

NO BAN Act
National Origin-Based Antidiscrimination for Nonimmigrants Act

SECTION BY SECTION

Section 1 – Short titles.

Section 2 – Expansion of nondiscrimination provision.

- The bill broadens Section 202(a), the nondiscrimination provision of the Immigration and Nationality Act, to prohibit discrimination on the basis of religion.
- The bill also ensures that this nondiscrimination provision applies to nonimmigrant visas, entry into the United States, or the approval or revocation of any immigration benefit.
- The provision excepts certain consideration of these factors as authorized by statute (for example, the consideration of religious persecution for asylum purposes).

Section 3 – Limitations on the authority to suspend or restrict the entry of a class of aliens.

- The bill requires consultation with the Secretary of State and Secretary of Homeland Security when suspending or restricting the entry of any aliens or class of aliens under Section 212(f).
- The bill preserves the President’s ability to use this authority when the Secretary of State determines, based on credible facts, that the entry of any aliens or of any class of aliens should be suspended or restricted to address specific acts that undermine the security or public safety of the United States; human rights; democratic processes or institutions; or international stability. These permissible uses of Section 212(f) are taken from prior orders.
- The bill requires specific evidence supporting the use of Section 212(f), including evidence that is connected with the duration of the suspension or restriction.
- It also provides that the suspension or restriction must be narrowly tailored to address a compelling governmental interest, using the least restrictive means possible.
- The bill requires consideration of waivers for class-based restrictions and suspensions, with a rebuttable presumption in favor of family-based and humanitarian waivers.
- The bill ensures that there will be congressional consultation and periodic reporting. If a briefing is not provided within 48 hours and updated every 30 days thereafter, the emergency suspension or action will terminate absent congressional action.
- It ensures transparency and accountability by requiring publication of information in the Federal Register and providing that individuals who are injured can go to court.

Section 4 – Application to existing executive actions.

- The bill repeals the three “Muslim Ban” executive orders/presidential proclamation.
- It also repeals an executive order that instituted extreme vetting for refugees, as well as an asylum presidential proclamation that abused the Section 212(f) authority.

Section 5 – Visa applicants report.

- The bill requires backward-looking reporting on how each of the executive orders/presidential proclamations was implemented.
- The bill triggers periodic reporting for any future use of Section 212(f) to ensure that Congress has data on visa applications and refugee admissions to conduct oversight.