

[Next Part>>](#)

8 U.S.C.A. § 1326

United States Code Annotated [Currentness](#)

Title 8. Aliens and Nationality ([Refs & Annos](#))

Chapter 12. Immigration and Nationality ([Refs & Annos](#))

▣ Subchapter II. Immigration

▣ Part VIII. General Penalty Provisions

→ § 1326. Reentry of removed aliens

1326  
Reentry After  
Removal

(a) In general

Subject to subsection (b) of this section, any alien who--

**(1)** has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter

**(2)** enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act,

shall be fined under Title 18, or imprisoned not more than 2 years, or both.

(b) Criminal penalties for reentry of certain removed aliens

Notwithstanding subsection (a) of this section, in the case of any alien described in such subsection--

**(1)** whose removal was subsequent to a conviction for commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), such alien shall be fined under Title 18, imprisoned not more than 10 years, or both;

**(2)** whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both;

**(3)** who has been excluded from the United States pursuant to [section 1225\(c\)](#) of this title because the alien was excludable under [section 1182\(a\)\(3\)\(B\)](#) of this title or who has been removed from the United States pursuant to the provisions of subchapter V of this chapter, and who thereafter, without the permission of the Attorney General, enters the United States, or attempts to do so, shall be fined under Title 18 and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence. [FN1] or

**(4)** who was removed from the United States pursuant to [section 1231\(a\)\(4\)\(B\)](#) of this title who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be fined under Title 18, imprisoned for not more than 10 years, or both.

For the purposes of this subsection, the term "removal" includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either Federal or State law.

(c) Reentry of alien deported prior to completion of term of imprisonment

Any alien deported pursuant to [section 1252\(h\)\(2\)](#) [FN2] of this title who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.

## (d) Limitation on collateral attack on underlying deportation order

In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) of this section or subsection (b) of this section unless the alien demonstrates that--

- (1)** the alien exhausted any administrative remedies that may have been available to seek relief against the order;
- (2)** the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and
- (3)** the entry of the order was fundamentally unfair.

## CREDIT(S)

(June 27, 1952, c. 477, Title II, ch. 8, § 276, 66 Stat. 229; Nov. 18, 1988, Pub.L. 100-690, Title VII, § 7345(a), 102 Stat. 4471; Nov. 29, 1990, Pub.L. 101-649, Title V, § 543(b)(3), 104 Stat. 5059; Sept. 13, 1994, Pub.L. 103-322, Title XIII, § 130001(b), 108 Stat. 2023; Apr. 24, 1996, Pub.L. 104-132, Title IV, §§ 401(c), 438(b), 441(a), 110 Stat. 1267, 1276, 1279; Sept. 30, 1996, Pub.L. 104-208, Div. C, Title III, §§ 305(b), 308(d)(4)(J), (e)(1)(K), (14)(A), 324(a), (b), 110 Stat. 3009-606, 3009-618, 3009-619, 3009-620, 3009-629.)

[FN1] So in original. The period probably should be a semicolon.

[FN2] See References in Text note below.

## HISTORICAL AND STATUTORY NOTES

## Revision Notes and Legislative Reports

1952 Acts. House Report No. 1365 and Conference Report No. 2096, see 1952 U.S. Code Cong. and Adm. News, p. 1653.

1988 Acts. For Related Reports, see 1988 U.S. Code Cong. and Adm. News, p. 5937.

1990 Acts. House Report No. 101-723(Parts I and II), House Conference Report No. 101-955, and Statement by President, see 1990 U.S. Code Cong. and Adm. News, p. 6710.

1994 Acts. House Report Nos. 103-324 and 103-489, and House Conference Report No. 103-711, see 1994 U.S. Code Cong. and Adm. News, p. 1801.

1996 Acts. Senate Report No. 104-179 and House Conference Report No. 104-518, see 1996 U.S. Code Cong. and Adm. News, p. 924.

## References in Text

Section 1252 of this title, referred to in subsec. (c), was amended by Pub.L. 104-208, div. C, title III, § 306(a)(2), Sept. 30, 1996, 110 Stat. 3009-607, and as so amended, does not contain a subsec. (h). For provisions similar to those formerly contained in section 1252(h)(2) of this title, see section 1231(a)(4) of this title.

## Codifications

Amendment by section 543(b)(3) of Pub.L. 101-649, directing that "section 276(8 U.S.C. 1326)" be amended, without specifying any subsection designation, has been executed to subsec. (a) of this section as the probable intent of Congress.

## Amendments

1996 Amendments. Catchline. Pub.L. 104-208, § 308(e)(14)(A), substituted "removed" for "deported".

Subsec. (a)(1). Pub.L. 104-208, § 308(d)(4)(J)(i), substituted "denied admission, excluded, deported, or removed" for "arrested and deported, has been excluded and deported" and "exclusion, deportation, or removal" for "exclusion

## 8 U.S.C.A. § 1325

United States Code Annotated CurrentnessTitle 8. Aliens and Nationality (Refs & Annos)Chapter 12. Immigration and Nationality (Refs & Annos)\* Subchapter II. Immigration\* Part VIII. General Penalty Provisions\* **§ 1325. Improper entry by alien**

1325(c)  
Marriage Fraud

(a) Improper time or place; avoidance of examination or inspection; misrepresentation and concealment of facts

Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under Title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under Title 18, or imprisoned not more than 2 years, or both.

(b) Improper time or place; civil penalties

Any alien who is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty of--

**(1)** at least \$50 and not more than \$250 for each such entry (or attempted entry); or

**(2)** twice the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed.

(c) Marriage fraud

Any individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, or fined not more than \$250,000, or both.

(d) Immigration-related entrepreneurship fraud

Any individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, fined in accordance with Title 18, or both.

CREDIT(S)

(June 27, 1952, c. 477, Title II, ch. 8, § 275, 66 Stat. 229; Nov. 10, 1986, Pub.L. 99-639, § 2(d), 100 Stat. 3542; Nov. 29, 1990, Pub.L. 101-649, Title I, § 121(b)(3), Title V, § 543(b)(2), 104 Stat. 4994, 5059; Dec. 12, 1991, Pub.L. 102-232, Title III, § 306(c)(3), 105 Stat. 1752; Sept. 30, 1996, Pub.L. 104-208, Div. C, Title I, § 105(a), 110 Stat. 3009-556.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1952 Acts. House Report No. 1365 and Conference Report No. 2096, see 1952 U.S. Code Cong. and Adm. News, p. 1653.

1986 Acts. House Report No. 99-906, see 1986 U.S. Code Cong. and Adm. News, p. 5978.

1990 Acts. House Report No. 101-723(Parts I and II), House Conference Report No. 101-955, and Statement by President, see 1990 U.S. Code Cong. and Adm. News, p. 6710.

[Next Part>>](#)

## 8 U.S.C.A. § 1324

United States Code Annotated CurrentnessTitle 8. Aliens and Nationality (Refs & Annos)Chapter 12. Immigration and Nationality (Refs & Annos)

▣ Subchapter II. Immigration

▣ Part VIII. General Penalty Provisions

➔ § 1324. Bringing in and harboring certain aliens

1324  
Alien  
Smuggling

## (a) Criminal penalties

**(1)(A)** Any person who--

**(i)** knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

**(ii)** knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

**(iii)** knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation;

**(iv)** encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law; or

**(v)(I)** engages in any conspiracy to commit any of the preceding acts, or

**(II)** aids or abets the commission of any of the preceding acts,

shall be punished as provided in subparagraph (B).

**(B)** A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs--

**(i)** in the case of a violation of subparagraph (A)(i) or (v)(I) or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain, be fined under Title 18, imprisoned not more than 10 years, or both;

**(ii)** in the case of a violation of subparagraph (A) (ii), (iii), (iv), or (v)(II), be fined under Title 18, imprisoned not more than 5 years, or both;

**(iii)** in the case of a violation of subparagraph (A) (i), (ii), (iii), (iv), or (v) during and in relation to which the person causes serious bodily injury (as defined in section 1365 of Title 18) to, or places in jeopardy the life of, any person, be fined under Title 18, imprisoned not more than 20 years, or both; and

**(iv)** in the case of a violation of subparagraph (A) (i), (ii), (iii), (iv), or (v) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life, fined under Title 18, or both.

**(C)** It is not a violation of clauses [FN1] (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a

volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

**(2)** Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each alien in respect to whom a violation of this paragraph occurs--

**(A)** be fined in accordance with Title 18 or imprisoned not more than one year, or both; or

**(B)** in the case of--

**(i)** an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,

**(ii)** an offense done for the purpose of commercial advantage or private financial gain, or

**(iii)** an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined under Title 18 and shall be imprisoned, in the case of a first or second violation of subparagraph (B)(iii), not more than 10 years, in the case of a first or second violation of subparagraph (B)(i) or (B)(ii), not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years.

**(3)(A)** Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in subparagraph (B) shall be fined under Title 18 or imprisoned for not more than 5 years, or both.

**(B)** An alien described in this subparagraph is an alien who--

**(i)** is an unauthorized alien (as defined in section 1324a(h)(3) of this title), and

**(ii)** has been brought into the United States in violation of this subsection.

**(4)** In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if--

**(A)** the offense was part of an ongoing commercial organization or enterprise;

**(B)** aliens were transported in groups of 10 or more; and

**(C)(i)** aliens were transported in a manner that endangered their lives; or

**(ii)** the aliens presented a life-threatening health risk to people in the United States.

(b) Seizure and forfeiture

(1) In general

Any conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of a violation of subsection (a) of this section, the gross proceeds of such violation, and any property traceable to such conveyance or proceeds, shall be seized and subject to forfeiture.

(2) Applicable procedures

Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of Title 18 relating to civil forfeitures, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Attorney General.

## (3) Prima facie evidence in determinations of violations

In determining whether a violation of subsection (a) of this section has occurred, any of the following shall be prima facie evidence that an alien involved in the alleged violation had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

**(A)** Records of any judicial or administrative proceeding in which that alien's status was an issue and in which it was determined that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

**(B)** Official records of the Service or of the Department of State showing that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

**(C)** Testimony, by an immigration officer having personal knowledge of the facts concerning that alien's status, that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

## (c) Authority to arrest

No officer or person shall have authority to make any arrests for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

## (d) Admissibility of videotaped witness testimony

Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) of this section who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.

## (e) Outreach program

The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall develop and implement an outreach program to educate the public in the United States and abroad about the penalties for bringing in and harboring aliens in violation of this section.

## CREDIT(S)

(June 27, 1952, c. 477, Title II, ch. 8, § 274, 66 Stat. 228; Nov. 2, 1978, Pub.L. 95-582, § 2, 92 Stat. 2479; Dec. 29, 1981, Pub.L. 97-116, § 12, 95 Stat. 1617; Nov. 6, 1986, Pub.L. 99-603, Title I, Part B, § 112, 100 Stat. 3381; Oct. 24, 1988, Pub.L. 100-525, § 2(d), 102 Stat. 2610; Sept. 13, 1994, Pub.L. 103-322, Title VI, § 60024, 108 Stat. 1981; Sept. 30, 1996, Pub.L. 104-208, Div. C, Title II, §§ 203(a) to (d), 219, Title VI, § 671(a)(1), 110 Stat. 3009-565, 3009-566, 3009-574, 3009-721; Apr. 25, 2000, Pub.L. 106-185, § 18(a), 114 Stat. 222; Dec. 17, 2004, Pub.L. 108-458, Title V, § 5401, 118 Stat. 3737; Nov. 10, 2005, Pub.L. 109-97, Title VII, § 796, 119 Stat. 2165.)

[FN1] So in original. Probably should be "clause".

## HISTORICAL AND STATUTORY NOTES

## Revision Notes and Legislative Reports

1952 Acts. House Report No. 1365 and Conference Report No. 2096, see 1952 U.S. Code Cong. and Adm. News, p. 1653.

1978 Acts. House Report No. 95-1447, see 1978 U.S. Code Cong. and Adm. News, p. 5566.

1981 Acts. House Report No. 97-264, see 1981 U.S. Code Cong. and Adm. News, p. 2577.