

118TH CONGRESS  
1ST SESSION

# H. R. 1394

To amend the Immigration and Nationality Act to clarify that expedited removal of inadmissible arriving aliens applies regardless of where the alien is encountered or apprehended, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2023

Mr. FALLON (for himself, Mr. CARTER of Georgia, Mr. SESSIONS, Mr. CLOUD, Mr. ROSENDALE, Mr. CRENSHAW, Mr. HIGGINS of Louisiana, Mrs. MILLER of Illinois, Mr. LAMBORN, Mr. BIGGS, Mr. JACKSON of Texas, and Mr. GOODEN of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

---

## A BILL

To amend the Immigration and Nationality Act to clarify that expedited removal of inadmissible arriving aliens applies regardless of where the alien is encountered or apprehended, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Safety and  
5 Fairness through Expedited Removal Act of 2023” or the  
6 “American SAFER Act of 2023”.

1 **SEC. 2. EXPANSION OF EXPEDITED REMOVAL OF INADMIS-**  
2 **SIBLE ARRIVING ALIENS.**

3 Section 235(b)(1)(A) of the Immigration and Nation-  
4 ality Act (8 U.S.C. 1225(b)(1)(A)) is amended—

5 (1) in clause (i), by inserting “, regardless of  
6 where the alien is encountered or apprehended,”  
7 after “or is described in clause (iii)”;

8 (2) in clause (ii), by inserting “, regardless of  
9 where the alien is encountered or apprehended,”  
10 after “or is described in clause (iii)”; and

11 (3) in clause (iii)—

12 (A) by amending subclause (I) to read as  
13 follows:

14 “(I) IN GENERAL.—The Sec-  
15 retary of Homeland Security shall  
16 apply clauses (i) and (ii) of this sub-  
17 paragraph to all aliens described in  
18 subclause (II).”; and

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

20 “(III) DISCRETIONARY APPLICA-  
21 TION TO OTHER ALIENS.—The Sec-  
22 retary of Homeland Security may  
23 apply clauses (i) and (ii) of this sub-  
24 paragraph to any or all other aliens  
25 who have not been admitted or pa-  
26 roled into the United States, as des-

1                   ignated by the Secretary of Homeland  
2                   Security. Such designation shall be in  
3                   the sole and unreviewable discretion of  
4                   the Secretary of Homeland Security  
5                   and may be modified at any time.”.

6 **SEC. 3. RULEMAKING.**

7           (a) NULLIFICATION OF RULE.—The rule of the De-  
8           partment of Homeland Security entitled “Designating  
9           Aliens for Expedited Removal” (69 Fed. Reg. 48,877; Au-  
10          gust 11, 2004) shall have no force or effect.

11          (b) IMPLEMENTATION.—Not later than 90 days after  
12          the date of enactment of this Act, the Secretary of Home-  
13          land Security shall make a rule to implement the amend-  
14          ments made by this Act.

15          (c) LIMITATION ON RULEMAKING.—The Secretary of  
16          Homeland Security may not make any rules implementing  
17          section 235(b)(1)(A) of the Immigration and Nationality  
18          Act (8 U.S.C. 1225(b)(1)(A)) that limit the authority for  
19          expedited removal by the distance from the border of the  
20          United States where an alien is encountered or appre-  
21          hended.

○