



S. 744 Establishes Tough Standards for our 21st Century Immigration System

AILA Roundup of tough provisions on crimes, inadmissibility, deportability, and RPI exclusion grounds in the bipartisan Senate immigration bill.

S. 744 provides a common sense pathway to citizenship for the undocumented with strict eligibility grounds.

RPI eligibility requirements include:

- Being physically present on the date application for RPI is submitted;
- Being physically present on or before December 31, 2011; and
- Maintaining continuous physical presence from December 31, 2011, until RPI status is granted;
- Satisfying any federal tax liabilities; and
- Paying a \$1,000 fine.

Criminal bars to RPI eligibility include:

- Any felony (other than state or local status-based or immigration offenses);
- An aggravated felony under INA §101(a)(43);
- Three or more misdemeanors (other than minor traffic offenses or state/local status-based or immigration offenses) where conviction occurred on different dates;
- Conviction or participation in a criminal street gang
- Foreign offenses (except purely political offenses) that would render the person inadmissible or deportable if committed in the U.S., with certain exceptions.
- Unlawful voting.

Grounds of Inadmissibility for legalization applicants (RPI status):

- Crimes involving moral turpitude;
- Controlled substance violations;
- Two or more criminal convictions;
- Drug trafficking;
- Prostitution and procuring a prostitute
- Criminal activity where the person has asserted immunity;
- Violators of religious freedom;
- Human trafficking;
- Money laundering;
- National security grounds; including espionage
- Terrorists and terrorist activities; Nazis and members of a totalitarian party
- Polygamy;
- Child abductors;
- A misrepresentation relates to RPI application;
- Immigrant smugglers;

- Draft evaders.
- Habitual drunk drivers
- Criminal street gang participants
- Domestic violence;
- Stalking;
- Violating a protection order;
- Child abuse, child neglect or child abandonment;
- Enhanced passport trafficking and immigration document fraud offenses;
- Failure to comply with a request for biometrics

Requirements to maintain RPI status include:

- Maintaining eligibility for RPI status;
- Satisfying any applicable federal tax liability; and
- Maintaining employment throughout the RPI period.

S. 744 adds several new grounds of inadmissibility.

- Criminal Street Gangs;
- Habitual Drunk Drivers;
- Domestic violence;
- Stalking;
- Violating a protection order;
- Child abuse, child neglect or child abandonment;
- Enhanced passport trafficking and immigration document fraud offenses;
- Failure to comply with a request for biometrics; and
- War crimes, ethnic cleansing and other systematic attacks against civilians.

S. 744 adds several new grounds of deportability.

- Criminal Street Gangs
- Habitual Drunk Drivers; and
- Enhanced passport trafficking and passport application fraud offenses.

S.744 adds habitual drunk driving as an “aggravated felony.”

S. 744 toughens the penalties for criminal immigration violations.

- Imposes a year prison sentence for illegal entry, instead of 6 months;
- Imposes 3 years in prison for every subsequent illegal entry, instead of 2 years;
- Creates enhancements for illegal entry if the person reenters after being convicted of a crime based upon the nature of the criminal history:
- Imposes a maximum 10 years prison sentence for illegally entering after having been convicted for 3 or more misdemeanors on different dates with time served of 15 days;

- Imposes a maximum 15 years prison sentence for illegally entering after a felony conviction with a sentence of at least 30 months;
- Imposes a maximum 10 years prison sentence for illegal reentry after having been convicted of a wider array of 3 or more misdemeanors on different dates;
- Imposes a maximum 15 year prison sentence for illegal reentry after having been convicted for a felony with a sentence of at least 30 months;
- Imposes a maximum 20 year prison sentence for illegal reentry after having been convicted of a felony with a sentence of at least 60 months or convicted for murder, rape, kidnapping, peonage/slavery, or terrorism;
- Imposes a 10 year prison sentence for anyone who has been deported or denied entry 3 or more times
- Modifies current law to punish trafficking in passports with 20 years in prison;
- Removes the requirement that a person “willingly and knowingly” makes a false statement in a passport or misuses a passport and instead requires only “knowingly;”
- Creates penalties for trafficking in immigration documents including use of official materials and imposes a 20 year sentence; and
- Increases the maximum sentence that can be imposed on the chapter from 15 to 20 years imprisonment if committed to facilitate drug trafficking and from 20 to 25 years if committed to facilitate terrorism.
- Criminalizes “illicit spotting,” or the transmission to another person of the location, movement, or activities of law enforcement agents with the intent to further a federal immigration crime.
- Criminalizes the damaging of sensors, fences, barriers or other border or port of entry controls.
- Enhances penalties for using or carrying a firearm in furtherance of smuggling crimes and for participating in fraudulent immigration schemes that involve the death, bodily injury, sexual assault, robbery or extortion, or bribery of U.S. officials.