

AMENDMENT TO 117-54

OFFERED BY MS. PLASKETT OF VIRGIN ISLANDS

Add at the end of title LII of division E the following new section:

1 **SEC. 52** ____ . **ADDITION OF VIRGIN ISLANDS VISA WAIVER TO**
2 **GUAM AND NORTHERN MARIANA ISLANDS**
3 **VISA WAIVER.**

4 (a) IN GENERAL.—Section 212(l) of the Immigration
5 and Nationality Act (8 U.S.C. 1182(l)) is amended to read
6 as follows:

7 “(l) GUAM AND NORTHERN MARIANA ISLANDS VISA
8 WAIVER PROGRAM; VIRGIN ISLANDS VISA WAIVER PRO-
9 GRAM.—

10 “(1) IN GENERAL.—The requirement of sub-
11 section (a)(7)(B)(i) may be waived by the Secretary
12 of Homeland Security, in the case of an alien apply-
13 ing for admission as a nonimmigrant visitor for busi-
14 ness or pleasure and solely for entry into and stay
15 in Guam or the Commonwealth of the Northern
16 Mariana Islands, or the Virgin Islands of the United
17 States, for a period not to exceed 45 days, if the
18 Secretary of Homeland Security, after consultation
19 with the Secretary of the Interior, the Secretary of

1 State, and the Governor of Guam and the Governor
2 of the Commonwealth of the Northern Mariana Is-
3 lands, or the Governor of the Virgin Islands of the
4 United States, as the case may be, determines
5 that—

6 “(A) an adequate arrival and departure
7 control system has been developed in Guam and
8 the Commonwealth of the Northern Mariana Is-
9 lands, or the Virgin Islands of the United
10 States; and

11 “(B) such a waiver does not represent a
12 threat to the welfare, safety, or security of the
13 United States or its territories and common-
14 wealths.

15 “(2) ALIEN WAIVER OF RIGHTS.—An alien may
16 not be provided a waiver under this subsection un-
17 less the alien has waived any right—

18 “(A) to review or appeal under this Act an
19 immigration officer’s determination as to the
20 admissibility of the alien at the port of entry
21 into Guam or the Commonwealth of the North-
22 ern Mariana Islands, or the Virgin Islands of
23 the United States; or

24 “(B) to contest, other than on the basis of
25 an application for withholding of removal under

1 section 241(b)(3) of this Act or under the Con-
2 vention Against Torture, or an application for
3 asylum if permitted under section 208 of this
4 Act, any action for removal of the alien.

5 “(3) REGULATIONS.—All necessary regulations
6 to implement this subsection shall be promulgated
7 by the Secretary of Homeland Security, in consulta-
8 tion with the Secretary of the Interior and the Sec-
9 retary of State. The promulgation of such regula-
10 tions shall be considered a foreign affairs function
11 for purposes of section 553(a) of title 5, United
12 States Code. At a minimum, such regulations should
13 include, but not necessarily be limited to—

14 “(A) a listing of all countries whose na-
15 tionals may obtain the waivers provided by this
16 subsection; and

17 “(B) any bonding requirements for nation-
18 als of some or all of those countries who may
19 present an increased risk of overstays or other
20 potential problems, if different from such re-
21 quirements otherwise provided by law for non-
22 immigrant visitors.

23 “(4) FACTORS.—In determining whether to
24 grant or continue providing the waiver under this
25 subsection to nationals of any country, the Secretary

1 of Homeland Security, in consultation with the Sec-
2 retary of the Interior and the Secretary of State,
3 shall consider all factors that the Secretary deems
4 relevant, including electronic travel authorizations,
5 procedures for reporting lost and stolen passports,
6 repatriation of aliens, rates of refusal for non-
7 immigrant visitor visas, overstays, exit systems, and
8 information exchange.

9 “(5) SUSPENSION.—The Secretary of Home-
10 land Security shall monitor the admission of non-
11 immigrant visitors to Guam and the Commonwealth
12 of the Northern Mariana Islands, and the Virgin Is-
13 lands of the United States, under this subsection. If
14 the Secretary determines that such admissions have
15 resulted in an unacceptable number of visitors from
16 a country remaining unlawfully in Guam or the
17 Commonwealth of the Northern Mariana Islands, or
18 the Virgin Islands of the United States, unlawfully
19 obtaining entry to other parts of the United States,
20 or seeking withholding of removal or asylum, or that
21 visitors from a country pose a risk to law enforce-
22 ment or security interests of Guam or the Common-
23 wealth of the Northern Mariana Islands, or of the
24 Virgin Islands of the United States, or of the United
25 States (including the interest in the enforcement of

1 the immigration laws of the United States), the Sec-
2 retary shall suspend the admission of nationals of
3 such country under this subsection. The Secretary of
4 Homeland Security may in the Secretary's discretion
5 suspend the Guam and Northern Mariana Islands
6 visa waiver program, or the Virgin Islands visa waiv-
7 er program, at any time, on a country-by-country
8 basis, for other good cause.

9 “(6) ADDITION OF COUNTRIES.—The Governor
10 of Guam and the Governor of the Commonwealth of
11 the Northern Mariana Islands, or the Governor of
12 the Virgin Islands of the United States, may request
13 the Secretary of the Interior and the Secretary of
14 Homeland Security to add a particular country to
15 the list of countries whose nationals may obtain the
16 waiver provided by this subsection, and the Sec-
17 retary of Homeland Security may grant such request
18 after consultation with the Secretary of the Interior
19 and the Secretary of State, and may promulgate reg-
20 ulations with respect to the inclusion of that country
21 and any special requirements the Secretary of
22 Homeland Security, in the Secretary's sole discre-
23 tion, may impose prior to allowing nationals of that
24 country to obtain the waiver provided by this sub-
25 section.”.

1 (b) REGULATIONS DEADLINE.—Not later than one
2 year after the date of enactment of this Act, the Secretary
3 of Homeland Security, in consultation with the Secretary
4 of the Interior and the Secretary of State, shall promul-
5 gate any necessary regulations to implement the waiver
6 provided in the amendment made by subsection (a) for the
7 Virgin Islands of the United States.

8 (c) WAIVER COUNTRIES.—The regulations described
9 in subsection (b) shall include a listing of all member or
10 associate member countries of the Caribbean Community
11 whose nationals may obtain, on a country-by-country
12 basis, the waiver provided by this section, except that such
13 regulations shall not provide for a listing of any country
14 if the Secretary of Homeland Security determines that
15 such country’s inclusion on such list would represent a
16 threat to the welfare, safety, or security of the United
17 States or its territories and commonwealths, or would in-
18 crease fraud or abuse of the nonimmigrant visa system.

19 (d) CONFORMING AMENDMENTS.—

20 (1) DOCUMENTATION REQUIREMENTS.—Section
21 212(a)(7)(B)(iii) of the Immigration and Nationality
22 Act (8 U.S.C. 1182(a)(7)(B)(iii)) is amended to
23 read as follows:

24 “(iii) SPECIAL VISA WAIVER PRO-
25 GRAMS.—For a provision authorizing waiv-

1 er of clause (i) in the case of visitors to
2 Guam or the Commonwealth of the North-
3 ern Mariana Islands, or the Virgin Islands
4 of the United States, see subsection (l).”.

5 (2) ADMISSION OF NONIMMIGRANTS.—Section
6 214(a)(1) of such Act (8 U.S.C. 1184(a)(1)) is
7 amended by striking “Guam or the Commonwealth
8 of the Northern Mariana Islands” each place such
9 term appears and inserting “Guam or the Common-
10 wealth of the Northern Mariana Islands, or the Vir-
11 gin Islands of the United States”.

12 (e) FEES.—The Secretary of Homeland Security
13 shall establish an administrative processing fee to be
14 charged and collected from individuals seeking to enter the
15 Virgin Islands of the United States in accordance with sec-
16 tion 212(l) of the Immigration and Nationality Act (8
17 U.S.C. 1182(l)), as amended by this Act. Such fee shall
18 be set at a level that will ensure recovery of the full costs
19 of such processing and any additional costs associated
20 with the administration of the fees collected.

