

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 418

---

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2005

Received

FEBRUARY 17, 2005

Read twice and referred to the Committee on the Judiciary

---

## AN ACT

To establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, and to ensure expeditious construction of the San Diego border fence.

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 “REAL ID Act of  
5 2005”.

6 **TITLE I—AMENDMENTS TO FED-**  
7 **ERAL LAWS TO PROTECT**  
8 **AGAINST TERRORIST ENTRY**

9 **SEC. 101. PREVENTING TERRORISTS FROM OBTAINING RE-**  
10 **LIEF FROM REMOVAL.**

11 (a) CONDITIONS FOR GRANTING ASYLUM.—Section  
12 208(b)(1) of the Immigration and Nationality Act (8  
13 U.S.C. 1158(b)(1)) is amended—

14 (1) by striking “The Attorney General” the  
15 first place such term appears and inserting the fol-  
16 lowing:

17 “(A) ELIGIBILITY.—The Secretary of  
18 Homeland Security or the Attorney General”;

19 (2) by striking “the Attorney General” the sec-  
20 ond and third places such term appears and insert-  
21 ing “the Secretary of Homeland Security or the At-  
22 torney General”; and

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

24 “(B) BURDEN OF PROOF.—

1           “(i) IN GENERAL.—The burden of  
2 proof is on the applicant to establish that  
3 the applicant is a refugee, within the  
4 meaning of section 101(a)(42)(A). To es-  
5 tablish that the applicant is a refugee with-  
6 in the meaning of such section, the appli-  
7 cant must establish that race, religion, na-  
8 tionality, membership in a particular social  
9 group, or political opinion was or will be a  
10 central reason for persecuting the appli-  
11 cant.

12           “(ii) SUSTAINING BURDEN.—The tes-  
13 timony of the applicant may be sufficient  
14 to sustain the applicant’s burden without  
15 corroboration, but only if the applicant sat-  
16 isfies the trier of fact that the applicant’s  
17 testimony is credible, is persuasive, and re-  
18 fers to specific facts sufficient to dem-  
19 onstrate that the applicant is a refugee. In  
20 determining whether the applicant has met  
21 the applicant’s burden, the trier of fact  
22 may weigh the credible testimony along  
23 with other evidence of record. Where the  
24 trier of fact determines, in the trier of  
25 fact’s discretion, that the applicant should

1 provide evidence which corroborates other-  
2 wise credible testimony, such evidence  
3 must be provided unless the applicant does  
4 not have the evidence and cannot reason-  
5 ably obtain the evidence without departing  
6 the United States. The inability to obtain  
7 corroborating evidence does not excuse the  
8 applicant from meeting the applicant's  
9 burden of proof.

10 “(iii) CREDIBILITY DETERMINA-  
11 TION.—The trier of fact should consider all  
12 relevant factors and may, in the trier of  
13 fact's discretion, base the trier of fact's  
14 credibility determination on any such fac-  
15 tor, including the demeanor, candor, or re-  
16 sponsiveness of the applicant or witness,  
17 the inherent plausibility of the applicant's  
18 or witness's account, the consistency be-  
19 tween the applicant's or witness's written  
20 and oral statements (whenever made and  
21 whether or not made under oath), the in-  
22 ternal consistency of each such statement,  
23 the consistency of such statements with  
24 other evidence of record (including the re-  
25 ports of the Department of State on coun-

1           try conditions), and any inaccuracies or  
2           falsehoods in such statements, without re-  
3           gard to whether an inconsistency, inaccu-  
4           racy, or falsehood goes to the heart of the  
5           applicant’s claim. There is no presumption  
6           of credibility.”.

7           (b) WITHHOLDING OF REMOVAL.—Section 241(b)(3)  
8 of the Immigration and Nationality Act (8 U.S.C.  
9 1231(b)(3)) is amended by adding at the end the fol-  
10 lowing:

11                   “(C) SUSTAINING BURDEN OF PROOF;  
12           CREDIBILITY DETERMINATIONS.—In deter-  
13           mining whether an alien has demonstrated that  
14           the alien’s life or freedom would be threatened  
15           for a reason described in subparagraph (A), the  
16           trier of fact shall determine whether the alien  
17           has sustained the alien’s burden of proof, and  
18           shall make credibility determinations, in the  
19           manner described in clauses (ii) and (iii) of sec-  
20           tion 208(b)(1)(B).”.

21           (c) OTHER REQUESTS FOR RELIEF FROM RE-  
22 MOVAL.—Section 240(c) of the Immigration and Nation-  
23 ality Act (8 U.S.C. 1230(c)) is amended—

24                   (1) by redesignating paragraphs (4), (5), and  
25                   (6) as paragraphs (5), (6), and (7), respectively; and

1           (2) by inserting after paragraph (3) the fol-  
2           lowing:

3           “(4) APPLICATIONS FOR RELIEF FROM RE-  
4           MOVAL.—

5           “(A) IN GENERAL.—An alien applying for  
6           relief or protection from removal has the bur-  
7           den of proof to establish that the alien—

8                   “(i) satisfies the applicable eligibility  
9                   requirements; and

10                   “(ii) with respect to any form of relief  
11                   that is granted in the exercise of discre-  
12                   tion, that the alien merits a favorable exer-  
13                   cise of discretion.

14           “(B) SUSTAINING BURDEN.—The appli-  
15           cant must comply with the applicable require-  
16           ments to submit information or documentation  
17           in support of the applicant’s application for re-  
18           lief or protection as provided by law or by regu-  
19           lation or in the instructions for the application  
20           form. In evaluating the testimony of the appli-  
21           cant or other witness in support of the applica-  
22           tion, the immigration judge will determine  
23           whether or not the testimony is credible, is per-  
24           suasive, and refers to specific facts sufficient to  
25           demonstrate that the applicant has satisfied the

1 applicant's burden of proof. In determining  
2 whether the applicant has met such burden, the  
3 immigration judge shall weigh the credible testi-  
4 mony along with other evidence of record.  
5 Where the immigration judge determines in the  
6 judge's discretion that the applicant should pro-  
7 vide evidence which corroborates otherwise cred-  
8 ible testimony, such evidence must be provided  
9 unless the applicant demonstrates that the ap-  
10 plicant does not have the evidence and cannot  
11 reasonably obtain the evidence without depart-  
12 ing from the United States. The inability to ob-  
13 tain corroborating evidence does not excuse the  
14 applicant from meeting the burden of proof.

15 “(C) CREDIBILITY DETERMINATION.—The  
16 immigration judge should consider all relevant  
17 factors and may, in the judge's discretion, base  
18 the judge's credibility determination on any  
19 such factor, including the demeanor, candor, or  
20 responsiveness of the applicant or witness, the  
21 inherent plausibility of the applicant's or  
22 witness's account, the consistency between the  
23 applicant's or witness's written and oral state-  
24 ments (whenever made and whether or not  
25 made under oath), the internal consistency of

1           each such statement, the consistency of such  
2           statements with other evidence of record (in-  
3           cluding the reports of the Department of State  
4           on country conditions), and any inaccuracies or  
5           falsehoods in such statements, without regard  
6           to whether an inconsistency, inaccuracy, or  
7           falsehood goes to the heart of the applicant’s  
8           claim. There is no presumption of credibility.”.

9           (d) STANDARD OF REVIEW FOR ORDERS OF RE-  
10          MOVAL.—Section 242(b)(4) of the Immigration and Na-  
11          tionality Act (8 U.S.C. 1252(b)(4)) is amended by adding  
12          at the end, after subparagraph (D), the following: “No  
13          court shall reverse a determination made by a trier of fact  
14          with respect to the availability of corroborating evidence,  
15          as described in section 208(b)(1)(B), 240(c)(4)(B), or  
16          241(b)(3)(C), unless the court finds that a reasonable  
17          trier of fact is compelled to conclude that such corrobo-  
18          rating evidence is unavailable.”.

19          (e) CLARIFICATION OF DISCRETION.—Section  
20          242(a)(2)(B) of the Immigration and Nationality Act (8  
21          U.S.C. 1252(a)(2)(B)) is amended—

22                 (1) by inserting “or the Secretary of Homeland  
23                 Security” after “Attorney General” each place such  
24                 term appears; and

1           (2) in the matter preceding clause (i), by insert-  
2           ing “and regardless of whether the judgment, deci-  
3           sion, or action is made in removal proceedings,”  
4           after “other provision of law,”.

5           (f) REMOVAL OF CAPS.—Section 209 of the Immigra-  
6           tion and Nationality Act (8 U.S.C. 1159) is amended—

7           (1) in subsection (a)(1)—

8                   (A) by striking “Service” and inserting  
9                   “Department of Homeland Security”; and

10                   (B) by striking “Attorney General” each  
11                   place such term appears and inserting “Sec-  
12                   retary of Homeland Security or the Attorney  
13                   General”;

14           (2) in subsection (b)—

15                   (A) by striking “Not more” and all that  
16                   follows through “asylum who—” and inserting  
17                   “The Secretary of Homeland Security or the  
18                   Attorney General, in the Secretary’s or the At-  
19                   torney General’s discretion and under such reg-  
20                   ulations as the Secretary or the Attorney Gen-  
21                   eral may prescribe, may adjust to the status of  
22                   an alien lawfully admitted for permanent resi-  
23                   dence the status of any alien granted asylum  
24                   who—”; and

1 (B) in the matter following paragraph (5),  
2 by striking “Attorney General” and inserting  
3 “Secretary of Homeland Security or the Attor-  
4 ney General”; and

5 (3) in subsection (c), by striking “Attorney  
6 General” and inserting “Secretary of Homeland Se-  
7 curity or the Attorney General”.

8 (g) EFFECTIVE DATES.—

9 (1) The amendments made by paragraphs (1)  
10 and (2) of subsection (a) shall take effect as if en-  
11 acted on March 1, 2003.

12 (2) The amendments made by subsections  
13 (a)(3), (b), and (c) shall take effect on the date of  
14 the enactment of this Act and shall apply to applica-  
15 tions for asylum, withholding, or other removal made  
16 on or after such date.

17 (3) The amendment made by subsection (d)  
18 shall take effect on the date of the enactment of this  
19 Act and shall apply to all cases in which the final  
20 administrative removal order is or was issued before,  
21 on, or after such date.

22 (4) The amendments made by subsection (e)  
23 shall take effect on the date of the enactment of this  
24 Act and shall apply to all cases pending before any  
25 court on or after such date.



1 made, by the Secretary of Homeland Security  
2 pursuant to paragraph (1); or

3 “(B) to order compensatory, declaratory,  
4 injunctive, equitable, or any other relief for  
5 damage alleged to arise from any such action or  
6 decision.”.

7 **SEC. 103. INADMISSIBILITY DUE TO TERRORIST AND TER-**  
8 **RORIST-RELATED ACTIVITIES.**

9 (a) IN GENERAL.—So much of section  
10 212(a)(3)(B)(i) of the Immigration and Nationality Act  
11 (8 U.S.C. 1182(a)(3)(B)(i)) as precedes the final sentence  
12 is amended to read as follows:

13 “(i) IN GENERAL.—Any alien who—

14 “(I) has engaged in a terrorist  
15 activity;

16 “(II) a consular officer, the At-  
17 torney General, or the Secretary of  
18 Homeland Security knows, or has rea-  
19 sonable ground to believe, is engaged  
20 in or is likely to engage after entry in  
21 any terrorist activity (as defined in  
22 clause (iv));

23 “(III) has, under circumstances  
24 indicating an intention to cause death

1 or serious bodily harm, incited ter-  
2 rorist activity;

3 “(IV) is a representative (as de-  
4 fined in clause (v)) of—

5 “(aa) a terrorist organiza-  
6 tion (as defined in clause (vi)); or

7 “(bb) a political, social, or  
8 other group that endorses or es-  
9 pouses terrorist activity;

10 “(V) is a member of a terrorist  
11 organization described in subclause (I)  
12 or (II) of clause (vi);

13 “(VI) is a member of a terrorist  
14 organization described in clause  
15 (vi)(III), unless the alien can dem-  
16 onstrate by clear and convincing evi-  
17 dence that the alien did not know, and  
18 should not reasonably have known,  
19 that the organization was a terrorist  
20 organization;

21 “(VII) endorses or espouses ter-  
22 rorist activity or persuades others to  
23 endorse or espouse terrorist activity or  
24 support a terrorist organization;

1 “(VIII) has received military-type  
2 training (as defined in section  
3 2339D(c)(1) of title 18, United States  
4 Code) from or on behalf of any orga-  
5 nization that, at the time the training  
6 was received, was a terrorist organiza-  
7 tion (as defined in clause (vi)); or

8 “(IX) is the spouse or child of an  
9 alien who is inadmissible under this  
10 subparagraph, if the activity causing  
11 the alien to be found inadmissible oc-  
12 curred within the last 5 years,

13 is inadmissible.”.

14 (b) ENGAGE IN TERRORIST ACTIVITY DEFINED.—  
15 Section 212(a)(3)(B)(iv) of the Immigration and Nation-  
16 ality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read  
17 as follows:

18 “(iv) ENGAGE IN TERRORIST ACTIVITY  
19 DEFINED.—As used in this Act, the term  
20 ‘engage in terrorist activity’ means, in an  
21 individual capacity or as a member of an  
22 organization—

23 “(I) to commit or to incite to  
24 commit, under circumstances indi-  
25 cating an intention to cause death or

1 serious bodily injury, a terrorist activ-  
2 ity;

3 “(II) to prepare or plan a ter-  
4 rorist activity;

5 “(III) to gather information on  
6 potential targets for terrorist activity;

7 “(IV) to solicit funds or other  
8 things of value for—

9 “(aa) a terrorist activity;

10 “(bb) a terrorist organiza-  
11 tion described in clause (vi)(I) or  
12 (vi)(II); or

13 “(cc) a terrorist organiza-  
14 tion described in clause (vi)(III),  
15 unless the solicitor can dem-  
16 onstrate by clear and convincing  
17 evidence that he did not know,  
18 and should not reasonably have  
19 known, that the organization was  
20 a terrorist organization;

21 “(V) to solicit any individual—

22 “(aa) to engage in conduct  
23 otherwise described in this sub-  
24 section;

1           “(bb) for membership in a  
2 terrorist organization described  
3 in clause (vi)(I) or (vi)(II); or

4           “(cc) for membership in a  
5 terrorist organization described  
6 in clause (vi)(III) unless the so-  
7 licitor can demonstrate by clear  
8 and convincing evidence that he  
9 did not know, and should not  
10 reasonably have known, that the  
11 organization was a terrorist orga-  
12 nization; or

13           “(VI) to commit an act that the  
14 actor knows, or reasonably should  
15 know, affords material support, in-  
16 cluding a safe house, transportation,  
17 communications, funds, transfer of  
18 funds or other material financial ben-  
19 efit, false documentation or identifica-  
20 tion, weapons (including chemical, bi-  
21 ological, or radiological weapons), ex-  
22 plosives, or training—

23           “(aa) for the commission of  
24 a terrorist activity;

1           “(bb) to any individual who  
2           the actor knows, or reasonably  
3           should know, has committed or  
4           plans to commit a terrorist activ-  
5           ity;

6           “(cc) to a terrorist organiza-  
7           tion described in subclause (I) or  
8           (II) of clause (vi) or to any mem-  
9           ber of such an organization; or

10           “(dd) to a terrorist organi-  
11           zation described in clause  
12           (vi)(III), or to any member of  
13           such an organization, unless the  
14           actor can demonstrate by clear  
15           and convincing evidence that the  
16           actor did not know, and should  
17           not reasonably have known, that  
18           the organization was a terrorist  
19           organization.

20           This clause shall not apply to any material  
21           support the alien afforded to an organiza-  
22           tion or individual that has committed ter-  
23           rorist activity, if the Secretary of State,  
24           after consultation with the Attorney Gen-  
25           eral and the Secretary of Homeland Secu-

1           rity, or the Attorney General, after con-  
2           sultation with the Secretary of State and  
3           the Secretary of Homeland Security, con-  
4           cludes in his sole unreviewable discretion,  
5           that this clause should not apply.”.

6           (c) **TERRORIST ORGANIZATION DEFINED.**—Section  
7 212(a)(3)(B)(vi) of the Immigration and Nationality Act  
8 (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as fol-  
9 lows:

10                   “(vi) **TERRORIST ORGANIZATION DE-**  
11                   **FINED.**—As used in this section, the term  
12                   ‘terrorist organization’ means an organiza-  
13                   tion—

14                           “(I) designated under section  
15                           219;

16                           “(II) otherwise designated, upon  
17                           publication in the Federal Register, by  
18                           the Secretary of State in consultation  
19                           with or upon the request of the Attor-  
20                           ney General or the Secretary of  
21                           Homeland Security, as a terrorist or-  
22                           ganization, after finding that the or-  
23                           ganization engages in the activities  
24                           described in subclauses (I) through  
25                           (VI) of clause (iv); or

1                   “(III) that is a group of two or  
2                   more individuals, whether organized  
3                   or not, which engages in, or has a  
4                   subgroup which engages in, the activi-  
5                   ties described in subclauses (I)  
6                   through (VI) of clause (iv).”.

7           (d) **EFFECTIVE DATE.**—The amendments made by  
8 this section shall take effect on the date of the enactment  
9 of this Act, and these amendments, and section  
10 212(a)(3)(B) of the Immigration and Nationality Act (8  
11 U.S.C. 1182(a)(3)(B)), as amended by this section, shall  
12 apply to—

13                   (1) removal proceedings instituted before, on, or  
14                   after the date of the enactment of this Act; and

15                   (2) acts and conditions constituting a ground  
16                   for inadmissibility, excludability, deportation, or re-  
17                   moval occurring or existing before, on, or after such  
18                   date.

19 **SEC. 104. REMOVAL OF TERRORISTS.**

20           (a) **IN GENERAL.**—

21                   (1) **IN GENERAL.**—Section 237(a)(4)(B) of the  
22                   Immigration and Nationality Act (8 U.S.C.  
23                   1227(a)(4)(B)) is amended to read as follows:

1           “(B) **TERRORIST ACTIVITIES.**—Any alien  
2           who is described in subparagraph (B) or (F) of  
3           section 212(a)(3) is deportable.”.

4           (2) **EFFECTIVE DATE.**—The amendment made  
5           by paragraph (1) shall take effect on the date of the  
6           enactment of this Act, and the amendment, and sec-  
7           tion 237(a)(4)(B) of the Immigration and Nation-  
8           ality Act (8 U.S.C. 1227(a)(4)(B)), as amended by  
9           such paragraph, shall apply to—

10           (A) removal proceedings instituted before,  
11           on, or after the date of the enactment of this  
12           Act; and

13           (B) acts and conditions constituting a  
14           ground for inadmissibility, excludability, depor-  
15           tation, or removal occurring or existing before,  
16           on, or after such date.

17           (b) **REPEAL.**—Effective as of the date of the enact-  
18           ment of the Intelligence Reform and Terrorism Prevention  
19           Act of 2004 (Public Law 108–458), section 5402 of such  
20           Act is repealed, and the Immigration and Nationality Act  
21           shall be applied as if such section had not been enacted.

22           **SEC. 105. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

23           (a) **IN GENERAL.**—Section 242 of the Immigration  
24           and Nationality Act (8 U.S.C. 1252) is amended—

25           (1) in subsection (a)—

1 (A) in paragraph (2)—

2 (i) in subparagraph (A), by inserting  
3 “(statutory or nonstatutory), including sec-  
4 tion 2241 of title 28, United States Code,  
5 or any other habeas corpus provision, and  
6 sections 1361 and 1651 of such title” after  
7 “Notwithstanding any other provision of  
8 law”;

9 (ii) in each of subparagraphs (B) and  
10 (C), by inserting “(statutory or nonstatu-  
11 tory), including section 2241 of title 28,  
12 United States Code, or any other habeas  
13 corpus provision, and sections 1361 and  
14 1651 of such title, and except as provided  
15 in subparagraph (D)” after “Notwith-  
16 standing any other provision of law”; and

17 (iii) by adding at the end the fol-  
18 lowing:

19 “(D) JUDICIAL REVIEW OF CERTAIN  
20 LEGAL CLAIMS.—Nothing in subparagraph (B)  
21 or (C), or in any other provision of this Act  
22 which limits or eliminates judicial review, shall  
23 be construed as precluding review of constitu-  
24 tional claims or pure questions of law raised  
25 upon a petition for review filed with an appro-

1           appropriate court of appeals in accordance with this  
2           section.”; and

3                       (B) by adding at the end the following:

4                       “(4) CLAIMS UNDER THE UNITED NATIONS  
5           CONVENTION.—Notwithstanding any other provision  
6           of law (statutory or nonstatutory), including section  
7           2241 of title 28, United States Code, or any other  
8           habeas corpus provision, and sections 1361 and  
9           1651 of such title, a petition for review filed with an  
10          appropriate court of appeals in accordance with this  
11          section shall be the sole and exclusive means for ju-  
12          dicial review of any cause or claim under the United  
13          Nations Convention Against Torture and Other  
14          Forms of Cruel, Inhuman, or Degrading Treatment  
15          or Punishment, except as provided in subsection (e).

16                      “(5) EXCLUSIVE MEANS OF REVIEW.—Notwith-  
17          standing any other provision of law (statutory or  
18          nonstatutory), including section 2241 of title 28,  
19          United States Code, or any other habeas corpus pro-  
20          vision, and sections 1361 and 1651 of such title, a  
21          petition for review filed with an appropriate court of  
22          appeals in accordance with this section shall be the  
23          sole and exclusive means for judicial review of an  
24          order of removal entered or issued under any provi-  
25          sion of this Act, except as provided in subsection (e).

1 For purposes of this Act, in every provision that lim-  
2 its or eliminates judicial review or jurisdiction to re-  
3 view, the terms ‘judicial review’ and ‘jurisdiction to  
4 review’ include habeas corpus review pursuant to  
5 section 2241 of title 28, United States Code, or any  
6 other habeas corpus provision, sections 1361 and  
7 1651 of such title, and review pursuant to any other  
8 provision of law (statutory or nonstatutory).”;

9 (2) in subsection (b)—

10 (A) in paragraph (3)(B), by inserting  
11 “pursuant to subsection (f)” after “unless”;  
12 and

13 (B) in paragraph (9), by adding at the end  
14 the following: “Except as otherwise provided in  
15 this section, no court shall have jurisdiction, by  
16 habeas corpus under section 2241 of title 28,  
17 United States Code, or any other habeas corpus  
18 provision, by section 1361 or 1651 of such title,  
19 or by any other provision of law (statutory or  
20 nonstatutory), to review such an order or such  
21 questions of law or fact.”; and

22 (3) in subsection (g), by inserting “(statutory  
23 or nonstatutory), including section 2241 of title 28,  
24 United States Code, or any other habeas corpus pro-

1 vision, and sections 1361 and 1651 of such title”  
2 after “notwithstanding any other provision of law”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 subsection (a) shall take effect upon the date of the enact-  
5 ment of this Act and shall apply to cases in which the  
6 final administrative order of removal, deportation, or ex-  
7 clusion was issued before, on, or after the date of the en-  
8 actment of this Act.

9 (c) TRANSFER OF CASES.—If an alien’s case, brought  
10 under section 2241 of title 28, United States Code, and  
11 challenging a final administrative order of removal, depor-  
12 tation, or exclusion, is pending in a district court on the  
13 date of the enactment of this Act, then the district court  
14 shall transfer the case (or the part of the case that chal-  
15 lenges the order of removal, deportation, or exclusion) to  
16 the court of appeals for the circuit in which a petition for  
17 review could have been properly filed under section  
18 242(b)(2) of the Immigration and Nationality Act (8  
19 U.S.C. 1252), as amended by this section, or under section  
20 309(e)(4)(D) of the Illegal Immigration Reform and Im-  
21 migrant Responsibility Act of 1996 (8 U.S.C. 1101 note).  
22 The court of appeals shall treat the transferred case as  
23 if it had been filed pursuant to a petition for review under  
24 such section 242, except that subsection (b)(1) of such  
25 section shall not apply.

1 (d) TRANSITIONAL RULE CASES.—A petition for re-  
2 view filed under former section 106(a) of the Immigration  
3 and Nationality Act (as in effect before its repeal by sec-  
4 tion 306(b) of the Illegal Immigration Reform and Immig-  
5 rant Responsibility Act of 1996 (8 U.S.C. 1252 note))  
6 shall be treated as if it had been filed as a petition for  
7 review under section 242 of the Immigration and Nation-  
8 ality Act (8 U.S.C. 1252), as amended by this section.  
9 Notwithstanding any other provision of law (statutory or  
10 nonstatutory), including section 2241 of title 28, United  
11 States Code, or any other habeas corpus provision, and  
12 sections 1361 and 1651 of such title, such petition for re-  
13 view shall be the sole and exclusive means for judicial re-  
14 view of an order of deportation or exclusion.

15 **SEC. 106. DELIVERY BONDS.**

16 (a) DEFINITIONS.—For purposes of this section:

17 (1) DELIVERY BOND.—The term “delivery  
18 bond” means a written suretyship undertaking for  
19 the surrender of an individual against whom the De-  
20 partment of Homeland Security has issued an order  
21 to show cause or a notice to appear, the performance  
22 of which is guaranteed by an acceptable surety on  
23 Federal bonds.

24 (2) PRINCIPAL.—The term “principal” means  
25 an individual who is the subject of a bond.

1           (3) SURETYSHIP UNDERTAKING.—The term  
2 “suretyship undertaking” means a written agree-  
3 ment, executed by a bonding agent on behalf of a  
4 surety, which binds all parties to its certain terms  
5 and conditions and which provides obligations for  
6 the principal and the surety while under the bond  
7 and penalties for forfeiture to ensure the obligations  
8 of the principal and the surety under the agreement.

9           (4) BONDING AGENT.—The term “bonding  
10 agent” means any individual properly licensed, ap-  
11 proved, and appointed by power of attorney to exe-  
12 cute or countersign surety bonds in connection with  
13 any matter governed by the Immigration and Na-  
14 tionality Act as amended (8 U.S.C. 1101, et seq.),  
15 and who receives a premium for executing or  
16 countersigning such surety bonds.

17           (5) SURETY.—The term “surety” means an en-  
18 tity, as defined by, and that is in compliance with,  
19 sections 9304 through 9308 of title 31, United  
20 States Code, that agrees—

21                   (A) to guarantee the performance, where  
22 appropriate, of the principal under a bond;

23                   (B) to perform the bond as required; and

24                   (C) to pay the face amount of the bond as  
25 a penalty for failure to perform.

1 (b) VALIDITY, AGENT NOT CO-OBLIGOR, EXPIRA-  
2 TION, RENEWAL, AND CANCELLATION OF BONDS.—

3 (1) VALIDITY.—Delivery bond undertakings are  
4 valid if such bonds—

5 (A) state the full, correct, and proper  
6 name of the alien principal;

7 (B) state the amount of the bond;

8 (C) are guaranteed by a surety and  
9 countersigned by an agent who is properly ap-  
10 pointed;

11 (D) bond documents are properly executed;  
12 and

13 (E) relevant bond documents are properly  
14 filed with the Secretary of Homeland Security.

15 (2) BONDING AGENT NOT CO-OBLIGOR, PARTY,  
16 OR GUARANTOR IN INDIVIDUAL CAPACITY, AND NO  
17 REFUSAL IF ACCEPTABLE SURETY.—Section  
18 9304(b) of title 31, United States Code, is amended  
19 by adding at the end the following: “Notwith-  
20 standing any other provision of law, no bonding  
21 agent of a corporate surety shall be required to exe-  
22 cute bonds as a co-obligor, party, or guarantor in an  
23 individual capacity on bonds provided by the cor-  
24 porate surety, nor shall a corporate surety bond be  
25 refused if the corporate surety appears on the cur-

1       rent Treasury Department Circular 570 as a com-  
2       pany holding a certificate of authority as an accept-  
3       able surety on Federal bonds and attached to the  
4       bond is a currently valid instrument showing the au-  
5       thority of the bonding agent of the surety company  
6       to execute the bond.”.

7               (3) EXPIRATION.—A delivery bond undertaking  
8       shall expire at the earliest of—

9                       (A) 1 year from the date of issue;

10                      (B) at the cancellation of the bond or sur-  
11       render of the principal; or

12                      (C) immediately upon nonpayment of the  
13       renewal premium.

14               (4) RENEWAL.—Delivery bonds may be re-  
15       newed annually, with payment of proper premium to  
16       the surety, if there has been no breach of conditions,  
17       default, claim, or forfeiture of the bond. Notwith-  
18       standing any renewal, when the alien is surrendered  
19       to the Secretary of Homeland Security for removal,  
20       the Secretary shall cause the bond to be canceled.

21               (5) CANCELLATION.—Delivery bonds shall be  
22       canceled and the surety exonerated—

23                      (A) for nonrenewal after the alien has been  
24       surrendered to the Department of Homeland  
25       Security for removal;

1 (B) if the surety or bonding agent provides  
2 reasonable evidence that there was misrepresenta-  
3 tion or fraud in the application for the bond;

4 (C) upon the death or incarceration of the  
5 principal, or the inability of the surety to  
6 produce the principal for medical reasons;

7 (D) if the principal is detained by any law  
8 enforcement agency of any State, county, city,  
9 or any political subdivision thereof;

10 (E) if it can be established that the alien  
11 departed the United States of America for any  
12 reason without permission of the Secretary of  
13 Homeland Security, the surety, or the bonding  
14 agent;

15 (F) if the foreign state of which the prin-  
16 cipal is a national is designated pursuant to  
17 section 244 of the Act (8 U.S.C. 1254a) after  
18 the bond is posted; or

19 (G) if the principal is surrendered to the  
20 Department of Homeland Security, removal by  
21 the surety or the bonding agent.

22 (6) SURRENDER OF PRINCIPAL; FORFEITURE  
23 OF BOND PREMIUM.—

24 (A) SURRENDER.—At any time, before a  
25 breach of any of the bond conditions, if in the

1 opinion of the surety or bonding agent, the  
2 principal becomes a flight risk, the principal  
3 may be surrendered to the Department of  
4 Homeland Security for removal.

5 (B) FORFEITURE OF BOND PREMIUM.—A  
6 principal may be surrendered without the re-  
7 turn of any bond premium if the principal—

8 (i) changes address without notifying  
9 the surety, the bonding agent, and the Sec-  
10 retary of Homeland Security in writing  
11 prior to such change;

12 (ii) hides or is concealed from a sur-  
13 ety, a bonding agent, or the Secretary;

14 (iii) fails to report to the Secretary as  
15 required at least annually; or

16 (iv) violates the contract with the  
17 bonding agent or surety, commits any act  
18 that may lead to a breach of the bond, or  
19 otherwise violates any other obligation or  
20 condition of the bond established by the  
21 Secretary.

22 (7) CERTIFIED COPY OF BOND AND ARREST  
23 WARRANT TO ACCOMPANY SURRENDER.—

24 (A) IN GENERAL.—A bonding agent or  
25 surety desiring to surrender the principal—

1 (i) shall have the right to petition the  
2 Secretary of Homeland Security or any  
3 Federal court, without having to pay any  
4 fees or court costs, for an arrest warrant  
5 for the arrest of the principal;

6 (ii) shall forthwith be provided 2 cer-  
7 tified copies each of the arrest warrant and  
8 the bond undertaking, without having to  
9 pay any fees or courts costs; and

10 (iii) shall have the right to pursue, ap-  
11 prehend, detain, and surrender the prin-  
12 cipal, together with certified copies of the  
13 arrest warrant and the bond undertaking,  
14 to any Department of Homeland Security  
15 detention official or Department detention  
16 facility or any detention facility authorized  
17 to hold Federal detainees.

18 (B) EFFECTS OF DELIVERY.—Upon sur-  
19 render of a principal under subparagraph  
20 (A)(iii)—

21 (i) the official to whom the principal  
22 is surrendered shall detain the principal in  
23 custody and issue a written certificate of  
24 surrender; and

1                   (ii) the Secretary of Homeland Secu-  
2                   rity shall immediately exonerate the surety  
3                   from any further liability on the bond.

4                   (8) FORM OF BOND.—Delivery bonds shall in  
5                   all cases state the following and be secured by a cor-  
6                   porate surety that is certified as an acceptable sur-  
7                   ety on Federal bonds and whose name appears on  
8                   the current Treasury Department Circular 570:

9                   “(A) BREACH OF BOND; PROCEDURE, FOR-  
10                  FEITURE, NOTICE.—

11                  “(i) If a principal violates any condi-  
12                  tions of the delivery bond, or the principal  
13                  is or becomes subject to a final administra-  
14                  tive order of deportation or removal, the  
15                  Secretary of Homeland Security shall—

16                  “(I) immediately issue a warrant  
17                  for the principal’s arrest and enter  
18                  that arrest warrant into the National  
19                  Crime Information Center (NCIC)  
20                  computerized information database;

21                  “(II) order the bonding agent  
22                  and surety to take the principal into  
23                  custody and surrender the principal to  
24                  any one of 10 designated Department  
25                  of Homeland Security ‘turn-in’ cen-

1           ters located nationwide in the areas of  
2           greatest need, at any time of day dur-  
3           ing 15 months after mailing the ar-  
4           rest warrant and the order to the  
5           bonding agent and the surety as re-  
6           quired by subclause (III), and imme-  
7           diately enter that order into the Na-  
8           tional Crime Information Center  
9           (NCIC) computerized information  
10          database; and

11                   “(III) mail 2 certified copies each  
12                   of the arrest warrant issued pursuant  
13                   to subclause (I) and 2 certified copies  
14                   each of the order issued pursuant to  
15                   subclause (II) to only the bonding  
16                   agent and surety via certified mail re-  
17                   turn receipt to their last known ad-  
18                   dresses.

19                   “(ii) Bonding agents and sureties  
20                   shall immediately notify the Secretary of  
21                   Homeland Security of their changes of ad-  
22                   dress and/or telephone numbers.

23                   “(iii) The Secretary of Homeland Se-  
24                   curity shall establish, disseminate to bond-  
25                   ing agents and sureties, and maintain on a

1 current basis a secure nationwide toll-free  
2 list of telephone numbers of Department of  
3 Homeland Security officials, including the  
4 names of such officials, that bonding  
5 agents, sureties, and their employees may  
6 immediately contact at any time to discuss  
7 and resolve any issue regarding any prin-  
8 cipal or bond, to be known as ‘Points of  
9 Contact’.

10 “(iv) A bonding agent or surety shall  
11 have full and complete access, free of  
12 charge, to any and all information, elec-  
13 tronic or otherwise, in the care, custody,  
14 and control of the United States Govern-  
15 ment or any State or local government or  
16 any subsidiary or police agency thereof re-  
17 garding the principal that may be helpful  
18 in complying with section 105 of the  
19 REAL ID Act of 2005 that the Secretary  
20 of Homeland Security, by regulations sub-  
21 ject to approval by Congress, determines  
22 may be helpful in locating or surrendering  
23 the principal. Beyond the principal, a  
24 bonding agent or surety shall not be re-  
25 quired to disclose any information, includ-

1           ing but not limited to the arrest warrant  
2           and order, received from any governmental  
3           source, any person, firm, corporation, or  
4           other entity.

5           “(v) If the principal is later arrested,  
6           detained, or otherwise located outside the  
7           United States and the outlying possessions  
8           of the United States (as defined in section  
9           101(a) of the Immigration and Nationality  
10          Act), the Secretary of Homeland Security  
11          shall—

12                   “(I) immediately order that the  
13                   surety is completely exonerated, and  
14                   the bond canceled; and

15                   “(II) if the Secretary of Home-  
16                   land Security has issued an order  
17                   under clause (i), the surety may re-  
18                   quest, by written, properly filed mo-  
19                   tion, reinstatement of the bond. This  
20                   subclause may not be construed to  
21                   prevent the Secretary of Homeland  
22                   Security from revoking or resetting a  
23                   bond at a higher amount.

24           “(vi) The bonding agent or surety  
25          must—

1           “(I) during the 15 months after  
2 the date the arrest warrant and order  
3 were mailed pursuant to clause  
4 (i)(III) surrender the principal one  
5 time; or

6           “(II)(aa) provide reasonable evi-  
7 dence that producing the principal  
8 was prevented—

9           “(aaa) by the principal’s ill-  
10 ness or death;

11           “(bbb) because the principal  
12 is detained in custody in any city,  
13 State, country, or any political  
14 subdivision thereof;

15           “(ccc) because the principal  
16 has left the United States or its  
17 outlying possessions (as defined  
18 in section 101(a) of the Immigra-  
19 tion and Nationality Act (8  
20 U.S.C. 1101(a)); or

21           “(ddd) because required no-  
22 tice was not given to the bonding  
23 agent or surety; and

24           “(bb) establish by affidavit that  
25 the inability to produce the principal

1           was not with the consent or conniv-  
2           ance of the bonding agent or surety.

3           “(vii) If compliance occurs more than  
4           15 months but no more than 18 months  
5           after the mailing of the arrest warrant and  
6           order to the bonding agent and the surety  
7           required under clause (i)(III), an amount  
8           equal to 25 percent of the face amount of  
9           the bond shall be assessed as a penalty  
10          against the surety.

11          “(viii) If compliance occurs more than  
12          18 months but no more than 21 months  
13          after the mailing of the arrest warrant and  
14          order to the bonding agent and the surety  
15          required under clause (i)(III), an amount  
16          equal to 50 percent of the face amount of  
17          the bond shall be assessed as a penalty  
18          against the surety.

19          “(ix) If compliance occurs more than  
20          21 months but no more than 24 months  
21          after the mailing of the arrest warrant and  
22          order to the bonding agent and the surety  
23          required under clause (i)(III), an amount  
24          equal to 75 percent of the face amount of

1 the bond shall be assessed as a penalty  
2 against the surety.

3 “(x) If compliance occurs 24 months  
4 or more after the mailing of the arrest  
5 warrant and order to the bonding agent  
6 and the surety required under clause  
7 (i)(III), an amount equal to 100 percent of  
8 the face amount of the bond shall be as-  
9 sessed as a penalty against the surety.

10 “(xi) If any surety surrenders any  
11 principal to the Secretary of Homeland Se-  
12 curity at any time and place after the pe-  
13 riod for compliance has passed, the Sec-  
14 retary of Homeland Security shall cause to  
15 be issued to that surety an amount equal  
16 to 50 percent of the face amount of the  
17 bond: *Provided, however,* That if that sur-  
18 ety owes any penalties on bonds to the  
19 United States, the amount that surety  
20 would otherwise receive shall be offset by  
21 and applied as a credit against the amount  
22 of penalties on bonds it owes the United  
23 States, and then that surety shall receive  
24 the remainder of the amount to which it is  
25 entitled under this subparagraph, if any.

1           “(xii) All penalties assessed against a  
2           surety on a bond, if any, shall be paid by  
3           the surety no more than 27 months after  
4           the mailing of the arrest warrant and  
5           order to the bonding agent and the surety  
6           required under clause (i)(III).

7           “(B) The Secretary of Homeland Security  
8           may waive penalties or extend the period for  
9           payment or both, if—

10           “(i) a written request is filed with the  
11           Secretary of Homeland Security; and

12           “(ii) the bonding agent or surety pro-  
13           vides an affidavit that diligent efforts were  
14           made to effect compliance of the principal.

15           “(C) COMPLIANCE; EXONERATION; LIMITA-  
16           TION OF LIABILITY.—

17           “(i) COMPLIANCE.—A bonding agent  
18           or surety shall have the absolute right to  
19           locate, apprehend, arrest, detain, and sur-  
20           render any principal, wherever he or she  
21           may be found, who violates any of the  
22           terms and conditions of his or her bond.

23           “(ii) EXONERATION.—Upon satisfying  
24           any of the requirements of the bond, the  
25           surety shall be completely exonerated.

1                   “(iii) LIMITATION OF LIABILITY.—  
2                   Notwithstanding any other provision of  
3                   law, the total liability on any surety under-  
4                   taking shall not exceed the face amount of  
5                   the bond.”.

6           (c) EFFECTIVE DATE.—The provisions of this section  
7 shall take effect on the date of the enactment of this Act  
8 and shall apply to bonds and surety undertakings executed  
9 before, on, or after the date of the enactment of this Act.

10 **SEC. 107. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

11           (a) IN GENERAL.—Section 236(a)(2) of the Immi-  
12 gration and Nationality Act (8 U.S.C. 1226(a)(2)) is  
13 amended to read as follows:

14                   “(2) subject to such reasonable regulations as  
15                   the Secretary of Homeland Security may prescribe,  
16                   shall permit agents, servants, and employees of cor-  
17                   porate sureties to visit in person with individuals de-  
18                   tained by the Secretary of and, subject to section  
19                   241(a)(8), may release the alien on a delivery bond  
20                   of at least \$10,000, with security approved by the  
21                   Secretary, and containing conditions and procedures  
22                   prescribed by section 105 of the REAL ID Act of  
23                   2005 and by the Secretary, but the Secretary shall  
24                   not release the alien on or to his own recognizance  
25                   unless an order of an immigration judge expressly

1 finds and states in a signed order to release the  
2 alien to his own recognizance that the alien is not  
3 a flight risk and is not a threat to the United  
4 States”.

5 (b) REPEAL.—Section 286(r) of the Immigration and  
6 Nationality Act (8 U.S.C. 1356(r)) is repealed.

7 (c) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall take effect on the date of the enact-  
9 ment of this Act.

10 **SEC. 108. DETENTION OF ALIENS DELIVERED BY BONDS-**  
11 **MEN.**

12 (a) IN GENERAL.—Section 241(a) of the Immigra-  
13 tion and Nationality Act (8 U.S.C. 1231(a)) is amended  
14 by adding at the end the following:

15 “(8) EFFECT OF PRODUCTION OF ALIEN BY  
16 BONDSMAN.—Notwithstanding any other provision  
17 of law, the Secretary of Homeland Security shall  
18 take into custody any alien subject to a final order  
19 of removal, and cancel any bond previously posted  
20 for the alien, if the alien is produced within the pre-  
21 scribed time limit by the obligor on the bond wheth-  
22 er or not the Department of Homeland Security ac-  
23 cepts custody of the alien. The obligor on the bond  
24 shall be deemed to have substantially performed all  
25 conditions imposed by the terms of the bond, and

1 shall be released from liability on the bond, if the  
2 alien is produced within such time limit.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall take effect on the date of the enact-  
5 ment of this Act and shall apply to all immigration bonds  
6 posted before, on, or after such date.

7 **TITLE II—IMPROVED SECURITY**  
8 **FOR DRIVERS’ LICENSES AND**  
9 **PERSONAL IDENTIFICATION**  
10 **CARDS**

11 **SEC. 201. DEFINITIONS.**

12 In this title, the following definitions apply:

13 (1) DRIVER’S LICENSE.—The term “driver’s li-  
14 cense” means a motor vehicle operator’s license, as  
15 defined in section 30301 of title 49, United States  
16 Code.

17 (2) IDENTIFICATION CARD.—The term “identi-  
18 fication card” means a personal identification card,  
19 as defined in section 1028(d) of title 18, United  
20 States Code, issued by a State.

21 (3) SECRETARY.—The term “Secretary” means  
22 the Secretary of Homeland Security.

23 (4) STATE.—The term “State” means a State  
24 of the United States, the District of Columbia, Puer-  
25 to Rico, the Virgin Islands, Guam, American Samoa,

1 the Northern Mariana Islands, the Trust Territory  
2 of the Pacific Islands, and any other territory or  
3 possession of the United States.

4 **SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND**  
5 **ISSUANCE STANDARDS FOR FEDERAL REC-**  
6 **OGNITION.**

7 (a) MINIMUM STANDARDS FOR FEDERAL USE.—

8 (1) IN GENERAL.—Beginning 3 years after the  
9 date of the enactment of this Act, a Federal agency  
10 may not accept, for any official purpose, a driver’s  
11 license or identification card issued by a State to  
12 any person unless the State is meeting the require-  
13 ments of this section.

14 (2) STATE CERTIFICATIONS.—The Secretary  
15 shall determine whether a State is meeting the re-  
16 quirements of this section based on certifications  
17 made by the State to the Secretary of Transpor-  
18 tation. Such certifications shall be made at such  
19 times and in such manner as the Secretary of  
20 Transportation, in consultation with the Secretary of  
21 Homeland Security, may prescribe by regulation.

22 (b) MINIMUM DOCUMENT REQUIREMENTS.—To meet  
23 the requirements of this section, a State shall include, at  
24 a minimum, the following information and features on

1 each driver's license and identification card issued to a  
2 person by the State:

3 (1) The person's full legal name.

4 (2) The person's date of birth.

5 (3) The person's gender.

6 (4) The person's driver's license or identifica-  
7 tion card number.

8 (5) A digital photograph of the person.

9 (6) The person's address of principle residence.

10 (7) The person's signature.

11 (8) Physical security features designed to pre-  
12 vent tampering, counterfeiting, or duplication of the  
13 document for fraudulent purposes.

14 (9) A common machine-readable technology,  
15 with defined minimum data elements.

16 (c) MINIMUM ISSUANCE STANDARDS.—

17 (1) IN GENERAL.—To meet the requirements of  
18 this section, a State shall require, at a minimum,  
19 presentation and verification of the following infor-  
20 mation before issuing a driver's license or identifica-  
21 tion card to a person:

22 (A) A photo identity document, except that  
23 a non-photo identity document is acceptable if  
24 it includes both the person's full legal name and  
25 date of birth.

1 (B) Documentation showing the person's  
2 date of birth.

3 (C) Proof of the person's social security  
4 account number or verification that the person  
5 is not eligible for a social security account num-  
6 ber.

7 (D) Documentation showing the person's  
8 name and address of principal residence.

9 (2) SPECIAL REQUIREMENTS.—

10 (A) IN GENERAL.—To meet the require-  
11 ments of this section, a State shall comply with  
12 the minimum standards of this paragraph.

13 (B) EVIDENCE OF LAWFUL STATUS.—A  
14 State shall require, before issuing a driver's li-  
15 cense or identification card to a person, valid  
16 documentary evidence that the person—

17 (i) is a citizen of the United States;

18 (ii) is an alien lawfully admitted for  
19 permanent or temporary residence in the  
20 United States;

21 (iii) has conditional permanent resi-  
22 dent status in the United States;

23 (iv) has an approved application for  
24 asylum in the United States or has entered  
25 into the United States in refugee status;

1           (v) has a valid, unexpired non-  
2 immigrant visa or nonimmigrant visa sta-  
3 tus for entry into the United States;

4           (vi) has a pending application for asy-  
5 lum in the United States;

6           (vii) has a pending or approved appli-  
7 cation for temporary protected status in  
8 the United States;

9           (viii) has approved deferred action  
10 status; or

11           (ix) has a pending application for ad-  
12 justment of status to that of an alien law-  
13 fully admitted for permanent residence in  
14 the United States or conditional perma-  
15 nent resident status in the United States.

16           (C) TEMPORARY DRIVERS' LICENSES AND  
17 IDENTIFICATION CARDS.—

18           (i) IN GENERAL.—If a person pre-  
19 sents evidence under any of clauses (v)  
20 through (ix) of subparagraph (B), the  
21 State may only issue a temporary driver's  
22 license or temporary identification card to  
23 the person.

24           (ii) EXPIRATION DATE.—A temporary  
25 driver's license or temporary identification

1 card issued pursuant to this subparagraph  
2 shall be valid only during the period of  
3 time of the applicant's authorized stay in  
4 the United States or, if there is no definite  
5 end to the period of authorized stay, a pe-  
6 riod of one year.

7 (iii) DISPLAY OF EXPIRATION  
8 DATE.—A temporary driver's license or  
9 temporary identification card issued pursu-  
10 ant to this subparagraph shall clearly indi-  
11 cate that it is temporary and shall state  
12 the date on which it expires.

13 (iv) RENEWAL.—A temporary driver's  
14 license or temporary identification card  
15 issued pursuant to this subparagraph may  
16 be renewed only upon presentation of valid  
17 documentary evidence that the status by  
18 which the applicant qualified for the tem-  
19 porary driver's license or temporary identi-  
20 fication card has been extended by the Sec-  
21 retary of Homeland Security.

22 (3) VERIFICATION OF DOCUMENTS.—To meet  
23 the requirements of this section, a State shall imple-  
24 ment the following procedures:

1 (A) Before issuing a driver's license or  
2 identification card to a person, the State shall  
3 verify, with the issuing agency, the issuance, va-  
4 lidity, and completeness of each document re-  
5 quired to be presented by the person under  
6 paragraph (1) or (2).

7 (B) The State shall not accept any foreign  
8 document, other than an official passport, to  
9 satisfy a requirement of paragraph (1) or (2).

10 (C) Not later than September 11, 2005,  
11 the State shall enter into a memorandum of un-  
12 derstanding with the Secretary of Homeland  
13 Security to routinely utilize the automated sys-  
14 tem known as Systematic Alien Verification for  
15 Entitlements, as provided for by section 404 of  
16 the Illegal Immigration Reform and Immigrant  
17 Responsibility Act of 1996 (110 Stat. 3009–  
18 664), to verify the legal presence status of a  
19 person, other than a United States citizen, ap-  
20 plying for a driver's license or identification  
21 card.

22 (d) OTHER REQUIREMENTS.—To meet the require-  
23 ments of this section, a State shall adopt the following  
24 practices in the issuance of drivers' licenses and identifica-  
25 tion cards:

1           (1) Employ technology to capture digital images  
2 of identity source documents so that the images can  
3 be retained in electronic storage in a transferable  
4 format.

5           (2) Retain paper copies of source documents for  
6 a minimum of 7 years or images of source docu-  
7 ments presented for a minimum of 10 years.

8           (3) Subject each person applying for a driver's  
9 license or identification card to mandatory facial  
10 image capture.

11          (4) Establish an effective procedure to confirm  
12 or verify a renewing applicant's information.

13          (5) Confirm with the Social Security Adminis-  
14 tration a social security account number presented  
15 by a person using the full social security account  
16 number. In the event that a social security account  
17 number is already registered to or associated with  
18 another person to which any State has issued a driv-  
19 er's license or identification card, the State shall re-  
20 solve the discrepancy and take appropriate action.

21          (6) Refuse to issue a driver's license or identi-  
22 fication card to a person holding a driver's license  
23 issued by another State without confirmation that  
24 the person is terminating or has terminated the driv-  
25 er's license.

1           (7) Ensure the physical security of locations  
2           where drivers' licenses and identification cards are  
3           produced and the security of document materials  
4           and papers from which drivers' licenses and identi-  
5           fication cards are produced.

6           (8) Subject all persons authorized to manufac-  
7           ture or produce drivers' licenses and identification  
8           cards to appropriate security clearance requirements.

9           (9) Establish fraudulent document recognition  
10          training programs for appropriate employees en-  
11          gaged in the issuance of drivers' licenses and identi-  
12          fication cards.

13          (10) Limit the period of validity of all driver's  
14          licenses and identification cards that are not tem-  
15          porary to a period that does not exceed 8 years.

16 **SEC. 203. LINKING OF DATABASES.**

17          (a) IN GENERAL.—To be eligible to receive any grant  
18          or other type of financial assistance made available under  
19          this title, a State shall participate in the interstate com-  
20          pact regarding sharing of driver license data, known as  
21          the “Driver License Agreement”, in order to provide elec-  
22          tronic access by a State to information contained in the  
23          motor vehicle databases of all other States.

1 (b) REQUIREMENTS FOR INFORMATION.—A State  
2 motor vehicle database shall contain, at a minimum, the  
3 following information:

4 (1) All data fields printed on drivers' licenses  
5 and identification cards issued by the State.

6 (2) Motor vehicle drivers' histories, including  
7 motor vehicle violations, suspensions, and points on  
8 licenses.

9 **SEC. 204. TRAFFICKING IN AUTHENTICATION FEATURES**  
10 **FOR USE IN FALSE IDENTIFICATION DOCU-**  
11 **MENTS.**

12 (a) CRIMINAL PENALTY.—Section 1028(a)(8) of title  
13 18, United States Code, is amended by striking “false au-  
14 thentication features” and inserting “false or actual au-  
15 thentication features”.

16 (b) USE OF FALSE DRIVER'S LICENSE AT AIR-  
17 PORTS.—

18 (1) IN GENERAL.—The Secretary shall enter,  
19 into the appropriate aviation security screening  
20 database, appropriate information regarding any  
21 person convicted of using a false driver's license at  
22 an airport (as such term is defined in section 40102  
23 of title 49, United States Code).

24 (2) FALSE DEFINED.—In this subsection, the  
25 term “false” has the same meaning such term has

1 under section 1028(d) of title 18, United States  
2 Code.

3 **SEC. 205. GRANTS TO STATES.**

4 (a) IN GENERAL.—The Secretary may make grants  
5 to a State to assist the State in conforming to the min-  
6 imum standards set forth in this title.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to the Secretary for  
9 each of the fiscal years 2005 through 2009 such sums as  
10 may be necessary to carry out this title.

11 **SEC. 206. AUTHORITY.**

12 (a) PARTICIPATION OF SECRETARY OF TRANSPOR-  
13 TATION AND STATES.—All authority to issue regulations,  
14 set standards, and issue grants under this title shall be  
15 carried out by the Secretary, in consultation with the Sec-  
16 retary of Transportation and the States.

17 (b) COMPLIANCE WITH STANDARDS.—All authority  
18 to certify compliance with standards under this title shall  
19 be carried out by the Secretary of Transportation, in con-  
20 sultation with the Secretary of Homeland Security and the  
21 States.

22 (c) EXTENSIONS OF DEADLINES.—The Secretary  
23 may grant to a State an extension of time to meet the  
24 requirements of section 202(a)(1) if the State provides  
25 adequate justification for noncompliance.

1 **SEC. 207. REPEAL.**

2 Section 7212 of the Intelligence Reform and Ter-  
3 rorism Prevention Act of 2004 (Public Law 108–458) is  
4 repealed.

5 **SEC. 208. LIMITATION ON STATUTORY CONSTRUCTION.**

6 Nothing in this title shall be construed to affect the  
7 authorities or responsibilities of the Secretary of Trans-  
8 portation or the States under chapter 303 of title 49,  
9 United States Code.

10 **TITLE III—BORDER INFRA-**  
11 **STRUCTURE AND TECH-**  
12 **NOLOGY INTEGRATION**

13 **SEC. 301. VULNERABILITY AND THREAT ASSESSMENT.**

14 (a) STUDY.—The Under Secretary of Homeland Se-  
15 curity for Border and Transportation Security, in con-  
16 sultation with the Under Secretary of Homeland Security  
17 for Science and Technology and the Under Secretary of  
18 Homeland Security for Information Analysis and Infra-  
19 structure Protection, shall study the technology, equip-  
20 ment, and personnel needed to address security  
21 vulnerabilities within the United States for each field of-  
22 fice of the Bureau of Customs and Border Protection that  
23 has responsibility for any portion of the United States bor-  
24 ders with Canada and Mexico. The Under Secretary shall  
25 conduct follow-up studies at least once every 5 years.

1 (b) REPORT TO CONGRESS.—The Under Secretary  
2 shall submit a report to Congress on the Under Sec-  
3 retary’s findings and conclusions from each study con-  
4 ducted under subsection (a) together with legislative rec-  
5 ommendations, as appropriate, for addressing any security  
6 vulnerabilities found by the study.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to the Department of  
9 Homeland Security Directorate of Border and Transpor-  
10 tation Security such sums as may be necessary for fiscal  
11 years 2006 through 2011 to carry out any such rec-  
12 ommendations from the first study conducted under sub-  
13 section (a).

14 **SEC. 302. USE OF GROUND SURVEILLANCE TECHNOLOGIES**  
15 **FOR BORDER SECURITY.**

16 (a) PILOT PROGRAM.—Not later than 180 days after  
17 the date of the enactment of this Act, the Under Secretary  
18 of Homeland Security for Science and Technology, in con-  
19 sultation with the Under Secretary of Homeland Security  
20 for Border and Transportation Security, the Under Sec-  
21 retary of Homeland Security for Information Analysis and  
22 Infrastructure Protection, and the Secretary of Defense,  
23 shall develop a pilot program to utilize, or increase the  
24 utilization of, ground surveillance technologies to enhance

1 the border security of the United States. In developing the  
2 program, the Under Secretary shall—

3 (1) consider various current and proposed  
4 ground surveillance technologies that could be uti-  
5 lized to enhance the border security of the United  
6 States;

7 (2) assess the threats to the border security of  
8 the United States that could be addressed by the  
9 utilization of such technologies; and

10 (3) assess the feasibility and advisability of uti-  
11 lizing such technologies to address such threats, in-  
12 cluding an assessment of the technologies considered  
13 best suited to address such threats.

14 (b) ADDITIONAL REQUIREMENTS.—

15 (1) IN GENERAL.—The pilot program shall in-  
16 clude the utilization of a variety of ground surveil-  
17 lance technologies in a variety of topographies and  
18 areas (including both populated and unpopulated  
19 areas) on both the northern and southern borders of  
20 the United States in order to evaluate, for a range  
21 of circumstances—

22 (A) the significance of previous experiences  
23 with such technologies in homeland security or  
24 critical infrastructure protection for the utiliza-  
25 tion of such technologies for border security;

1 (B) the cost, utility, and effectiveness of  
2 such technologies for border security; and

3 (C) liability, safety, and privacy concerns  
4 relating to the utilization of such technologies  
5 for border security.

6 (2) TECHNOLOGIES.—The ground surveillance  
7 technologies utilized in the pilot program shall in-  
8 clude the following:

9 (A) Video camera technology.

10 (B) Sensor technology.

11 (C) Motion detection technology.

12 (c) IMPLEMENTATION.—The Under Secretary of  
13 Homeland Security for Border and Transportation Secu-  
14 rity shall implement the pilot program developed under  
15 this section.

16 (d) REPORT.—Not later than 1 year after imple-  
17 menting the pilot program under subsection (a), the  
18 Under Secretary shall submit a report on the program to  
19 the Senate Committee on Commerce, Science, and Trans-  
20 portation, the House of Representatives Committee on  
21 Science, the House of Representatives Committee on  
22 Homeland Security, and the House of Representatives  
23 Committee on the Judiciary. The Under Secretary shall  
24 include in the report a description of the program together  
25 with such recommendations as the Under Secretary finds

1 appropriate, including recommendations for terminating  
2 the program, making the program permanent, or enhanc-  
3 ing the program.

4 **SEC. 303. ENHANCEMENT OF COMMUNICATIONS INTEGRA-**  
5 **TION AND INFORMATION SHARING ON BOR-**  
6 **DER SECURITY.**

7 (a) IN GENERAL.—Not later than 180 days after the  
8 date of the enactment of this Act, the Secretary of Home-  
9 land Security, acting through the Under Secretary of  
10 Homeland Security for Border and Transportation Secu-  
11 rity, in consultation with the Under Secretary of Home-  
12 land Security for Science and Technology, the Under Sec-  
13 retary of Homeland Security for Information Analysis and  
14 Infrastructure Protection, the Assistant Secretary of Com-  
15 merce for Communications and Information, and other ap-  
16 propriate Federal, State, local, and tribal agencies, shall  
17 develop and implement a plan—

18 (1) to improve the communications systems of  
19 the departments and agencies of the Federal Gov-  
20 ernment in order to facilitate the integration of com-  
21 munications among the departments and agencies of  
22 the Federal Government and State, local government  
23 agencies, and Indian tribal agencies on matters re-  
24 lating to border security; and

1           (2) to enhance information sharing among the  
2           departments and agencies of the Federal Govern-  
3           ment, State and local government agencies, and In-  
4           dian tribal agencies on such matters.

5           (b) REPORT.—Not later than 1 year after imple-  
6           menting the plan under subsection (a), the Secretary shall  
7           submit a copy of the plan and a report on the plan, includ-  
8           ing any recommendations the Secretary finds appropriate,  
9           to the Senate Committee on Commerce, Science, and  
10          Transportation, the House of Representatives Committee  
11          on Science, the House of Representatives Committee on  
12          Homeland Security, and the House of Representatives  
13          Committee on the Judiciary.

        Passed the House of Representatives February 10,  
2005.

Attest:

JEFF TRANDAHL,

*Clerk.*