

Calendar No. 626

113TH CONGRESS
2^D SESSION**H. R. 5759**

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2014

Received; read the first time

DECEMBER 9, 2014

Read the second time and placed on the calendar

AN ACT

To establish a rule of construction clarifying the limitations on executive authority to provide certain forms of immigration relief.

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 “Preventing Executive
5 Overreach on Immigration Act of 2014”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) Under article I, section 8, of the Constitu-
9 tion, the Congress has the power to “establish an

1 uniform Rule of Naturalization”. As the Supreme
2 Court found in *Galvan v. Press*, “that the formula-
3 tion of * * * policies [pertaining to the entry of
4 aliens and their right to remain here] is entrusted
5 exclusively to Congress has become about as firmly
6 imbedded in the legislative and judicial tissues of our
7 body politic as any aspect of our government”.

8 (2) Under article II, section 3, of the Constitu-
9 tion, the President is required to “take Care that
10 the Laws be faithfully executed”.

11 (3) Historically, executive branch officials have
12 legitimately exercised their prosecutorial discretion
13 through their constitutional power over foreign af-
14 fairs to permit individuals or narrow groups of non-
15 citizens to remain in the United States temporarily
16 due to extraordinary circumstances in their country
17 of origin that pose an imminent threat to the indi-
18 viduals’ life or physical safety.

19 (4) Prosecutorial discretion generally ought to
20 be applied on a case-by-case basis and not to whole
21 categories of persons.

22 (5) President Obama himself has stated at least
23 22 times in the past that he can’t ignore existing
24 immigration law or create his own immigration law.

1 (6) President Obama’s grant of deferred action
2 to more than 4,000,000 unlawfully present aliens, as
3 directed in a November 20, 2014, memorandum
4 issued by Secretary of Homeland Security Jeh
5 Charles Johnson, is without any constitutional or
6 statutory basis.

7 **SEC. 3. RULE OF CONSTRUCTION.**

8 (a) **IN GENERAL.**—Notwithstanding any other law,
9 the executive branch of the Government shall not—

10 (1) exempt or defer, by Executive order, regula-
11 tion, or any other means, categories of aliens consid-
12 ered under the immigration laws (as defined in sec-
13 tion 101(a)(17) of the Immigration and Nationality
14 Act (8 U.S.C. 1101(a)(17))) to be unlawfully
15 present in the United States from removal under
16 such laws;

17 (2) treat such aliens as if they were lawfully
18 present or had a lawful immigration status; or

19 (3) treat such aliens other than as unauthorized
20 aliens (as defined in section 274A(h)(3) of the Im-
21 migration and Nationality Act (8 U.S.C.
22 1324a(h)(3))).

23 (b) **EXCEPTIONS.**—Subsection (a) shall apply ex-
24 cept—

25 (1) to the extent prohibited by the Constitution;

1 (2) upon the request of Federal, State, or local
2 law enforcement agencies, for purposes of maintain-
3 ing aliens in the United States to be tried for crimes
4 or to be witnesses at trial; or

5 (3) for humanitarian purposes where the aliens
6 are at imminent risk of serious bodily harm or
7 death.

8 (c) EFFECT OF EXECUTIVE ACTION.—Any action by
9 the executive branch with the purpose of circumventing
10 the objectives of this section shall be null and void and
11 without legal effect.

12 (d) EFFECTIVE DATE.—This section shall take effect
13 as if enacted on November 20, 2014, and shall apply to
14 requests (regardless of whether the request is original or
15 for reopening of a previously denied request) submitted
16 on or after such date for—

17 (1) work authorization; or

18 (2) exemption from, or deferral of, removal.

Passed the House of Representatives December 4,
2014.

Attest:

KAREN L. HAAS,

Clerk.

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