

117TH CONGRESS
2D SESSION

S. 5350

To enact a transit ban if the order issued under sections 362 and 365 of the Public Health Service Act (42 U.S.C. 265 and 268) is terminated.

IN THE SENATE OF THE UNITED STATES

DECEMBER 21, 2022

Mr. LANKFORD introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To enact a transit ban if the order issued under sections 362 and 365 of the Public Health Service Act (42 U.S.C. 265 and 268) is terminated.

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. SHORT TITLE.**

4 This Act may be cited as the “Transit Ban Act of
5 2022”.

6 **SEC. 2. ELIGIBILITY FOR ASYLUM.**

7 (a) IN GENERAL.—Notwithstanding sections 208,
8 235, and 240 of the Immigration and Nationality Act (8
9 U.S.C. 1158, 1225, and 1229a), any alien who enters, at-
10 tempts to enter, or arrives in the United States across the

1 southern land border on or after December 21, 2022, after
2 transiting through at least 1 country outside the alien’s
3 country of citizenship, nationality, or last lawful habitual
4 residence en route to the United States, shall be ineligible
5 for asylum unless—

6 (1) the alien demonstrates that he or she—

7 (A) applied for protection from persecution
8 or torture in at least 1 country outside of the
9 alien’s country of citizenship, nationality, or
10 last lawful habitual residence through which the
11 alien transited en route to the United States;
12 and

13 (B) received a final judgment denying the
14 alien protection in such country;

15 (2) the alien demonstrates that he or she is a
16 “victim of a severe form of trafficking in persons”
17 (as defined in section 214.11 of title 8, Code of Fed-
18 eral Regulations); or

19 (3) the only countries through which the alien
20 transited en route to the United States were, at the
21 time of such transit, not parties to—

22 (A) the Convention Relating to the Status
23 of Refugees, done at Geneva July 28, 1951 (as
24 made applicable by the Protocol Relating to the

1 Status of Refugees, done at New York January
2 31, 1967 (19 UST 6223)); or

3 (B) the Convention against Torture and
4 Other Cruel, Inhuman or Degrading Treatment
5 or Punishment, done at New York December
6 10, 1984.

7 (b) NON-REFOULEMENT OBLIGATIONS.—If an asy-
8 lum officer determines that an alien has entered, at-
9 tempted to enter, or arrived in the United States along
10 its southern land border on or after December 21, 2022,
11 and does not meet the conditions set forth in paragraph
12 (1), (2), or (3) of subsection (a), the asylum officer shall—

13 (1) screen the alien to determine whether the
14 alien has a reasonable fear of persecution under the
15 Convention against Torture and Other Cruel, Inhu-
16 man or Degrading Treatment or Punishment; and

17 (2) if the asylum officer determines that such
18 alien does not have a reasonable fear of persecution,
19 enter a negative credible fear determination with re-
20 spect to the alien’s application for asylum.

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