nu-
12 merical estimate of the figures under clauses
13 (i)(I) and (i)(II) and reports those figures to
14 the Committees on the Judiciary of the Senate
15 and the House of Representatives within 30
16 days after the end of the fiscal year. As of Sep-
17 tember 30, 1999, any such estimates shall be
18 based on data collected from the automated
19 entry-exit control system mandated by section
20 110 of Public Law 104–708.

21 “(iii) In the case of a country which was
22 a pilot program country in the previous fiscal
23 year and which was first admitted to the visa
24 waiver pilot program prior to September 30,
25 1997, the Attorney General may not redesi-

1 nate such country as a pilot program country
2 unless the country certifies that it has issued or
3 will issue as of a date certain machine-readable
4 and highly fraud-resistant passports and unless
5 the country subsequently complies with any
6 such certification commitments.

7 “(B) NEW COUNTRIES.—In the case of a
8 country to which the clauses of subparagraph
9 (A) do not apply, such country may not be des-
10 ignated as a pilot program country unless the
11 following requirements are met:

12 “(i) LOW NONIMMIGRANT VISA RE-
13 FUSAL RATE IN PREVIOUS 2-YEAR PE-
14 RIOD.—The average number of refusals of
15 nonimmigrant visitor visas for nationals of
16 that country during the two previous full
17 fiscal years was less than 3.0 percent of
18 the total number of nonimmigrant visitor
19 visas for nationals of that country which
20 were granted or refused during those
21 years.

22 “(ii) LOW NONIMMIGRANT VISA RE-
23 FUSAL RATE IN EACH OF THE 2 PREVIOUS
24 YEARS.—The average number of refusals
25 of nonimmigrant visitor visas for nationals

1 of that country during either of such two
2 previous full fiscal years was less than 3.5
3 percent of the total number of non-
4 immigrant visitor visas for nationals of
5 that country which were granted or refused
6 during that year.

7 “(4) INITIAL PERIOD.—For purposes of para-
8 graph (3), the term ‘initial period’ means the period
9 beginning at the end of the 30-day period described
10 in section 2(c)(1) of the Visa Waiver Pilot Program
11 Reauthorization Act of 1997 and ending on the last
12 day of the first fiscal year which begins after such
13 30-day period.”.

14 (b) AUTHORIZED PILOT PROGRAM PERIOD.—Section
15 217(f) of that Act is amended by striking “September 30,
16 1997” and inserting “September 30, 2002”.

17 (c) DEVELOPMENT OF AUTOMATED ENTRY CONTROL
18 SYSTEM.—(1) As of the date of enactment of this Act,
19 no country may be newly designated as a pilot program
20 country until the end of the 30-day period beginning on
21 the date that the Attorney General submits to the Com-
22 mittees on the Judiciary of the House of Representatives
23 and the Senate a certification that the automated entry-
24 exit control system described in paragraph (2) is oper-
25 ational.

1 (2) The automated entry-exit control system is the
2 system mandated by section 110 of Public Law 104–208
3 as applied at all ports of entry excluding the land borders.

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