

114TH CONGRESS  
1ST SESSION

# H. R. 158

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IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2015

Received

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## AN ACT

To amend the Immigration and Nationality Act to provide enhanced security measures for the visa waiver 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Visa Waiver Program  
3 Improvement and Terrorist Travel Prevention Act of  
4 2015”.

5 **SEC. 2. ELECTRONIC PASSPORT REQUIREMENT.**

6 (a) REQUIREMENT FOR ALIEN TO POSSESS ELEC-  
7 TRONIC PASSPORT.—Section 217(a)(3) of the Immigra-  
8 tion and Nationality Act (8 U.S.C. 1187(a)(3)) is amend-  
9 ed to read as follows:

10 “(3) PASSPORT REQUIREMENTS.—The alien, at  
11 the time of application for admission, is in posses-  
12 sion of a valid unexpired passport that satisfies the  
13 following:

14 “(A) MACHINE READABLE.—The passport  
15 is a machine-readable passport that is tamper-  
16 resistant, incorporates document authentication  
17 identifiers, and otherwise satisfies the inter-  
18 nationally accepted standard for machine read-  
19 ability.

20 “(B) ELECTRONIC.—Beginning on April 1,  
21 2016, the passport is an electronic passport  
22 that is fraud-resistant, contains relevant bio-  
23 graphic and biometric information (as deter-  
24 mined by the Secretary of Homeland Security),  
25 and otherwise satisfies internationally accepted  
26 standards for electronic passports.”.

1 (b) REQUIREMENT FOR PROGRAM COUNTRY TO  
2 VALIDATE PASSPORTS.—Section 217(c)(2)(B) of the Im-  
3 migration and Nationality Act (8 U.S.C. 1187(c)(2)(B))  
4 is amended to read as follows:

5 “(B) PASSPORT PROGRAM.—

6 “(i) ISSUANCE OF PASSPORTS.—The  
7 government of the country certifies that it  
8 issues to its citizens passports described in  
9 subparagraph (A) of subsection (a)(3), and  
10 on or after April 1, 2016, passports de-  
11 scribed in subparagraph (B) of subsection  
12 (a)(3).

13 “(ii) VALIDATION OF PASSPORTS.—  
14 Not later than October 1, 2016, the gov-  
15 ernment of the country certifies that it has  
16 in place mechanisms to validate passports  
17 described in subparagraphs (A) and (B) of  
18 subsection (a)(3) at each key port of entry  
19 into that country. This requirement shall  
20 not apply to travel between countries which  
21 fall within the Schengen Zone.”.

22 (c) CONFORMING AMENDMENT.—Section 303(c) of  
23 the Enhanced Border Security and Visa Entry Reform Act  
24 of 2002 is repealed (8 U.S.C. 1732(c)).

1 **SEC. 3. RESTRICTION ON USE OF VISA WAIVER PROGRAM**  
2 **FOR ALIENS WHO TRAVEL TO CERTAIN**  
3 **COUNTRIES.**

4 Section 217(a) of the Immigration and Nationality  
5 Act (8 U.S.C. 1187(a)), as amended by this Act, is further  
6 amended by adding at the end the following:

7 “(12) NOT PRESENT IN IRAQ, SYRIA, OR ANY  
8 OTHER COUNTRY OR AREA OF CONCERN.—

9 “(A) IN GENERAL.—Except as provided in  
10 subparagraphs (B) and (C)—

11 “(i) the alien has not been present, at  
12 any time on or after March 1, 2011—

13 “(I) in Iraq or Syria;

14 “(II) in a country that is des-  
15 ignated by the Secretary of State  
16 under section 6(j) of the Export Ad-  
17 ministration Act of 1979 (50 U.S.C.  
18 2405) (as continued in effect under  
19 the International Emergency Eco-  
20 nomic Powers Act (50 U.S.C. 1701 et  
21 seq.)), section 40 of the Arms Export  
22 Control Act (22 U.S.C. 2780), section  
23 620A of the Foreign Assistance Act of  
24 1961 (22 U.S.C. 2371), or any other  
25 provision of law, as a country, the  
26 government of which has repeatedly

1 provided support of acts of inter-  
2 national terrorism; or

3 “(III) in any other country or  
4 area of concern designated by the Sec-  
5 retary of Homeland Security under  
6 subparagraph (D); and

7 “(ii) regardless of whether the alien is  
8 a national of a program country, the alien  
9 is not a national of—

10 “(I) Iraq or Syria;

11 “(II) a country that is des-  
12 ignated, at the time the alien applies  
13 for admission, by the Secretary of  
14 State under section 6(j) of the Export  
15 Administration Act of 1979 (50  
16 U.S.C. 2405) (as continued in effect  
17 under the International Emergency  
18 Economic Powers Act (50 U.S.C.  
19 1701 et seq.)), section 40 of the Arms  
20 Export Control Act (22 U.S.C. 2780),  
21 section 620A of the Foreign Assist-  
22 ance Act of 1961 (22 U.S.C. 2371),  
23 or any other provision of law, as a  
24 country, the government of which has

1 repeatedly provided support of acts of  
2 international terrorism; or

3 “(III) any other country that is  
4 designated, at the time the alien ap-  
5 plies for admission, by the Secretary  
6 of Homeland Security under subpara-  
7 graph (D).

8 “(B) CERTAIN MILITARY PERSONNEL AND  
9 GOVERNMENT EMPLOYEES.—Subparagraph  
10 (A)(i) shall not apply in the case of an alien if  
11 the Secretary of Homeland Security determines  
12 that the alien was present—

13 “(i) in order to perform military serv-  
14 ice in the armed forces of a program coun-  
15 try; or

16 “(ii) in order to carry out official du-  
17 ties as a full-time employee of the govern-  
18 ment of a program country.

19 “(C) WAIVER.—The Secretary of Home-  
20 land Security may waive the application of sub-  
21 paragraph (A) to an alien if the Secretary de-  
22 termines that such a waiver is in the law en-  
23 forcement or national security interests of the  
24 United States.

1           “(D) COUNTRIES OR AREAS OF CON-  
2 CERN.—

3           “(i) IN GENERAL.—Not later than 60  
4 days after the date of the enactment of  
5 this paragraph, the Secretary of Homeland  
6 Security, in consultation with the Sec-  
7 retary of State and the Director of Na-  
8 tional Intelligence, shall determine whether  
9 the requirement under subparagraph (A)  
10 shall apply to any other country or area.

11           “(ii) CRITERIA.—In making a deter-  
12 mination under clause (i), the Secretary  
13 shall consider—

14           “(I) whether the presence of an  
15 alien in the country or area increases  
16 the likelihood that the alien is a cred-  
17 ible threat to the national security of  
18 the United States;

19           “(II) whether a foreign terrorist  
20 organization has a significant pres-  
21 ence in the country or area; and

22           “(III) whether the country or  
23 area is a safe haven for terrorists.

24           “(iii) ANNUAL REVIEW.—The Sec-  
25 retary shall conduct a review, on an annual

1 basis, of any determination made under  
2 clause (i).

3 “(E) REPORT.—Beginning not later than  
4 1 year after the date of the enactment of this  
5 paragraph, and annually thereafter, the Sec-  
6 retary of Homeland Security shall submit to the  
7 Committee on Homeland Security, the Com-  
8 mittee on Foreign Affairs, the Permanent Se-  
9 lect Committee on Intelligence, and the Com-  
10 mittee on the Judiciary of the House of Rep-  
11 resentatives, and the Committee on Homeland  
12 Security and Governmental Affairs, the Com-  
13 mittee on Foreign Relations, the Select Com-  
14 mittee on Intelligence, and the Committee on  
15 the Judiciary of the Senate a report on each in-  
16 stance in which the Secretary exercised the  
17 waiver authority under subparagraph (C) dur-  
18 ing the previous year.”.

19 **SEC. 4. DESIGNATION REQUIREMENTS FOR PROGRAM**  
20 **COUNTRIES.**

21 (a) REPORTING LOST AND STOLEN PASSPORTS.—  
22 Section 217(c)(2)(D) of the Immigration and Nationality  
23 Act (8 U.S.C. 1187(c)(2)(D)), as amended by this Act,  
24 is further amended by striking “within a strict time limit”



1 and inserting “not later than 24 hours after becoming  
2 aware of the theft or loss”.

3 (b) INTERPOL SCREENING.—Section 217(c)(2) of the  
4 Immigration and Nationality Act (8 U.S.C. 1187(c)(2)),  
5 as amended by this Act, is further amended by adding  
6 at the end the following:

7 “(G) INTERPOL SCREENING.—Not later  
8 than 270 days after the date of the enactment  
9 of this subparagraph, except in the case of a  
10 country in which there is not an international  
11 airport, the government of the country certifies  
12 to the Secretary of Homeland Security that, to  
13 the maximum extent allowed under the laws of  
14 the country, it is screening, for unlawful activ-  
15 ity, each person who is not a citizen or national  
16 of that country who is admitted to or departs  
17 that country, by using relevant databases and  
18 notices maintained by Interpol, or other means  
19 designated by the Secretary of Homeland Secu-  
20 rity. This requirement shall not apply to travel  
21 between countries which fall within the  
22 Schengen Zone.”.

23 (c) IMPLEMENTATION OF PASSENGER INFORMATION  
24 EXCHANGE AGREEMENT.—Section 217(c)(2)(F) of the  
25 Immigration and Nationality Act (8 U.S.C.

1 1187(c)(2)(F)), as amended by this Act, is further amend-  
2 ed by inserting before the period at the end the following:  
3 “, and fully implements such agreement”.

4 (d) TERMINATION OF DESIGNATION.—Section 217(f)  
5 of the Immigration and Nationality Act (8 U.S.C.  
6 1187(f)) is amended by adding at the end the following:

7 “(6) FAILURE TO SHARE INFORMATION.—

8 “(A) IN GENERAL.—If the Secretary of  
9 Homeland Security and the Secretary of State  
10 jointly determine that the program country is  
11 not sharing information, as required by sub-  
12 section (c)(2)(F), the Secretary of Homeland  
13 Security shall terminate the designation of the  
14 country as a program country.

15 “(B) REDESIGNATION.—In the case of a  
16 termination under this paragraph, the Secretary  
17 of Homeland Security shall redesignate the  
18 country as a program country, without regard  
19 to paragraph (2) or (3) of subsection (c) or  
20 paragraphs (1) through (4), when the Secretary  
21 of Homeland Security, in consultation with the  
22 Secretary of State, determines that the country  
23 is sharing information, as required by sub-  
24 section (c)(2)(F).

25 “(7) FAILURE TO SCREEN.—

1           “(A) IN GENERAL.—Beginning on the date  
2           that is 270 days after the date of the enact-  
3           ment of this paragraph, if the Secretary of  
4           Homeland Security and the Secretary of State  
5           jointly determine that the program country is  
6           not conducting the screening required by sub-  
7           section (c)(2)(G), the Secretary of Homeland  
8           Security shall terminate the designation of the  
9           country as a program country.

10           “(B) REDESIGNATION.—In the case of a  
11           termination under this paragraph, the Secretary  
12           of Homeland Security shall redesignate the  
13           country as a program country, without regard  
14           to paragraph (2) or (3) of subsection (c) or  
15           paragraphs (1) through (4), when the Secretary  
16           of Homeland Security, in consultation with the  
17           Secretary of State, determines that the country  
18           is conducting the screening required by sub-  
19           section (c)(2)(G).”.

20 **SEC. 5. REPORTING REQUIREMENTS.**

21           (a) IN GENERAL.—Section 217(c) of the Immigration  
22           and Nationality Act (8 U.S.C. 1187(c)), as amended by  
23           this Act, is further amended—

24           (1) in paragraph (2)(C)(iii)—

1 (A) by striking “and the Committee on  
2 International Relations” and inserting “, the  
3 Committee on Foreign Affairs, and the Com-  
4 mittee on Homeland Security”; and

5 (B) by striking “and the Committee on  
6 Foreign Relations” and inserting “, the Com-  
7 mittee on Foreign Relations, and the Com-  
8 mittee on Homeland Security and Govern-  
9 mental Affairs”; and

10 (2) in paragraph (5)(A)(i)—

11 (A) in subclause (III)—

12 (i) by inserting after “the Committee  
13 on Foreign Affairs,” the following: “the  
14 Permanent Select Committee on Intel-  
15 ligence,”;

16 (ii) by inserting after “the Committee  
17 on Foreign Relations,” the following: “the  
18 Select Committee on Intelligence”; and

19 (iii) by striking “and” at the end;

20 (B) in subclause (IV), by striking the pe-  
21 riod at the end and inserting the following: “;  
22 and”; and

23 (C) by adding at the end the following:

24 “(V) shall submit to the commit-  
25 tees described in subclause (III), a re-

1 port that includes an assessment of  
2 the threat to the national security of  
3 the United States of the designation  
4 of each country designated as a pro-  
5 gram country, including the compli-  
6 ance of the government of each such  
7 country with the requirements under  
8 subparagraphs (D) and (F) of para-  
9 graph (2), as well as each such gov-  
10 ernment’s capacity to comply with  
11 such requirements.”.

12 (b) DATE OF SUBMISSION OF FIRST REPORT.—The  
13 Secretary of Homeland Security shall submit the first re-  
14 port described in subclause (V) of section 217(c)(5)(A)(i)  
15 of the Immigration and Nationality Act (8 U.S.C.  
16 (c)(5)(A)(i)), as added by subsection (a), not later than  
17 90 days after the date of the enactment of this Act.

18 **SEC. 6. HIGH RISK PROGRAM COUNTRIES.**

19 Section 217(c) of the Immigration and Nationality  
20 Act (8 U.S.C. 1187(c)), as amended by this Act, is further  
21 amended by adding at the end the following:

22 “(12) DESIGNATION OF HIGH RISK PROGRAM  
23 COUNTRIES.—

24 “(A) IN GENERAL.—The Secretary of  
25 Homeland Security, in consultation with the Di-

1 rector of National Intelligence and the Sec-  
2 retary of State, shall evaluate program coun-  
3 tries on an annual basis based on the criteria  
4 described in subparagraph (B) and shall iden-  
5 tify any program country, the admission of na-  
6 tionals from which under the visa waiver pro-  
7 gram under this section, the Secretary deter-  
8 mines presents a high risk to the national secu-  
9 rity of the United States.

10 “(B) CRITERIA.—In evaluating program  
11 countries under subparagraph (A), the Sec-  
12 retary of Homeland Security, in consultation  
13 with the Director of National Intelligence and  
14 the Secretary of State, shall consider the fol-  
15 lowing criteria:

16 “(i) The number of nationals of the  
17 country determined to be ineligible to trav-  
18 el to the United States under the program  
19 during the previous year.

20 “(ii) The number of nationals of the  
21 country who were identified in United  
22 States Government databases related to  
23 the identities of known or suspected terror-  
24 ists during the previous year.

1           “(iii) The estimated number of na-  
2           tionals of the country who have traveled to  
3           Iraq or Syria at any time on or after  
4           March 1, 2011, to engage in terrorism.

5           “(iv) The capacity of the country to  
6           combat passport fraud.

7           “(v) The level of cooperation of the  
8           country with the counter-terrorism efforts  
9           of the United States.

10          “(vi) The adequacy of the border and  
11          immigration control of the country.

12          “(vii) Any other criteria the Secretary  
13          of Homeland Security determines to be ap-  
14          propriate.

15          “(C) SUSPENSION OF DESIGNATION.—The  
16          Secretary of Homeland Security, in consultation  
17          with the Secretary of State, may suspend the  
18          designation of a program country based on a  
19          determination that the country presents a high  
20          risk to the national security of the United  
21          States under subparagraph (A) until such time  
22          as the Secretary determines that the country no  
23          longer presents such a risk.

24          “(D) REPORT.—Not later than 60 days  
25          after the date of the enactment of this para-

1 graph, and annually thereafter, the Secretary of  
2 Homeland Security, in consultation with the Di-  
3 rector of National Intelligence and the Sec-  
4 retary of State, shall submit to the Committee  
5 on Homeland Security, the Committee on For-  
6 eign Affairs, the Permanent Select Committee  
7 on Intelligence, and the Committee on the Judi-  
8 ciary of the House of Representatives, and the  
9 Committee on Homeland Security and Govern-  
10 mental Affairs, the Committee on Foreign Rela-  
11 tions, the Select Committee on Intelligence, and  
12 the Committee on the Judiciary of the Senate  
13 a report, which includes an evaluation and  
14 threat assessment of each country determined  
15 to present a high risk to the national security  
16 of the United States under subparagraph (A).”.

17 **SEC. 7. ENHANCEMENTS TO THE ELECTRONIC SYSTEM FOR**  
18 **TRAVEL AUTHORIZATION.**

19 (a) IN GENERAL.—Section 217(h)(3) of the Immi-  
20 gration and Nationality Act (8 U.S.C. 1187(h)(3)) is  
21 amended—

22 (1) in subparagraph (C)(i), by inserting after  
23 “any such determination” the following: “or shorten  
24 the period of eligibility under any such determina-  
25 tion”;



1           (2) by striking subparagraph (D) and inserting  
2           the following:

3                   “(D) FRAUD DETECTION.—The Secretary  
4                   of Homeland Security shall research opportuni-  
5                   ties to incorporate into the System technology  
6                   that will detect and prevent fraud and deception  
7                   in the System.

8                   “(E) ADDITIONAL AND PREVIOUS COUN-  
9                   TRIES OF CITIZENSHIP.—The Secretary of  
10                  Homeland Security shall collect from an appli-  
11                  cant for admission pursuant to this section in-  
12                  formation on any additional or previous coun-  
13                  tries of citizenship of that applicant. The Sec-  
14                  retary shall take any information so collected  
15                  into account when making determinations as to  
16                  the eligibility of the alien for admission pursu-  
17                  ant to this section.

18                  “(F) REPORT ON CERTAIN LIMITATIONS  
19                  ON TRAVEL.—Not later than 30 days after the  
20                  date of the enactment of this subparagraph and  
21                  annually thereafter, the Secretary of Homeland  
22                  Security, in consultation with the Secretary of  
23                  State, shall submit to the Committee on Home-  
24                  land Security, the Committee on the Judiciary,  
25                  and the Committee on Foreign Affairs of the

1 House of Representatives, and the Committee  
2 on Homeland Security and Governmental Af-  
3 fairs, the Committee on the Judiciary, and the  
4 Committee on Foreign Relations of the Senate  
5 a report on the number of individuals who were  
6 denied eligibility to travel under the program,  
7 or whose eligibility for such travel was revoked  
8 during the previous year, and the number of  
9 such individuals determined, in accordance with  
10 subsection (a)(6), to represent a threat to the  
11 national security of the United States, and shall  
12 include the country or countries of citizenship  
13 of each such individual.”.

14 (b) REPORT.—Not later than 30 days after the date  
15 of the enactment of this Act, the Secretary of Homeland  
16 Security, in consultation with the Secretary of State, shall  
17 submit to the Committee on Homeland Security, the Com-  
18 mittee on the Judiciary, and the Committee on Foreign  
19 Affairs of the House of Representatives, and the Com-  
20 mittee on Homeland Security and Governmental Affairs,  
21 the Committee on the Judiciary, and the Committee on  
22 Foreign Relations of the Senate a report on steps to  
23 strengthen the electronic system for travel authorization  
24 authorized under section 217(h)(3) of the Immigration  
25 and Nationality Act (8 U.S.C. 1187(h)(3))) in order to

1 better secure the international borders of the United  
2 States and prevent terrorists and instruments of terrorism  
3 from entering the United States.

4 **SEC. 8. PROVISION OF ASSISTANCE TO NON-PROGRAM**  
5 **COUNTRIES.**

6 The Secretary of Homeland Security, in consultation  
7 with the Secretary of State, shall provide assistance in a  
8 risk-based manner to countries that do not participate in  
9 the visa waiver program under section 217 of the Immi-  
10 gration and Nationality Act (8 U.S.C. 1187) to assist  
11 those countries in—

12 (1) submitting to Interpol information about  
13 the theft or loss of passports of citizens or nationals  
14 of such a country; and

15 (2) issuing, and validating at the ports of entry  
16 of such a country, electronic passports that are  
17 fraud-resistant, contain relevant biographic and bio-  
18 metric information (as determined by the Secretary  
19 of Homeland Security), and otherwise satisfy inter-  
20 nationally accepted standards for electronic pass-  
21 ports.

22 **SEC. 9. CLERICAL AMENDMENTS.**

23 (a) SECRETARY OF HOMELAND SECURITY.—Section  
24 217 of the Immigration and Nationality Act (8 U.S.C.  
25 1187), as amended by this Act, is further amended by

1 striking “Attorney General” each place such term appears  
2 (except in subsection (c)(11)(B)) and inserting “Secretary  
3 of Homeland Security”.

4 (b) ELECTRONIC SYSTEM FOR TRAVEL AUTHORIZA-  
5 TION.—Section 217 of the Immigration and Nationality  
6 Act (8 U.S.C. 1187), as amended this Act, is further  
7 amended—

8 (1) by striking “electronic travel authorization  
9 system” each place it appears and inserting “elec-  
10 tronic system for travel authorization”;

11 (2) in the heading in subsection (a)(11), by  
12 striking “ELECTRONIC TRAVEL AUTHORIZATION SYS-  
13 TEM” and inserting “ELECTRONIC SYSTEM FOR  
14 TRAVEL AUTHORIZATION”; and

15 (3) in the heading in subsection (h)(3), by  
16 striking “ELECTRONIC TRAVEL AUTHORIZATION SYS-  
17 TEM” and inserting “ELECTRONIC SYSTEM FOR  
18 TRAVEL AUTHORIZATION”.

19 **SEC. 10. SENSE OF CONGRESS.**

20 It is the sense of Congress that the International  
21 Civil Aviation Organization, the specialized agency of the  
22 United Nations responsible for establishing international  
23 standards, specifications, and best practices related to the  
24 administration and governance of border controls and in-  
25 spection formalities, should establish standards for the in-

1 troduction of electronic passports (referred to in this sec-  
2 tion as “e-passports”), and obligate member countries to  
3 utilize such e-passports as soon as possible. Such e-pass-  
4 ports should be a combined paper and electronic passport  
5 that contains biographic and biometric information that  
6 can be used to authenticate the identity of travelers  
7 through an embedded chip.

Passed the House of Representatives December 8,  
2015.

Attest:

KAREN L. HAAS,

*Clerk.*