

American Immigration Lawyers Association

Press Release

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Contact:
Judith Golub
(202) 216-2403
Julia Hendrix
(202) 216-2404

H.R. 10: Congress Needs to Reject Anti-Immigrant Bill

Washington, DC – The American Immigration Lawyers Association (AILA) urges the House of Representatives to reject H.R. 10 as a fatally flawed bill that includes negative immigration-related provisions that would distract our government from effectively enhancing our security, threaten to stall the passage of needed reform, and make our immigration processes even more dysfunctional than they are today. H.R. 10 neither reflects the 9/11 Commission's recommendations nor heed its admonition that "Our borders and immigration system, including law enforcement, ought to send a message of welcome, tolerance, and justice to members of the immigrant communities in the United States and in their countries of origin. We should reach out to immigrant communities."

H.R. 10 does not "reach out to immigrant communities" and runs counter to the 9/11 Commission's recommendation. It will neither enhance our security nor bring our nation together. It was not a product of bipartisan discussion and Congress has not sufficiently reviewed the important issues raised. The following provisions raise significant concerns:

- Section 3005 -- Prohibition on Acceptance of the Consular Identification Card: This provision would prohibit federal employees from accepting consular identification cards. However, in a security-conscious environment, people who are here, whatever their status, must be able to prove their identity. Many cities, counties and law enforcement agencies accept consular identification cards as valid forms of identification.
- Section 3006 -- Expedited Removal: This provision significantly expands the expedited removal regime and would subject all individuals who entered the U.S. without inspection to expedited removal unless they have been physically present in the U.S. for more than 5 years. Expedited removal currently has created significant due process concerns; this provision would magnify those concerns immeasurably.
- Sections 3007, 3009 and 3033: These provisions encompass key aspects of the so-called "Fairness in Immigration Litigation Act (H.R. 4406) that would further undermine the availability of basic due process protections for non-citizens by: prohibiting habeas corpus review of a variety of immigration decisions; raising the bar substantially for a grant of asylum; prohibiting federal courts from granting stays of deportation while a case is pending except in extraordinary cases; and authorizing the government to remove foreign nationals to countries that lack a functioning government so long as that country does not physically prevent the removal.
- Section 3008 -- Revocation of Visas and Other Travel Documents: This provision makes individuals who enter the U.S. on a valid visa that is subsequently revoked by the State Department subject to removal. This provision would prohibit all administrative and judicial review of the revocation decision. Thus, an individual whose visa is revoked based on false information (or other errors) would be removable from the U.S. without the opportunity to challenge the basis for the removal.
- Section 3032 - Exception to restriction on removal for terrorists and criminals: This provision retroactively heightens the burden of proof for claims under the Convention Against Torture. This

change contravenes long-standing judicial consensus that our obligations of non-refoulement relate to the probability of harm, not clear and convincing evidence that harm would occur.

- Section 3053 -- Minimum Document Requirements and Issuance Standards for Federal Recognition: This provision bars Federal agencies from accepting driver's licenses or other ID cards issued by a state unless certain overly burdensome requirements are satisfied. These requirements would grind to a halt the issuance of driver's licenses nationwide. They also would lead to a *de facto* immigration status requirement. Such a result would severely undermine the law enforcement utility of the Department of Motor Vehicle databases by discouraging individuals from applying for licenses.

Effective legislation must enhance our security and our immigration system, and reinforce due process, civil liberties, and privacy concerns. As the Commission stated: "The border and immigration system of the United States must remain a visible manifestation of our belief in freedom, democracy, global economic growth, and the rule of law, yet serve equally well as a vital element of counterterrorism." Effective legislation also would address the following:

- 1) Create an immigration system that can deliver on its basic commitments.
- 2) Strengthen the U.S.'s intelligence capacity and create a multi-layered border with several tiers of protection to most effectively enhance security.
- 3) Effective security measures must include rigorous civil liberties, due process, and privacy protections. In this context, Congress must not erode judicial review.
- 4) Our nation needs an immigration system that shrinks the haystack by reforming our immigration laws (by legalizing the status of those currently living and working in the U.S., reducing the long backlogs in family-based immigration, and creating worker programs that allow people to enter and leave the U.S. lawfully) and facilitating the entry of "trusted travelers" so we can better focus our resources on those who mean to do us harm.
- 5) Measures designed to enhance our security must include provisions that mandate sufficient funding, an adequate number of well-trained officers, reasonable deadlines, accurate databases, technology that is up to the task, and congressional oversight of implementation, along with prioritizing initiatives.
- 6) The United States must remain a nation that welcomes people to its shores. Immigration is in our national interest, and a system that works is essential to our national and economic security.

America is a nation of immigrants; immigration remains central to who we are and helps to explain our success as a people and a country. We urge the Members of the House of Representatives to fully consider the entirety of the 9/11 Recommendations Implementation Act (H.R. 10) so that America's tradition of welcoming immigrants is protected as reforms are made to enhance our national security.

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Founded in 1946, AILA is a nonpartisan, nonprofit organization that provides its Members with continuing legal education, information, and professional services. AILA advocates before Congress and the Administration and provides liaison with the DHS and other government agencies. AILA is an Affiliated Organization of the American Bar Association.

American Immigration Lawyers Association
918 F Street, N.W.
Washington, D.C. 20004
202 (216-2400) Phone
202 (783-7853) Fax
www.aila.org