

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 5460**  
**OFFERED BY M\_\_\_\_\_.**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Virgin Islands Visa  
3 Waiver Act of 2022”.

4 **SEC. 2. ADDITION OF VIRGIN ISLANDS VISA WAIVER TO**  
5                   **GUAM AND NORTHERN MARIANA ISLANDS**  
6                   **VISA WAIVER.**

7       (a) IN GENERAL.—Section 212(l) of the Immigration  
8 and Nationality Act (8 U.S.C. 1182(l)) is amended to read  
9 as follows:

10       “(l) GUAM AND NORTHERN MARIANA ISLANDS VISA  
11 WAIVER PROGRAM; VIRGIN ISLANDS VISA WAIVER PRO-  
12 GRAM.—

13       “(1) IN GENERAL.—The requirement of sub-  
14 section (a)(7)(B)(i) may be waived by the Secretary  
15 of Homeland Security, in the case of an alien apply-  
16 ing for admission as a nonimmigrant visitor for busi-  
17 ness or pleasure and solely for entry into and stay  
18 in Guam or the Commonwealth of the Northern

1 Mariana Islands, or the Virgin Islands of the United  
2 States, for a period not to exceed 45 days, if the  
3 Secretary of Homeland Security, after consultation  
4 with the Secretary of the Interior, the Secretary of  
5 State, and the Governor of Guam and the Governor  
6 of the Commonwealth of the Northern Mariana Is-  
7 lands, or the Governor of the Virgin Islands of the  
8 United States, as the case may be, determines  
9 that—

10 “(A) an adequate arrival and departure  
11 control system has been developed in Guam and  
12 the Commonwealth of the Northern Mariana Is-  
13 lands, or the Virgin Islands of the United  
14 States; and

15 “(B) such a waiver does not represent a  
16 threat to the welfare, safety, or security of the  
17 United States or its territories and common-  
18 wealths.

19 “(2) ALIEN WAIVER OF RIGHTS.—An alien may  
20 not be provided a waiver under this subsection un-  
21 less the alien has waived any right—

22 “(A) to review or appeal under this Act an  
23 immigration officer’s determination as to the  
24 admissibility of the alien at the port of entry  
25 into Guam or the Commonwealth of the North-

1           ern Mariana Islands, or the Virgin Islands of  
2           the United States; or

3           “(B) to contest, other than on the basis of  
4           an application for withholding of removal under  
5           section 241(b)(3) of this Act or under the Con-  
6           vention Against Torture, or an application for  
7           asylum if permitted under section 208 of this  
8           Act, any action for removal of the alien.

9           “(3) REGULATIONS.—All necessary regulations  
10          to implement this subsection shall be promulgated  
11          by the Secretary of Homeland Security, in consulta-  
12          tion with the Secretary of the Interior and the Sec-  
13          retary of State. The promulgation of such regula-  
14          tions shall be considered a foreign affairs function  
15          for purposes of section 553(a) of title 5, United  
16          States Code. At a minimum, such regulations should  
17          include, but not necessarily be limited to—

18                 “(A) a listing of all countries whose na-  
19                 tionals may obtain the waivers provided by this  
20                 subsection; and

21                 “(B) any bonding requirements for nation-  
22                 als of some or all of those countries who may  
23                 present an increased risk of overstays or other  
24                 potential problems, if different from such re-

1           quirements otherwise provided by law for non-  
2           immigrant visitors.

3           “(4) FACTORS.—In determining whether to  
4           grant or continue providing the waiver under this  
5           subsection to nationals of any country, the Secretary  
6           of Homeland Security, in consultation with the Sec-  
7           retary of the Interior and the Secretary of State,  
8           shall consider all factors that the Secretary deems  
9           relevant, including electronic travel authorizations,  
10          procedures for reporting lost and stolen passports,  
11          repatriation of aliens, rates of refusal for non-  
12          immigrant visitor visas, overstays, exit systems, and  
13          information exchange.

14          “(5) SUSPENSION.—The Secretary of Home-  
15          land Security shall monitor the admission of non-  
16          immigrant visitors to Guam and the Commonwealth  
17          of the Northern Mariana Islands, and the Virgin Is-  
18          lands of the United States, under this subsection. If  
19          the Secretary determines that such admissions have  
20          resulted in an unacceptable number of visitors from  
21          a country remaining unlawfully in Guam or the  
22          Commonwealth of the Northern Mariana Islands, or  
23          the Virgin Islands of the United States, unlawfully  
24          obtaining entry to other parts of the United States,  
25          or seeking withholding of removal or asylum, or that

1 visitors from a country pose a risk to law enforce-  
2 ment or security interests of Guam or the Common-  
3 wealth of the Northern Mariana Islands, or of the  
4 Virgin Islands of the United States, or of the United  
5 States (including the interest in the enforcement of  
6 the immigration laws of the United States), the Sec-  
7 retary shall suspend the admission of nationals of  
8 such country under this subsection. The Secretary of  
9 Homeland Security may in the Secretary's discretion  
10 suspend the Guam and Northern Mariana Islands  
11 visa waiver program, or the Virgin Islands visa wai-  
12 ver program, at any time, on a country-by-country  
13 basis, for other good cause.

14 “(6) ADDITION OF COUNTRIES.—The Governor  
15 of Guam and the Governor of the Commonwealth of  
16 the Northern Mariana Islands, or the Governor of  
17 the Virgin Islands of the United States, may request  
18 the Secretary of the Interior and the Secretary of  
19 Homeland Security to add a particular country to  
20 the list of countries whose nationals may obtain the  
21 waiver provided by this subsection, and the Sec-  
22 retary of Homeland Security may grant such request  
23 after consultation with the Secretary of the Interior  
24 and the Secretary of State, and may promulgate reg-  
25 ulations with respect to the inclusion of that country

1 and any special requirements the Secretary of  
2 Homeland Security, in the Secretary's sole discre-  
3 tion, may impose prior to allowing nationals of that  
4 country to obtain the waiver provided by this sub-  
5 section.”.

6 (b) REGULATIONS DEADLINE.—Not later than one  
7 year after the date of enactment of this Act, the Secretary  
8 of Homeland Security, in consultation with the Secretary  
9 of the Interior and the Secretary of State, shall promul-  
10 gate any necessary regulations to implement the waiver  
11 provided in the amendment made by subsection (a) for the  
12 Virgin Islands of the United States.

13 (c) WAIVER COUNTRIES.—The regulations described  
14 in subsection (b) shall include a listing of all member or  
15 associate member countries of the Caribbean Community  
16 whose nationals may obtain, on a country-by-country  
17 basis, the waiver provided by this section, except that such  
18 regulations shall not provide for a listing of any country  
19 if the Secretary of Homeland Security determines that  
20 such country's inclusion on such list would represent a  
21 threat to the welfare, safety, or security of the United  
22 States or its territories and commonwealths, or would in-  
23 crease fraud or abuse of the nonimmigrant visa system.

24 (d) CONFORMING AMENDMENTS.—

1           (1) DOCUMENTATION REQUIREMENTS.—Section  
2           212(a)(7)(B)(iii) of the Immigration and Nationality  
3           Act (8 U.S.C. 1182(a)(7)(B)(iii)) is amended to  
4           read as follows:

5                       “(iii) SPECIAL VISA WAIVER PRO-  
6                       GRAMS.—For a provision authorizing waiv-  
7                       er of clause (i) in the case of visitors to  
8                       Guam or the Commonwealth of the North-  
9                       ern Mariana Islands, or the Virgin Islands  
10                      of the United States, see subsection (l).”.

11           (2) ADMISSION OF NONIMMIGRANTS.—Section  
12           214(a)(1) of such Act (8 U.S.C. 1184(a)(1)) is  
13           amended by striking “Guam or the Commonwealth  
14           of the Northern Mariana Islands” each place such  
15           term appears and inserting “Guam or the Common-  
16           wealth of the Northern Mariana Islands, or the Vir-  
17           gin Islands of the United States”.

18           (e) FEES.—The Secretary of Homeland Security  
19           shall establish an administrative processing fee to be  
20           charged and collected from individuals seeking to enter the  
21           Virgin Islands of the United States in accordance with sec-  
22           tion 212(l) of the Immigration and Nationality Act (8  
23           U.S.C. 1182(l)), as amended by this Act. Such fee shall  
24           be set at a level that will ensure recovery of the full costs  
25           of such processing, any additional costs associated with

1 the administration of the fees collected, and any sums nec-  
2 essary to offset reduced collections of the nonimmigrant  
3 visa fee or the electronic travel authorization fee that oth-  
4 erwise would have been collected from such individuals.

