

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

Ms. SINEMA (for herself, Mr. TILLIS, Mr. MANCHIN, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

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.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TEMPORARY EXPULSION OF INADMISSIBLE AR-**  
4 **RIVING ALIENS.**

5 (a) IN GENERAL.—Notwithstanding any other provi-  
6 sion of law, during the 2-year period beginning on the date  
7 of the enactment of this Act, an immigration officer who  
8 determines that an alien who is arriving in the United  
9 States at or along the border between the United States

1 and Mexico is inadmissible under section paragraph (6)(C)  
2 or (7) of section 212(a) of the Immigration and Nation-  
3 ality Act (8 U.S.C. 1182(a)), shall, subject to sections 2  
4 and 3, process the alien for expulsion from the United  
5 States without further hearing or review.

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

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

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

13 (b) ALTERNATIVE COUNTRIES.—If the Government  
14 of Mexico is unwilling to accept an alien subject to expul-  
15 sion under section 1(a) into the territory of Mexico or if  
16 the Secretary of Homeland Security determines that ex-  
17 pulsion to Mexico would not be in the national interest  
18 of the United States, such alien shall be expelled, as di-  
19 rected by the Secretary, to—

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

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

23 (3) the country in which such alien has a resi-  
24 dence; or

1           (4) a country with a government that will ac-  
2           cept such alien into its territory if expulsion to each  
3           country described in paragraphs (1) through (3) is  
4           impracticable, inadvisable, or impossible.

5           (c) RESTRICTION ON EXPULSION TO A COUNTRY  
6 WHERE AN ALIEN WOULD BE THREATENED WITH PER-  
7 SECUTION OR TORTURE.—

8           (1) IN GENERAL.—Notwithstanding subsections  
9           (a) and (b), and except as provided in paragraph  
10          (2), the Secretary of Homeland Security may not  
11          expel an alien to a country if—

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

16                   (B) there are substantial grounds for be-  
17                   lieving that such alien would be in danger of  
18                   being subjected to torture if expelled to such  
19                   country.

20          (2) EXCEPTION.—Paragraph (1) shall not  
21          apply—

22                   (A) to an alien who is deportable under  
23                   section 237(a)(4)(D) of the Immigration and  
24                   Nationality Act (8 U.S.C. 1227(a)(4)(D)); or

1 (B) if the Secretary of Homeland Security  
2 determines that—

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

8 (ii) the alien, having been convicted by  
9 a final judgement of a particularly serious  
10 crime, is a danger to the citizens of the  
11 United States;

12 (iii) there are serious reasons to be-  
13 lieve that the alien committed a serious  
14 nonpolitical crime outside the United  
15 States before the alien arrived in the  
16 United States; or

17 (iv) there are reasonable grounds to  
18 believe that the alien is a danger to the na-  
19 tional security of the United States.

20 (3) DETERMINATIONS.—

21 (A) PARTICULARLY SERIOUS CRIME.—For  
22 purposes of paragraph (2)(B)(ii), an alien who  
23 has been convicted of an aggravated felony or  
24 felonies for which the alien has been sentenced  
25 to an aggregate term of imprisonment of not

1 less than 5 years shall be considered to have  
2 committed a particularly serious crime. Not-  
3 withstanding the previous sentence, the Sec-  
4 retary of Homeland Security may determine  
5 that an alien sentenced to an aggregate term of  
6 imprisonment of less than 5 years has been  
7 convicted of a particularly serious crime.

8 (B) DANGER TO NATIONAL SECURITY.—  
9 For purposes of paragraph (2)(B)(iv), an alien  
10 who is described in section 237(a)(4)(B) of the  
11 Immigration and Nationality Act (8 U.S.C.  
12 1227(a)(4)(B)) shall be considered to be an  
13 alien with respect to whom there are reasonable  
14 grounds for regarding as a danger to the na-  
15 tional security of the United States.

16 (4) REFERRAL TO ASYLUM OFFICER.—

17 (A) REFERRAL.—If an alien expresses to  
18 an immigration officer a fear that such alien's  
19 life or freedom would be threatened in the coun-  
20 try to which such alien will be expelled or that  
21 the alien would be in danger of being subjected  
22 to torture in such country, the immigration offi-  
23 cer shall refer the alien for an interview by an  
24 asylum officer employed in the Refugee, Asylum  
25 and International Operations Directorate of

1 U.S. Citizenship and Immigration Services for a  
2 determination pursuant to paragraphs (1) and  
3 (2).

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

11 (i) determine whether the alien has  
12 sustained the alien’s burden of proof; and

13 (ii) make credibility determinations, in  
14 the manner described in clauses (ii) and  
15 (iii) of section 208(b)(1)(B) of the Immi-  
16 gration and Nationality Act (8 U.S.C.  
17 1158(b)(1)(B)).

18 **SEC. 3. WAIVER AUTHORITY.**

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

1 day that the Office of Field Operations staff at such port  
2 are capable of—

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

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

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

11 (1) have a disability or an acute medical condi-  
12 tion;

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

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

16 (c) EXCEPTION.—An immigration officer, after ap-  
17 proval from the Commissioner of U.S. Customs and Bor-  
18 der Protection, may, on a case-by-case basis, except an  
19 alien from expulsion based on the totality of the cir-  
20 cumstances, including consideration of significant law en-  
21 forcement officer, public safety, humanitarian, and public  
22 health interests. An alien who has been excepted from ex-  
23 pulsion under this subsection shall be processed in accord-  
24 ance with the immigration laws (as defined in section

1 101(a)(17) of the Immigration and Nationality Act (8  
2 U.S.C. 1101(a)(17)).