To authorize the immediate expulsion of inadmissible aliens attempting to enter the United States by fraud or without a necessary entry document, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXPULSION OF INADMISSIBLE ARRIVING ALIENS.

(a) In General.—Notwithstanding any other provision of law, during the 2-year period beginning on the date of the enactment of this Act, an immigration officer who determines that an alien who is arriving in the United States at or along the border between the United States
and Mexico is inadmissible under section paragraph (6)(C) or (7) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), shall, subject to sections 2 and 3, process the alien for expulsion from the United States without further hearing or review.

(b) DETENTION PENDING EXPULSION.—An alien subject to expulsion under subsection (a) shall be detained pending expulsion.

SEC. 2. COUNTRIES TO WHICH ALIENS MAY BE EXPELLED.

(a) IN GENERAL.—Except as provided in subsection (b), an alien who is processed for expulsion pursuant to section 1(a) shall be expelled to Mexico.

(b) ALTERNATIVE COUNTRIES.—If the Government of Mexico is unwilling to accept an alien subject to expulsion under section 1(a) into the territory of Mexico or if the Secretary of Homeland Security determines that expulsion to Mexico would not be in the national interest of the United States, such alien shall be expelled, as directed by the Secretary, to—

(1) the country of which such alien is a citizen, subject, or national;

(2) the country in which such alien was born;

(3) the country in which such alien has a residence; or
(4) a country with a government that will accept such alien into its territory if expulsion to each country described in paragraphs (1) through (3) is impracticable, inadvisable, or impossible.

(c) Restriction on Expulsion to a Country Where an Alien Would Be Threatened With Persecution or Torture.—

(1) In general.—Notwithstanding subsections (a) and (b), and except as provided in paragraph (2), the Secretary of Homeland Security may not expel an alien to a country if—

(A) the alien’s life or freedom would be threatened in such country because of such alien’s race religion, nationality, membership in a particular social group or political opinion; or

(B) there are substantial grounds for believing that such alien would be in danger of being subjected to torture if expelled to such country.

(2) Exception.—Paragraph (1) shall not apply—

(A) to an alien who is deportable under section 237(a)(4)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(D)); or
(B) if the Secretary of Homeland Security determines that—

(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual’s race, religion, nationality, membership in a particular social group, or political opinion;

(ii) the alien, having been convicted by a final judgment of a particularly serious crime, is a danger to the citizens of the United States;

(iii) there are serious reasons to believe that the alien committed a serious nonpolitical crime outside the United States before the alien arrived in the United States; or

(iv) there are reasonable grounds to believe that the alien is a danger to the national security of the United States.

(3) DETERMINATIONS.—

(A) PARTICULARLY SERIOUS CRIME.—For purposes of paragraph (2)(B)(ii), an alien who has been convicted of an aggravated felony or felonies for which the alien has been sentenced to an aggregate term of imprisonment of not
less than 5 years shall be considered to have committed a particularly serious crime. Notwithstanding the previous sentence, the Secretary of Homeland Security may determine that an alien sentenced to an aggregate term of imprisonment of less than 5 years has been convicted of a particularly serious crime.

(B) DANGER TO NATIONAL SECURITY.—

For purposes of paragraph (2)(B)(iv), an alien who is described in section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the national security of the United States.

(4) REFERRAL TO ASYLUM OFFICER.—

(A) REFERRAL.—If an alien expresses to an immigration officer a fear that such alien’s life or freedom would be threatened in the country to which such alien will be expelled or that the alien would be in danger of being subjected to torture in such country, the immigration officer shall refer the alien for an interview by an asylum officer employed in the Refugee, Asylum and International Operations Directorate of
U.S. Citizenship and Immigration Services for a
determination pursuant to paragraphs (1) and
(2).

(B) BURDEN OF PROOF; CREDIBILITY.—In
determining whether an alien has demonstrated
that such alien’s life or freedom would be
threatened for a reason described in paragraph
(1)(A) or whether the alien would be subjected
to torture described in subparagraph (1)(B),
the asylum officer shall—

(i) determine whether the alien has
sustained the alien’s burden of proof; and
(ii) make credibility determinations, in
the manner described in clauses (ii) and
(iii) of section 208(b)(1)(B) of the Immi-
gration and Nationality Act (8 U.S.C.
1158(b)(1)(B)).

SEC. 3. WAIVER AUTHORITY.

(a) IN GENERAL.—The Office of Field Operations
Port Director (referred to in this subsection as “Direc-
tor”) for each land port of entry situated on the border
between the United States and Mexico shall coordinate
with the Commissioner of U.S. Customs and Border Pro-
tection to determine the maximum number of aliens per
day that the Office of Field Operations staff at such port are capable of—

(1) safely processing through such port of entry; and

(2) placing with nongovernmental organizations to provide short term shelter and services.

(b) STRATEGY.—At the time of a determination under subsection (a), the Director shall develop a strategy to safely and humanely identify eligible individuals in the United States, giving priority to individuals who—

(1) have a disability or an acute medical condition;

(2) are in need of advanced medical care that cannot be obtained in their current location; or

(3) are described in section 2(d)(1).

(e) EXCEPTION.—An immigration officer, after approval from the Commissioner of U.S. Customs and Border Protection, may, on a case-by-case basis, except an alien from expulsion based on the totality of the circumstances, including consideration of significant law enforcement officer, public safety, humanitarian, and public health interests. An alien who has been excepted from expulsion under this subsection shall be processed in accordance with the immigration laws (as defined in section
1 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).