

(2) Criminal and related grounds.-

(A) Conviction of certain crimes.-

- (i) In general.-Except as provided in clause (ii), any alien who at any age<sup>1</sup>
- (I) is convicted<sup>2</sup> of a crime involving moral turpitude (other than a purely political offense or an attempt or conspiracy to commit such a crime),
  - (II) is convicted of an intentional<sup>3</sup> violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),
  - (III) is convicted three or more times of driving with a blood alcohol level of .08 or greater<sup>4</sup>,
  - (IV) is convicted of any law relating to identity theft<sup>5</sup>, or
  - (V) admits having knowingly committed, or admits knowingly committing acts which constitute the essential elements of a crime of moral turpitude for which a sentence of imprisonment for more than three years may have been imposed were the alien convicted
- is inadmissible.
- (ii) Exception.-Clause (i) shall not apply to an alien who committed only one crime if-
- (I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States,
  - (II) the maximum penalty possible for the crime of which the alien was convicted did not exceed imprisonment for one year and the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed), or
  - (III) the conviction was expunged, vacated, pardoned, continued without a finding or dismissed under any alternative sentencing program or rehabilitative statute<sup>6</sup>.

(B) Multiple criminal convictions.-Any alien convicted of 2 or more offenses of moral turpitude

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<sup>1</sup> Bargaining concession: This clause takes out the exception for juvenile offenses. This is to balance out somewhat the fact that the rules for criminal inadmissibility are being relaxed a bit.

<sup>2</sup> The moral turpitude ground of inadmissibility previously included any conviction or confession. Its now been split into convictions in subclause (I) and confessions in subclause (II), but the section on confessions now only applies to more serious crimes. This is because there has been controversy over confessions made by aliens at the airport, consulate and in detention without an opportunity for counsel, so we want to limit the use of confessions. But we still want to keep out someone who admits or has openly admitted to committing a serious offense, but managed to escape conviction.

<sup>3</sup> By adding the word "intentional", we eliminate strict liability offenses, such as the presence of drugs in the car you're driving. And by requiring a conviction, we eliminate the problem that those who admit using drugs at some point are being charged with admitting to a violation of a law related to a controlled substance.

<sup>4</sup> Bargaining concession: We're headed toward a 3-DUI ground of inadmissibility already. We might as well bargain with this. And really, someone who has 3 DUIs is a menace.

<sup>5</sup> Bargaining concession: Actually, this is already included in the current 'crimes of moral turpitude', but by offering this ground separately, it appears that we are conceding a new ground.

<sup>6</sup> The section on expungements was added. Presumably there is a reason why the gov't saw fit to erase the conviction and it's reasonable to presume that such a person is not a threat to the public.

(other than purely political offenses), not arising from a single scheme of misconduct, for which the aggregate sentences to confinement were 5 years or more is inadmissible.

(C) CONTROLLED SUBSTANCE TRAFFICKERS<sup>7</sup>-

- (i) Any alien who does not have a US citizen spouse, parent or child and who the consular officer or the Secretary of Homeland Security knows or has reason to believe—
  - (I) is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or
  - (II) is the spouse, son, or daughter of an alien inadmissible under subclause (I), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.
- (ii) Any alien who has a US citizen spouse, parent or child and who the consular officer or the Secretary of Homeland Security has probable cause to believe is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical is inadmissible.

(D) Prostitution and commercialized vice.-Any alien who-

- (i) is coming to the United States solely, principally, or incidentally to engage in prostitution,
- (ii) has engaged in prostitution within 10 years of the date of application for a visa, admission, or adjustment of status<sup>8</sup>,
- (iii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, admission, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10- year period) received, in whole or in part, the proceeds of prostitution, or
- (iv) is coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution, is inadmissible.
- (v) part (ii) shall not apply to any person who was the victim of human trafficking and the prostitution is directly related to the human trafficking, or any person who was under

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<sup>7</sup> We want to maximize the government's ability to combat drug trafficking and keep out known traffickers even without a conviction, however, the law as it is currently written is too broad. For someone who does not have a US citizen spouse, parent or child, the wording of the law is essentially the same as previously, allowing the gov't the maximum opportunity to keep out suspected traffickers. But if the alien has a US citizen spouse, parent or child, the threshold of proof increases from "suspicion", which is extremely broad and vague, to "probable cause", which is still far less than is required for a conviction, but raises the threshold just a bit to recognize the rights of the US citizen family. If the alien previously was not a trafficker, but benefitted from trafficking and now has a US citizen or permanent resident spouse, parent or child, the alien is not inadmissible.

<sup>8</sup> I split up the paragraph stating that someone is inadmissible who is coming to prostitute or who has prostituted in the past 10 years. This is so we can have a waiver for the second, but not the first. Why allow a waiver for someone who is coming to commit an illegal act? Splitting this section was solely so that the waiver in 212(h) made more sense.

age 18 at the time the prostitution occurred<sup>9</sup>.

(E) Certain aliens involved in serious criminal activity who have asserted immunity from prosecution.-Any alien-

- (i) who has committed in the United States at any time a serious criminal offense (as defined in section 101(h) ),
- (ii) (for whom immunity from criminal jurisdiction was exercised with respect to that offense,
- (iii) who as a consequence of the offense and exercise of immunity has departed from the United States, and
- (iv) who has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense, is inadmissible.

(F) CERTAIN EGREGIOUS TRAFFIC VIOLATORS<sup>10</sup>

- (i) Any alien is inadmissible who has on three or more separate occasions after the date this clause is enacted into law and within five years of the alien's application for admission been issued a citation that was not later dismissed for one or more of the following
  - (III) Driving without a license to drive
  - (IV) Driving without auto insurance
- (ii) Any alien is inadmissible who has on ten or more separate occasions after the date this clause is enacted into law and within five years of the alien's application for admission been issued a citation under a traffic statute that was not later dismissed for any traffic violation.

(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM- Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402), is inadmissible.

(H) SIGNIFICANT TRAFFICKERS IN PERSONS-

- (i) IN GENERAL- Any alien who commits or conspires to commit human trafficking offenses in the United States or outside the United States, or who the consular officer, the Secretary of Homeland Security, the Secretary of State, or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons, as defined in the section 103 of such Act, is inadmissible.
- (ii) BENEFICIARIES OF TRAFFICKING- Except as provided in clause (iii), any alien who the consular officer or the Attorney General knows or has reason to believe is the spouse, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.

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<sup>9</sup> For humanitarian reasons, an exception for prostitutes who were victims of trafficking and an exception for juvenile prostitutes have been added. Not sure why those exceptions weren't there before.

<sup>10</sup> Bargaining concession: This is a potential major bargaining concession. Many people are angry about illegal immigrants driving without insurance. This would be a response to those concerns. It's important that this concession not be made in the absence of a major legalization program and should not be made retroactive. Even then, there may be some concerns over racial profiling.

(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS- Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

(I) MONEY LAUNDERING- Any alien—

- (i) who a consular officer or the Attorney General knows, or has reason to believe, has engaged, is engaging, or seeks to enter the United States to engage, in an offense which is described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or
- (ii) who a consular officer or the Attorney General knows is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense which is described in such section; is inadmissible.

(J) Waiver authorized.-For provision authorizing waiver of certain subparagraphs of this paragraph, see subsection (h).