

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 2214  
OFFERED BY MR. NADLER**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLES.**

2       This Act may be cited as the “National Origin-Based  
3 Antidiscrimination for Nonimmigrants Act” or the “NO  
4 BAN Act”.

**5 SEC. 2. EXPANSION OF NONDISCRIMINATION PROVISION.**

6       Section 202(a)(1)(A) of the Immigration and Nation-  
7 ality Act (8 U.S.C. 1152(a)(1)(A)) is amended—

8           (1) by inserting “or a nonimmigrant visa, ad-  
9 mission or other entry into the United States, or the  
10 approval or revocation of any immigration benefit”  
11 after “immigrant visa”;

12           (2) by inserting “religion,” after “sex,”; and

13           (3) by inserting “, except if expressly required  
14 by statute, or if a statutorily authorized benefit  
15 takes into consideration such factors” before the pe-  
16 riod at the end.

1 **SEC. 3. TRANSFER AND LIMITATIONS ON AUTHORITY TO**  
2 **SUSPEND OR RESTRICT THE ENTRY OF A**  
3 **CLASS OF ALIENS.**

4 Section 212(f) of the Immigration and Nationality  
5 Act (8 U.S.C. 1182(f)) is amended to read as follows:

6 “(f) **AUTHORITY TO SUSPEND OR RESTRICT THE**  
7 **ENTRY OF A CLASS OF ALIENS.—**

8 “(1) **IN GENERAL.—**Subject to paragraph (2),  
9 if the Secretary of State, in consultation with the  
10 Secretary of Homeland Security, determines, based  
11 on specific and credible facts, that the entry of any  
12 aliens or any class of aliens into the United States  
13 would undermine the security or public safety of the  
14 United States or the preservation of human rights,  
15 democratic processes or institutions, or international  
16 stability, the President may temporarily—

17 “(A) suspend the entry of such aliens or  
18 class of aliens as immigrants or nonimmigrants;  
19 or

20 “(B) impose any restrictions on the entry  
21 of such aliens that the President deems appro-  
22 priate.

23 “(2) **LIMITATIONS.—**In carrying out paragraph  
24 (1), the President, the Secretary of State, and the  
25 Secretary of Homeland Security shall—

1           “(A) only issue a suspension or restriction  
2 when required to address specific acts impli-  
3 cating a compelling government interest in a  
4 factor identified in paragraph (1);

5           “(B) narrowly tailor the suspension or re-  
6 striction, using the least restrictive means, to  
7 achieve such compelling government interest;

8           “(C) specify the duration of the suspension  
9 or restriction; and

10          “(D) consider waivers to any class-based  
11 restriction or suspension and apply a rebuttable  
12 presumption in favor of granting family-based  
13 and humanitarian waivers.

14          “(3) CONGRESSIONAL NOTIFICATION.—

15           “(A) IN GENERAL.—Prior to the President  
16 exercising the authority under paragraph (1),  
17 the Secretary of State and the Secretary of  
18 Homeland Security shall consult Congress and  
19 provide Congress with specific evidence sup-  
20 porting the need for the suspension or restric-  
21 tion and its proposed duration.

22           “(B) BRIEFING AND REPORT.—Not later  
23 than 48 hours after the President exercises the  
24 authority under paragraph (1), the Secretary of  
25 State and the Secretary of Homeland Security

1 shall provide a briefing and submit a written re-  
2 port to Congress that describes—

3 “(i) the action taken pursuant to  
4 paragraph (1) and the specified objective  
5 of such action;

6 “(ii) the estimated number of individ-  
7 uals who will be impacted by such action;

8 “(iii) the constitutional and legislative  
9 authority under which such action took  
10 place; and

11 “(iv) the circumstances necessitating  
12 such action, including how such action  
13 complies with paragraph (2), as well as  
14 any intelligence informing such actions.

15 “(C) TERMINATION.—If the briefing and  
16 report described in subparagraph (B) are not  
17 provided to Congress during the 48 hours that  
18 begin when the President exercises the author-  
19 ity under paragraph (1), the suspension or re-  
20 striction shall immediately terminate absent in-  
21 tervening congressional action.

22 “(D) CONGRESSIONAL COMMITTEES.—The  
23 term ‘Congress’, as used in this paragraph, re-  
24 fers to the Select Committee on Intelligence of  
25 the Senate, the Committee on Foreign Rela-

1           tions of the Senate, the Committee on the Judi-  
2           ciary of the Senate, the Committee on Home-  
3           land Security and Governmental Affairs of the  
4           Senate, the Permanent Select Committee on In-  
5           telligence of the House of Representatives, the  
6           Committee on Foreign Affairs of the House of  
7           Representatives, the Committee on the Judici-  
8           ary of the House of Representatives, and the  
9           Committee on Homeland Security of the House  
10          of Representatives.

11          “(4) PUBLICATION.—The Secretary of State  
12          and the Secretary of Homeland Security shall pub-  
13          licly announce and publish an unclassified version of  
14          the report described in paragraph (3)(B) in the Fed-  
15          eral Register.

16          “(5) JUDICIAL REVIEW.—

17                 “(A) IN GENERAL.—Notwithstanding any  
18                 other provision of law, an individual or entity  
19                 who is present in the United States and has  
20                 been harmed by a violation of this subsection  
21                 may file an action in an appropriate district  
22                 court of the United States to seek declaratory  
23                 or injunctive relief.

24                 “(B) CLASS ACTION.—Nothing in this Act  
25                 may be construed to preclude an action filed

1           pursuant to subparagraph (A) from proceeding  
2           as a class action.

3           “(6) TREATMENT OF COMMERCIAL AIRLINES.—

4           Whenever the Secretary of Homeland Security finds  
5           that a commercial airline has failed to comply with  
6           regulations of the Secretary of Homeland Security  
7           relating to requirements of airlines for the detection  
8           of fraudulent documents used by passengers trav-  
9           eling to the United States (including the training of  
10          personnel in such detection), the Secretary of Home-  
11          land Security may suspend the entry of some or all  
12          aliens transported to the United States by such air-  
13          line.

14          “(7) RULE OF CONSTRUCTION.—Nothing in  
15          this section may be construed as authorizing the  
16          President, the Secretary of State, or the Secretary  
17          of Homeland Security to act in a manner incon-  
18          sistent with the policy decisions expressed in the im-  
19          migration laws.”.

20   **SEC. 4. TERMINATION OF CERTAIN EXECUTIVE ACTIONS.**

21          (a) TERMINATION.—Presidential Proclamations 9645  
22          and 9822 and Executive Orders 13769, 13780, and 13815  
23          shall be void beginning on the date of the enactment of  
24          this Act.

1 (b) EFFECT.—All actions taken pursuant to any  
2 proclamation or executive order terminated under sub-  
3 section (a) shall cease on the date of the enactment of  
4 this Act.

5 **SEC. 5. VISA APPLICANTS REPORT.**

6 (a) INITIAL REPORTS.—

7 (1) IN GENERAL.—Not later than 90 days after  
8 the date of the enactment of this Act, the Secretary  
9 of State, in coordination with the Secretary of  
10 Homeland Security and the heads of other relevant  
11 Federal agencies, shall submit a report to the con-  
12 gressional committees referred to in section  
13 212(f)(3)(D) of the Immigration and Nationality  
14 Act, as amended by section 3 of this Act, that de-  
15 scribes the implementation of each of the presi-  
16 dential proclamations and executive orders referred  
17 to in section 4.

18 (2) PRESIDENTIAL PROCLAMATION 9645.—In  
19 addition to the content described in paragraph (1),  
20 the report submitted with respect to Presidential  
21 Proclamation 9645, issued on September 24, 2017,  
22 shall include, for each country listed in such procla-  
23 mation—

24 (A) the total number of individuals who  
25 applied for a visa during the time period the

1 proclamation was in effect, disaggregated by  
2 country and visa category;

3 (B) the total number of visa applicants de-  
4 scribed in subparagraph (A) who were ap-  
5 proved, disaggregated by country and visa cat-  
6 egory;

7 (C) the total number of visa applicants de-  
8 scribed in subparagraph (A) who were refused,  
9 disaggregated by country and visa category,  
10 and the reasons they were refused;

11 (D) the total number of visa applicants de-  
12 scribed in subparagraph (A) whose applications  
13 remain pending, disaggregated by country and  
14 visa category;

15 (E) the total number of visa applicants de-  
16 scribed in subparagraph (A) who were granted  
17 a waiver, disaggregated by country and visa  
18 category;

19 (F) the total number of visa applicants de-  
20 scribed in subparagraph (A) who were denied a  
21 waiver, disaggregated by country and visa cat-  
22 egory, and the reasons such waiver requests  
23 were denied;

24 (G) the total number of refugees admitted,  
25 disaggregated by country; and



1 (H) the complete reports that have been  
2 submitted to the President every 180 days in  
3 accordance with section 4 of Presidential Proc-  
4 lamation 9645 in its original form.

5 (b) ADDITIONAL REPORTS.—Not later than 30 days  
6 after the date on which the President exercises the author-  
7 ity under section 212(f) of the Immigration and Nation-  
8 ality Act (8 U.S.C. 1182(f)), as amended by section 3 of  
9 this Act, and every 30 days thereafter, the Secretary of  
10 State, in coordination with the Secretary of Homeland Se-  
11 curity and heads of other relevant Federal agencies, shall  
12 submit a report to the congressional committees referred  
13 to in paragraph (3)(D) of such section 212(f) that identi-  
14 fies, with respect to countries affected by a suspension or  
15 restriction, the information described in subparagraphs  
16 (A) through (H) of subsection (a)(2) of this section and  
17 specific evidence supporting the need for the continued ex-  
18 ercise of presidential authority under such section 212(f),  
19 including the information described in paragraph (3)(B)  
20 of such section 212(f). If the report described in this sub-  
21 section is not provided to Congress in the time specified,  
22 the suspension or restriction shall immediately terminate  
23 absent intervening congressional action. A final report  
24 with such information shall be prepared and submitted to

1 such congressional committees not later than 30 days  
2 after the suspension or restriction is lifted.

3 (c) FORM; AVAILABILITY.—The reports required  
4 under subsections (a) and (b) shall be made publicly avail-  
5 able online in unclassified form.

