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To amend the Immigration and Nationality Act to render inadmissible and deportable certain aliens convicted of drunk driving, and for other purposes. (Introduced in House)

HR 373 IH

111th CONGRESS

1st Session

H. R. 373

To amend the Immigration and Nationality Act to render inadmissible and deportable certain aliens convicted of drunk driving, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES**January 9, 2009**

Mr. FLAKE introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to render inadmissible and deportable certain aliens convicted of drunk driving, 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. INCREASED CRIMINAL PENALTIES RELATED TO DRUNK DRIVING.

(a) Inadmissibility- Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended--

- (1) by redesignating subparagraph (F) as subparagraph (J); and
- (2) by inserting after subparagraph (E) the following:

`(F) DRUNK DRIVERS- Any alien who has been convicted of 3 offenses for driving under the influence and at least 1 of the offenses is a felony under Federal or State law, for which the alien was sentenced to more than 1 year imprisonment, is inadmissible.'

(b) Deportability- Section 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

`(F) DRUNK DRIVERS- Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who has been convicted of 3 offenses for driving under the influence and at least 1 of the offenses is a felony under Federal or State law, for which the alien was sentenced to more than 1 year imprisonment, is deportable.'

(c) Judicial Advisal-

- (1) IN GENERAL- A court shall not accept a guilty plea for driving under the influence unless the court has administered to the defendant, on the record, the following advisal:

`If you are not a citizen of the United States, you are advised that conviction for driving under the influence, including conviction by entry of any plea, even if the conviction is later expunged, may result in deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United

States.'

(2) FAILURE TO ADVISE- Upon request, the court shall allow the defendant a reasonable amount of additional time to consider the appropriateness of the plea in light of the advisement set out in paragraph (1). If the court fails to advise the defendant in accordance with paragraph (1) and the defendant shows that conviction of the offense to which the defendant pleaded guilty may result in the defendant's deportation, exclusion from the United States, or denial of naturalization pursuant to the laws of the United States, the court, upon a motion by the defendant, shall vacate the judgment and permit the defendant to withdraw the plea and enter a plea of not guilty. If the record does not show that the court provided the required advisement, it shall be presumed that the defendant did not receive the advisement. The defendant shall not be required to disclose his or her immigration status at any time.

(d) Conforming Amendment- Section 212(h) of such Act (8 U.S.C. 1182(h)) is amended--

(1) in the subsection heading, by striking `Subsection (a)(2)(A)(i)(I), (II), (B), (D), AND (E)' and inserting `Certain Provisions in Subsection (a)(2)'; and

(2) in the matter preceding paragraph (1), by striking `and (E)' and inserting `(E), and (F)'.

(e) Effective Date- The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to convictions entered on or after such date.

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