



DEPARTMENT OF HOMELAND SECURITY

Certain DHS Immigration Enforcement-Related Fees Required by HR-1 Reconciliation Bill

AGENCY: U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security.

ACTION: Notice of Immigration Fees.

SUMMARY: The Department of Homeland Security (DHS) is announcing fees established in HR-1 for certain immigration-related violations. This notice announces the new immigration enforcement-related fees that are administered by DHS and provides notice to the public that DHS will begin assessing and collecting these fees in accordance with HR-1.

DATES: This action is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs and Policy, U.S. Immigration and Customs Enforcement, Department of Homeland Security, 500 12th Street SW, Washington, DC 20536; telephone (202) 732-6960 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Background and Authority

On July 4, 2025, the President signed into law the One Big Beautiful Bill Act, Pub. L. 119-21, 139 Stat. 72 (HR-1). HR-1 was a comprehensive legislative package that changed many laws and added new laws that touch many areas of the United States Government.¹ Among those changes, the law established several new immigration enforcement-related fees. The new immigration enforcement fees codified in HR-1 will

¹ See HR-1, Title X, Subtitle A, Part I, sections 100001 through 1000018.

be imposed on aliens in addition to any other fees authorized by law and by the Secretary of Homeland Security.²

These fees are for Fiscal Year (FY) 2025 and are, as established by statute, subject to annual increases based on the Consumer Price Index for All Urban Consumers.³ The funds collected from these fees will be distributed to the appropriate agency or the U.S. Treasury as mandated by statute.⁴

II. New Immigration Enforcement Fees

This notice announces the imposition and collection of certain new immigration enforcement fees in accordance with the HR-1. The fees will be levied against (a) aliens who are ordered removed in absentia pursuant to section 240(b)(5) of the Immigration and Nationality Act (INA) 8 U.S.C. 1229a(b)(5) and are subsequently arrested by U.S. Immigration and Customs Enforcement (ICE); and (b) inadmissible aliens who are apprehended between ports of entry. *See* Pub. L. 119-21 secs. 100016, 100017. These fees are not mutually exclusive, and aliens may be subject to the fees under both sections 100016 and 100017. DHS will individually notify aliens to whom these fees apply and, upon notification, provide instructions on how to pay the fees levied as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The HR-1 fees are meant to cover costs to DHS and are not a “penalty.” Therefore, the fee does not impact U.S. compliance with Article 31(1) of the 1951 Refugee Convention, as incorporated by the 1967 Refugee Protocol.⁵

² *See* Pub. L. 119-21, secs. 100016 and 100017.

³ *See* Pub. L. 119-21 secs. 100016(b)(2) and 100017(b)(2).

⁴ *See* Pub. L. 119-21 secs. 100016(d) and 100017(d) regarding disposition.

⁵ Article 31(1) of the 1951 Refugee Convention provides, “The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.” Although the U.S. is not party to the 1951 Convention, it is party to the 1967 Protocol, which incorporates articles 2 to 34 of the Convention. *See INS v. Stevic*, 467 U.S. 407, 416 & n.9 (1984). Importantly, the term “penalty” in Article 31(1) is understood to mean a criminal sanction, such as imprisonment or a fine, *Cazun v. U.S. Att’y Gen.*, 856 F.3d 249, 257 n. 16 (3d Cir. 2017), rather than a fee.

A. Section 100016. Aliens ordered removed in absentia pursuant to INA section 240(b)(5) and subsequently arrested by ICE.

An alien is “ordered removed in absentia” under section 240(b)(5) of the INA, 8 U.S.C. 1229a(b)(5), when the alien fails to attend removal proceedings after receiving written notice of the proceedings and DHS has established “by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is removable.”⁶ As such, aliens who fall under INA 240(b)(5), 8 U.S.C. 1229a(b)(5), and are subsequently arrested by ICE are subject to the HR-1 fee, which is \$5,000 for FY 2025.

HR-1 provides a single exception from this fee. HR-1 states that the “fee described in this section shall not apply to any alien who was ordered removed in absentia if such order was rescinded pursuant to section 240(b)(5)(C), 8 U.S.C. 1229a(b)(5)(C).”⁷ *See* Pub. L. 119-21 sec. 100016(c). HR-1 also provides that no waivers are available for this enforcement fee. *See* Pub. L. 119-21 sec. 100016(e).

B. Section 100017. Inadmissible aliens apprehended in between ports of entry into the United States.

Section 212 of the INA (entitled “Inadmissible aliens”), 8 U.S.C. 1182, lists the grounds of inadmissibility and generally “defines the universe of aliens who are admissible” while setting “the boundaries of admissibility into the United States.”⁸ Aliens who are apprehended by DHS between ports of entry are often subject to the ground of inadmissibility under INA 212(a)(6), 8 U.S.C. 1182(a)(6), which provides that any alien “present in the United States without being admitted or paroled, or who arrives

⁶ INA 240(b)(5), 8 U.S.C. 1229a(b)(5).

⁷ INA 240(b)(5)(C), 8 U.S.C. 1229a(b)(5)(C) (“Such an order may be rescinded only-(i) upon a motion to reopen filed within 180 days after the date of the order of removal if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (e)(1)), or (ii) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with paragraph (1) or (2) of section 1229(a) of this title or the alien demonstrates that the alien was in Federal or State custody and the failure to appear was through no fault of the alien”).

⁸ *Trump v. Hawaii*, 585 U.S. 667, 683–84, 695 (2018).

in the United States at any time or place other than as designated by the Attorney General, is inadmissible.”⁹ However, an alien apprehended between the ports of entry may be inadmissible under INA 212(a)(6), 8 U.S.C. 1182(a)(6), and/or any other grounds of inadmissibility listed under INA 212, 8 U.S.C. 1182. Aliens who are apprehended between ports of entry and determined to be inadmissible are subject to the HR-1 fee, which is \$5,000 for FY 2025. *See* Pub. L. 119-21 sec. 100017.

Kristi Noem,

Secretary,

U.S. Department of Homeland Security

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⁹ INA 212(a)(6), 8 U.S.C. 1182(a)(6).