

MAJOR PROVISIONS OF HR 4437

The following is a summary of the major provisions of H.R. 4437, the Border Protection, Anti-Terrorism, and Illegal Immigration Control Act of 2005. The legislation passed the House of Representatives 239-182 on Friday, December 16, 2005.

- “Unlawful presence” would now be considered a crime and a felony, meaning that undocumented immigrants may have to serve jail time and would be barred from future legal status and from re-entry into the country.
- Immigrants, including asylum-seekers, victims of human trafficking, victims of domestic abuse, and children who are apprehended along an international border or at a port-of-entry would be detained until such time as they are removed from the nation or otherwise provided immigration relief.
- Anyone or any organization who “assists” an individual without documentation “to reside in or remain” in the United States knowingly or with “reckless disregard” as to the individual’s legal status would be liable for criminal penalties and five years in prison. This could include church personnel who provide shelter or other basic needs assistance to an undocumented individual. Property used in this act would be subject to seizure and forfeiture.
- The use of expedited removal, which would permit DHS enforcement personnel to remove a potential asylum-seeker without providing an opportunity to appear before an immigration judge or qualified adjudicator, would be mandated within 100 miles of the border and within 14 days of a person’s entry into the country.
- The Department of Homeland Security (DHS) would be required to erect up to 700 miles of fencing along the Southwest border at points with the highest number of immigrant deaths.
- State and local law enforcement are authorized to enforce federal immigration laws. State and local governments which refuse to participate would be subject to the loss of federal funding.
- Asylum seekers and refugees who are convicted of a minor offense, such as petty theft, would be barred from permanent legal residence and eventual citizenship.
- Document fraud would be considered an aggravated felony and would subject an asylum-seeker to deportation and bars to re-entry.
- Nationals from countries who do not accept the return of aliens who commit crimes in this country would not be admitted to the United States. This would include countries such as China, Vietnam, and Cuba.
- DHS would be given the authority to continue to detain individuals who have served their sentences based upon a determination that they are a “dangerous alien,” contrary to Supreme Court rulings barring indefinite detention.
- The diversity visa lottery program, which allows 50,000 immigrants each year from countries around the world to permanently reside in the United States, is eliminated.