

Summary of H.R. 2377: the “Encourage New Legalized Immigrants to Start Training Act” or “ENLIST Act”

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H.R. 2377, introduced by Representative Jeff Denham (R-CA), requires the Department of Homeland Security to grant illegal aliens green cards upon enlisting in the military as long as they: (1) have been in the country since December 31, 2011, and (2) were younger than 15 years of age when they entered the country. Upon receiving a green card, the alien who enlists is put on an expedited path to citizenship, ahead of those who came to the country legally.

THE ENLIST ACT MAKES ILLEGAL ALIENS ELIGIBLE TO ENLIST IN THE MILITARY

Under current law, only U.S. citizens, nationals, and legal permanent residents (green card holders) are considered “qualified” to enlist in the armed forces. However, the ENLIST Act would amend 10 U.S.C. § 504(b)(1)—the section of Federal law that prescribes the citizenship and residency requirements for enlistment—to allow illegal aliens to enlist in a regular component of the Army, Navy, Air Force, Marines, or Coast Guard if:

- 1) They have been continuously present in the U.S. since December 31, 2011; and
- 2) Were younger than 15 on the date they initially entered the United States.

(See H.R. 2377 §2(a))

In order to enlist, illegal aliens must also meet the requirements under current law for enlistment in a regular component of the Army, Navy, Air Force, Marine Corp, or Coast Guard. (*Id.*) This includes the requirement that the alien must be “qualified, effective, able-bodied” and between the ages of 17 and 42. (*Id.*; see 10 U.S.C. § 505 (a))

THE ENLIST ACT REQUIRES DHS TO GRANT GREEN CARDS TO ILLEGAL ALIENS WHO ENLIST

Under H.R. 2377, illegal aliens meeting the above requirements will receive a green card upon enlisting in the armed forces. In fact, H.R. 2377 affirmatively **requires** the Secretary of Homeland Security to automatically grant illegal aliens a green card simply for enlisting, regardless of the amount of time actually served in the military. (H.R. 2377 §2(a)) The Secretary of Homeland Security has no discretion to deny the green card in any circumstances.

THE ENLIST ACT ONLY REQUIRES RESCISSION OF GREEN CARDS IN LIMITED CIRCUMSTANCES

H.R. 2377 only requires the government to rescind the green card of an alien service member if the alien was separated from the military under “other than honorable conditions” before their term of enlistment ends. However, the phrase “other than honorable conditions,” it is a military term of art that refers to only one type of separation from service. In the Army, for example, a soldier may be separated from the military with the following descriptions:

- Honorable;
- General (under honorable conditions);
- Other than honorable conditions;
- Entry level status;
- Order of release from the custody and control of the Army by reason of void enlistment; or
- Separation by being dropped from the rolls.

Thus, the ENLIST Act allows aliens to walk away from the military with their green cards if they are separated under a description that is different than “other than honorable.”

THE ENLIST ACT MAKES ILLEGAL ALIENS IMMEDIATELY ELIGIBLE FOR CITIZENSHIP

Illegal aliens who receive green cards under the ENLIST Act will be immediately eligible for citizenship upon enlistment. As a general rule, Federal law requires green card holders to reside continuously in the U.S. for at least five years before they are eligible for citizenship. (See INA § 316) However, an executive order signed by President George W. Bush creates an expedited path to citizenship for aliens who are serving or have served in the armed forces, making them immediately eligible for citizenship in a time of hostilities. (See INA § 329 and Executive Order 13269)

Thus, illegal aliens who receive green cards through H.R. 2377 will be eligible for this same fast track to citizenship, as the bill specifies that it does not change the process for expedited naturalization through service in the armed forces. (H.R. 2377 §2(b)) Accordingly, illegal aliens that enlist in the armed forces under H.R. 2377 will not only be handed a green card upon enlistment, but be immediately eligible for citizenship.