

114TH CONGRESS
2D SESSION

S. 2833

To amend section 214(c)(8) of the Immigration and Nationality Act to modify the data reporting requirements relating to nonimmigrant employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2016

Mr. BLUMENTHAL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend section 214(c)(8) of the Immigration and Nationality Act to modify the data reporting requirements relating to nonimmigrant employees, 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 “Visa Transparency
5 Anti-Trafficking Act of 2016”.

6 **SEC. 2. ANNUAL REPORT TO CONGRESS ON NON-**
7 **IMMIGRANT VISAS.**

8 Section 214(c)(8) of the Immigration and Nationality
9 Act (8 U.S.C. 1184(c)(8)) is amended to read as follows:

1 “(8) ANNUAL REPORT.—

2 “(A) IN GENERAL.—The Secretary of
3 Labor shall submit an annual report to the
4 Committee on the Judiciary of the Senate and
5 the Committee on the Judiciary of the House of
6 Representatives that includes the information
7 set forth in subparagraph (B).

8 “(B) INFORMATION TO BE INCLUDED.—
9 Each report submitted under subparagraph (A)
10 shall include, for the reporting period—

11 “(i) the number of citizens of nations
12 with Compacts of Free Association with
13 the United States who are authorized by
14 such Compacts to reside permanently in
15 the United States as nonimmigrants and
16 were admitted to the United States;

17 “(ii) the ports of entry at which the
18 individuals described in clause (i) were ad-
19 mitted; and

20 “(iii) with respect to each non-
21 immigrant visa classification under the im-
22 migration laws that permits employment,
23 other than subparagraphs (S), (T), (U),
24 and (V) of section 101(a)(15), to the ex-

1 tent such data is collected by any govern-
2 ment entity, the following data:

3 “(I) With respect to each such
4 nonimmigrant visa classification and
5 subclassification that authorizes em-
6 ployment, as applicable—

7 “(aa) the number of visas
8 that were issued and the number
9 of persons admitted or otherwise
10 granted status under such classi-
11 fication;

12 “(bb) the number of visas
13 that expired;

14 “(cc) the number of visas
15 that were revoked;

16 “(dd) the number of visas
17 that were otherwise terminated;

18 “(ee) the number of peti-
19 tions that were filed;

20 “(ff) the number of petitions
21 that were approved;

22 “(gg) the number of peti-
23 tions that were rejected;

24 “(hh) the number of peti-
25 tions that were denied;

1 “(ii) the number of petitions
2 that were withdrawn;

3 “(jj) the number of petitions
4 awaiting final action;

5 “(kk) the number of blanket
6 petitions under paragraph (2)(A)
7 that were filed;

8 “(ll) the number of such
9 blanket petitions that were ap-
10 proved;

11 “(mm) the number of such
12 blanket petitions that were re-
13 jected;

14 “(nn) the number of such
15 blanket petitions that were de-
16 nied;

17 “(oo) the number of such
18 blanket petitions that were with-
19 drawn;

20 “(pp) the number of such
21 blanket petitions awaiting final
22 action;

23 “(qq) the number of visa ap-
24 plications and beneficiaries that

1 were approved pursuant to each
2 blanket petition;

3 “(rr) the number of exten-
4 sions of stay that were requested;

5 “(ss) the number of exten-
6 sions of stay that were approved;

7 “(tt) the number of exten-
8 sions of stay that were rejected;

9 “(uu) the number of exten-
10 sions of stay that were denied;

11 “(vv) the number of exten-
12 sion of stay requests that were
13 withdrawn;

14 “(ww) the number of exten-
15 sion of stay requests awaiting
16 final action;

17 “(xx) the number of exten-
18 sion of stay requests that were
19 filed for the purpose of switching
20 employers or adding a new, con-
21 current employer;

22 “(yy) the percentage of non-
23 immigrants admitted into the
24 United States who are younger
25 than 18 years of age, between 18

1 and 30 years of age, between 30
2 and 40 years of age, between 40
3 and 50 years of age, between 50
4 and 60 years of age, or older
5 than 60 years of age, respec-
6 tively;

7 “(zz) the percentage of non-
8 immigrants admitted into the
9 United States of each gender;

10 “(aaa) the 10 countries of
11 which the most nonimmigrants
12 are nationals;

13 “(bbb) for the 5 occupations
14 in which the most nonimmigrants
15 in each visa classification or sub-
16 classification are employed—

17 “(AA) the 5 employers
18 that employ the most non-
19 immigrants in the visa clas-
20 sification;

21 “(BB) the 2 countries
22 of which the most non-
23 immigrants are nationals;

24 “(CC) the age and gen-
25 der of the nonimmigrants;

1 “(DD) the average edu-
2 cational levels attained by
3 the nonimmigrants;

4 “(EE) the average com-
5 pensation paid to the non-
6 immigrants; and

7 “(FF) the source of the
8 data for this subclause;

9 “(ccc) for each of the 5 em-
10 ployers that employ the most
11 nonimmigrants in the visa classi-
12 fication or subclassification—

13 “(AA) the number of
14 such nonimmigrants who are
15 nationals of each country;

16 “(BB) the number of
17 such nonimmigrants who fall
18 within each age range; and

19 “(CC) the number of
20 such nonimmigrants of each
21 gender; and

22 “(ddd) the number of peti-
23 tions denied, disaggregated by
24 age, gender, and country of na-
25 tionality.

1 “(II) For each employment-based
2 petition and request for extension of
3 work authorization that was filed—

4 “(aa) the number of non-
5 immigrants sought;

6 “(bb) each beneficiary’s
7 country of origin and local region
8 or state;

9 “(cc) a description of the oc-
10 cupation in which the beneficiary
11 will be employed;

12 “(dd) the standard occupa-
13 tional classification code for each
14 occupation;

15 “(ee) the primary work loca-
16 tion and secondary work location,
17 if applicable;

18 “(ff) the name and address
19 of the employer (unless for indi-
20 vidual household employers);

21 “(gg) whether more than 50
22 percent of the employer’s United
23 States workforce are non-
24 immigrants;

1 “(hh) whether more than 30
2 percent of employer’s United
3 States workforce are non-
4 immigrants;

5 “(ii) whether the employer
6 conducts outplacement of non-
7 immigrants;

8 “(jj) whether the employer
9 was authorized to file blanket pe-
10 titions under paragraph (2)(A);

11 “(kk) whether the petition is
12 such a blanket petition;

13 “(ll) the name and last
14 known domestic and foreign busi-
15 ness address of any labor re-
16 cruter, agent, or other third
17 party intermediary involved in
18 identifying workers to be petition
19 beneficiaries; and

20 “(mm) the visa classification
21 and subclassification.

22 “(III) For each nonimmigrant
23 authorized to work in the United
24 States (include data source)—

1 “(aa) the visa classification
2 and subclassification;

3 “(bb) the labor certification
4 form number, if a temporary
5 labor certification application was
6 filed with the Department of
7 Labor;

8 “(cc) the date on which the
9 temporary labor certification ap-
10 plication was filed;

11 “(dd) the date on which the
12 temporary labor certification ap-
13 plication was approved, with-
14 drawn, or rejected;

15 “(ee) the petition or exten-
16 sion form number, if a petition or
17 extension was filed with the De-
18 partment of Homeland Security;

19 “(ff) the date on which a pe-
20 tition was filed;

21 “(gg) the date on which
22 such petition was approved, with-
23 drawn, or rejected;

24 “(hh) the date on which an
25 extension was filed;

1 “(ii) the date on which such
2 extension was approved, with-
3 drawn, or rejected;

4 “(jj) the nonimmigrant’s
5 country of origin and local region
6 or state;

7 “(kk) the nonimmigrant’s
8 age;

9 “(ll) the nonimmigrant’s
10 gender;

11 “(mm) the occupation (in-
12 cluding the standard occupational
13 classification) in which the non-
14 immigrant will be employed;

15 “(nn) the amount of com-
16 pensation to be paid to the non-
17 immigrant;

18 “(oo) the highest level of
19 education attained by the non-
20 immigrant;

21 “(pp) with respect to non-
22 immigrant students employed
23 under Optional Practical Train-
24 ing, the nonimmigrant’s major or
25 primary field of study;

1 “(qq) with respect to non-
2 immigrant students employed
3 under Optional Practical Train-
4 ing, the institution at which the
5 nonimmigrant obtained his or her
6 education;

7 “(rr) the primary work loca-
8 tion and secondary work location,
9 if applicable, or the zip code and
10 nationality of the household em-
11 ployer if the nonimmigrant is a
12 household employee;

13 “(ss) the name and address
14 of the nonimmigrant’s employer
15 (unless the employer is an indi-
16 vidual household employer);

17 “(tt) the name and last
18 known domestic and foreign busi-
19 ness address of a third party
20 intermediary; and

21 “(uu) if the nonimmigrant
22 had a permanent status petition
23 filed on his or her behalf, the
24 name of the person or entity that

1 filed the petition and the date on
2 which such petition was filed.

3 “(IV) The 10 occupations in
4 which the largest number of non-
5 immigrants are employed in the
6 United States.

7 “(V) For each of the States—

8 “(aa) for each of the 5 non-
9 immigrant visa classifications
10 and subclassifications in which
11 the most nonimmigrants were ad-
12 mitted—

13 “(AA) the number of
14 nonimmigrants admitted;

15 “(BB) the number of
16 such nonimmigrants who are
17 nationals of each country;

18 “(CC) the number of
19 such nonimmigrants who fall
20 within each age range; and

21 “(DD) the number of
22 such nonimmigrants of each
23 gender.

24 “(C) PUBLIC WEBSITE.—At the time the
25 Secretary of Labor submits the report to Con-

1 gress under this paragraph, the Secretary shall
2 post the information set forth in subparagraph
3 (B), along with the corresponding raw data set
4 and a searchable database, to a public website.

5 “(D) LIMITATION.—The Secretary of
6 Labor shall ensure that the information posted
7 on a public website pursuant to subparagraph
8 (C) does not include information that, alone or
9 in combination, would allow a reasonable person
10 who does not have personal knowledge of the
11 relevant circumstances, to identify a specific
12 person with reasonable certainty.

13 “(E) USE OF INFORMATION.—Any govern-
14 ment official who uses information described in
15 subparagraph (B) shall take reasonable steps to
16 ensure that such use does not enable such in-
17 formation to be manipulated—

18 “(i) to identify an individual non-
19 immigrant to whom the information re-
20 lates; or

21 “(ii) to disaggregate such information
22 into its component parts.

23 “(F) DEFINITIONS.—In this paragraph:

24 “(i) EMPLOYMENT.—The term ‘em-
25 ployment’—

1 “(I) means employment in the
2 United States; and

3 “(II) includes cultural exchange,
4 training, or business activities in
5 which the nonimmigrant receives any
6 form of compensation, including a sti-
7 pend, from any source, whether paid
8 in the United States or in the non-
9 immigrant’s country of origin.

10 “(ii) NONIMMIGRANT VISA CLASSI-
11 FICATION, STATUS, OR SUBCLASSIFICA-
12 TION.—The term ‘nonimmigrant visa clas-
13 sification, status, or subclassification’
14 means any program, level, category, sub-
15 category, or other type of grouping that—

16 “(I) is part of a nonimmigrant
17 visa classification or status described
18 in section 101(a)(15) or 214(e) or
19 otherwise established under the immi-
20 gration laws; and

21 “(II) may be specifically created,
22 delineated, or defined in any Federal
23 statute, regulation, agency guidance,
24 directive memo, or any other source
25 material, including the Code of Fed-

1 eral Regulations, the Foreign Affairs
2 Manual, Department of State cables
3 (classified or unclassified), and any
4 official form, application, or petition
5 used by the Secretary of Homeland
6 Security, the Secretary of State, or
7 the Secretary of Labor.

8 “(iii) THIRD PARTY INTERMEDIARY.—

9 The term ‘third party intermediary’—

10 “(I) means any natural person or
11 any corporation, company, firm, part-
12 nership, joint stock company or asso-
13 ciation, or other organization or enti-
14 ty, including municipal corporations
15 that recruit, solicit, or engage in re-
16 lated activities with respect to an indi-
17 vidual who resides outside of the
18 United States in furtherance of em-
19 ployment in the United States, includ-
20 ing when such activity occurs wholly
21 outside of the United States; and

22 “(II) includes recruiters, sub-
23 recruiters, placement agencies, staff-
24 ing agencies, labor contractors, and
25 sponsor organizations designated by

1 the Secretary of State, including for-
2 profit and not-for-profit sponsor enti-
3 ties.”.

4 **SEC. 3. AUTHORITY TO MODIFY FORMS.**

5 The Secretary of Homeland Security, the Secretary
6 of State, and the Secretary of Labor shall take such steps
7 as may be necessary to revise any applications, petitions,
8 forms, or databases used to regulate the issuance of visas
9 to nonimmigrants or the granting of nonimmigrant status
10 in order to comply with the reporting requirements set
11 forth in section 214(c)(8) of the Immigration and Nation-
12 ality Act, as amended by section 2.

13 **SEC. 4. INFORMATION SHARING.**

14 If the Secretary of Labor determines that informa-
15 tion collected or maintained by the Secretary of State or
16 the Secretary of Homeland Security is required to make
17 a submission under section 214(c)(8) of the Immigration
18 and Nationality Act, as amended by section 2, the Sec-
19 retary of State or the Secretary of Homeland Security,
20 as applicable, shall provide such information to the Sec-
21 retary of Labor upon request.

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