



THE SENATE  
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

PUBLIC LAW NO. 14-92

SECOND SPECIAL SESSION, 2005

SENATE BILL NO. 14-88

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AN ACT

TO AMEND THE COMMONWEALTH ENTRY AND DEPORTATION ACT IN THE COMMONWEALTH CODE AS IT PERTAINS TO EXCLUDABLE ALIENS AND VOLUNTARY DEPARTURES; AND FOR OTHER PURPOSES.

**BE IT ENACTED BY THE FOURTEENTH NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE:**

1       **Section 1. Findings.** The Legislature finds that the “Excludable Aliens” provision  
2 of the Commonwealth Entry and Deportation Act, set forth at 3 CMC § 4322 does not, in its  
3 current form, expressly provide authority for the exclusion of foreign nationals who the  
4 government has reason to believe will threaten the safety or security of Commonwealth  
5 residents. The absence of such a provision makes it more likely that suspected terrorists or  
6 members of organized criminal syndicates are able to enter the Commonwealth. Nor does  
7 the current law adequately address foreign nationals who refuse to cooperate with officials  
8 pursuing criminal prosecutions. Specifically, the Legislature finds that persons often flee the  
9 Commonwealth in order to avoid criminal prosecution or to avoid an appearance as a  
10 material witness in a criminal case. Such persons routinely return to the Commonwealth and  
11 enjoy the benefits afforded by life in the islands, though they have demonstrated willingness  
12 to impair essential government functions, to thwart the interests of justice, and thus to  
13 threaten the safety and security of all Commonwealth residents. The aforementioned  
14 addendums are necessary to close the door to foreign nationals who seek refuge and

1 opportunity, but hinder the Commonwealth government and endanger the Commonwealth's  
2 citizens.

3         The Legislature finds that the "Voluntary Departure" provision of the Commonwealth  
4 Entry and Deportation Act, set forth at 3 CMC § 4343 does not, in its current form, provide  
5 an adequate penalty for foreign nationals who violate the terms of their entry, and it is  
6 therefore an impractical alternative to deportation. Specifically, the Legislature finds that  
7 persons who are offered the opportunity to voluntarily depart may immediately return to the  
8 Commonwealth without suffering any consequence beyond the cost of a plane ticket. As a  
9 result, voluntary departures are rarely considered by the Office of the Attorney General and  
10 immigration officials as a practical option. On the other hand, a deportation action is a costly  
11 and time-consuming procedure that permanently bars a person from the Commonwealth.  
12 Foreign nationals will usually avoid deportations at all costs, which greatly inhibits the  
13 Attorney General's ability to reach plea agreements in criminal cases involving foreign  
14 national defendants. This, in turn, has needlessly overwhelmed the prosecutor's office, the  
15 Office of the Public Defender and the Commonwealth Superior Court with cases that would  
16 typically be resolved by a non-trial disposition.

17         Accordingly, the Legislature finds that it is necessary to amend 3 CMC § 4322 and 3  
18 CMC § 4343 and that such amendments are a proper use of the Legislative power.

19         **Section 2. Amendments.** Section 4322 of Title 3 of the Commonwealth Code is  
20 hereby amended as follows:

21         "§ 4322.         Excludable Aliens.

22         The following classes of aliens are excludable from entry into the Commonwealth:

23         (a) [unchanged]

24         (b) [unchanged]

25         (c) [unchanged]

26         (d) [unchanged]

27         (e) [unchanged]

28         (f) [unchanged]

29         (g) Aliens who are not in possession of a lawfully issued passport valid for at least 60

1 90 days after the date of entry and which authorizes the holder to return to the country issuing  
2 the passport or some other country.

3 (h) Aliens who the Attorney General or her designee has determined pose a threat to  
4 the public health, safety or security of the Commonwealth.

5 (i) [unchanged]

6 (j) Aliens who have departed the Commonwealth to evade criminal prosecution after  
7 a warrant or criminal summons is issued.

8 (k) Aliens who have departed the Commonwealth to avoid the satisfaction of a  
9 summons to serve as a material witness in a criminal case.”

10 **Section 3. Amendments.** Section 4343 of Title 3 of the Commonwealth Code is  
11 hereby amended as follows:

12 “§ 4343. Voluntary Departure.

13 (a) Any time prior to actual commencement of the hearing on the order to show cause  
14 the respondent may be permitted to voluntarily depart the Commonwealth at the discretion of  
15 the Attorney General. A person so departing shall not be considered to have been deported,  
16 but may, at the discretion of the Attorney General or her duly appointed designee, be denied  
17 reentry to the Commonwealth for a period of up to ten (10) years from the date of departure  
18 and/or subjected to a fine of up to five thousand dollars (\$5,000), the amount of the fine and  
19 the length of time to be determined based on:

- 20 (1) The length of time the alien is without legal status if the alien is deportable  
21 pursuant to 3 CMC §§ 4340 (a), (c), (e), (f), (h), or (i); or  
22 (2) The severity of the offense(s) if the alien is deportable pursuant to 3 CMC  
23 § 4340 (d).

24 (b) Except under exceptional circumstances as determined in writing by the  
25 Attorney General, a voluntary departure shall not be provided if:

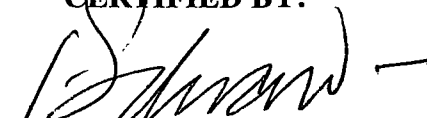
- 26 (1) The alien has been convicted of any crime involving violence; or  
27 (2) The alien has two or more convictions of Driving Under the Influence of  
28 Drugs or Alcohol; or  
29 (3) The alien is deportable pursuant to 3 CMC §§ 4340 (b), or (g).”

1           **Section 4. Severability.** If any provision of this Act or the application of any such  
2 provision to any person or circumstance should be held invalid by a court of competent  
3 jurisdiction, the remainder of this Act or the application of its provisions to persons or  
4 circumstances other than those to which it is held invalid shall not be affected thereby.


5           **Section 5. Savings Clause.** This Act and any repealer contained herein shall not be  
6 construed as affecting any existing right acquired under contract or acquired under statutes  
7 repealed or under any rule, regulation or order adopted under the statutes. Repealers  
8 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.  
9 The enactment of the Act shall not have the effect of terminating, or in any way modifying,  
10 any liability, civil or criminal, which shall already be in existence on the date this Act  
11 becomes effective.

12           **Section 6. Effective Date.** This Act shall take effect upon its approval by the  
13 Governor or becoming law without such approval.


**CERTIFIED BY:**

  
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**JOAQUIN G. ADRIANO**  
President of the Senate

**ATTESTED BY:**

  
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**JOSEPH M. MENDIOLA**  
Senate Legislative Secretary

*Approved* this *14<sup>th</sup>* day of *October*, 2005

  
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**JUAN N. BABAUTA**  
Governor  
Commonwealth of the Northern Mariana Islands