

# American Immigration Lawyers Association

## Press Release

For Immediate Release:  
February 11, 2005

Contact:  
Julia Hendrix  
(202) 216-2404  
jhendrix@aila.org

### **A SAD DAY FOR AMERICA**

**H.R. 418 is Fatally Flawed: The Senate Needs to Repudiate It and Focus on Comprehensive Immigration Reform**

Washington, D.C. The House of Representatives today passed H.R. 418, the so-called REAL ID Act, notwithstanding many grave problems with the bill and opposition from a broad range of religious, ethnic, privacy, libertarian, and conservative groups, as well as representatives of state and local governments. We call on the Senate to repudiate this ill-conceived and deeply flawed bill and focus on initiatives that will truly make us safer and that do not gratuitously scapegoat immigrants.

The proponents of H.R. 418 sought to exploit legitimate fears and cloak their provisions in the mantle of national security, but shrill cries of wolf cannot hide the cold, hard fact that these measures will accomplish nothing in terms of safety while creating dramatic hardship for people fleeing persecution and for other non-citizens. Indeed, once the fear-mongering, posturing, and inflamed rhetoric subsides and all that is left is the plain legislative text, what H.R. 418 will accomplish is crystal clear. It will: increase the number of uninsured, unlicensed driver's on our roadways; severely limit the critical law enforcement utility of Department of Motor Vehicle databases; make it nearly impossible for people fleeing persecution to obtain refuge in the United States; undermine our fundamental commitment to free speech and association; waste valuable resources, both economic and environmental, on false border security solutions; and eliminate judicial review for many individuals challenging their detention or deportation.

Not only is H.R. 418 profoundly flawed in substance, but the process the House adopted to vote on this bill is unworthy of our democracy. For starters, none of the provisions in the bill, as it was originally introduced, were subject to committee hearings or debate and the attendant educational benefit of expert witnesses. To make matters worse, the House Rules Committee adopted for floor consideration a new and dramatically different version of the bill than the one introduced. Indeed, the revisions went far beyond the four corners of H.R. 418 and incorporated whole cloth a completely separate bill, the Citizens and Legal Immigration Act (H.R. 100). This revised bill was submitted to the Committee after the deadline for amendments, thereby depriving most Representatives of an opportunity to fully review the bill before casting their vote and denying all Representatives an opportunity to offer amendments.

Unless the Senate rejects this brazen attempt to by-pass the substantive deliberations that are a hallmark of our legislative process and prevents this dangerous bill from becoming law, these measures will:

Harm Victims of Persecution: Asylum applicants already undergo more extensive security checks than any other foreign nationals who come to this country. Terrorists and others who pose a

danger to our security already are ineligible for asylum. While H.R. 418 would do nothing to make us safer, it would deny asylum to legitimate applicants who cannot prove the central motive of their persecutor, who cannot produce corroborating evidence of their account, who provide inconsistent testimony on minor facts irrelevant to their claim, or whose demeanor is inconsistent with an immigration judge's preconceived expectations. Proving motive already is a difficult exercise for many individuals fleeing persecution. To require them to establish the centrality of one motive above potentially several motives would impose a nearly insurmountable standard of proof. Importantly, people fleeing persecution often lack the opportunity and the ability to secure the legal evidence needed to corroborate their claims. Moreover, the demeanor of torture survivors repeatedly has been found to be a poor indicator of credibility because the effects of the trauma often leave them with a dull or flat affect.

Undermine Our Security, While Making Our Roads Less Safe: The intelligence reform bill that Congress passed last year addressed the concerns raised by the 9/11 Commission regarding driver's licenses and identity documents. H.R. 418 does not. In fact, it goes well beyond the Commission's recommendations by restricting immigrants' access to licenses. Such a linkage would undermine, not enhance, national security by pushing people deeper into the shadows and fueling a black market in false documents. Moreover, it would severely diminish the law enforcement utility of Department of Motor Vehicles databases by reducing, rather than expanding, government data about individuals in this country.

Impose Guilt by Association: H.R. 418 would permit the deportation of non-citizens who are members of or support any political organization that has used or threatened to use, violence, even if the organization has not been designated as a "foreign terrorist organization." This provision is unnecessary and likely unconstitutional. The bill would make entirely legal donations, even those made decades ago, a ground of deportation if the organization that received the donation is later deemed to meet the definition of a terrorist organization (whether or not the organization is added to the government's terrorist list). By imposing guilt by association, H.R. 418 confounds our basic understanding of liberty and could subject long-term, lawful residents to deportation for activity that was lawful when undertaken.

Restrict Habeas Corpus Review for the First Time Since the Civil War: H.R. 418 incorporated without debate or opportunity for amendment another bill introduced this session by Representative Sensenbrenner and Representative Dreier, the Citizens and Legal Immigration Act (H.R. 100). That bill restricts for the first time since the Civil War all judicial review, including habeas review, for many individuals with legitimate challenges to their orders of detention or deportation. Worse still, for those individuals who retain a right to judicial review in the federal courts, this bill would eliminate such courts' ability to temporarily prevent deportations while the case is under review. That means individuals appealing their denial of asylum could be returned to their persecutors before their legal proceedings have concluded.

AILA support real efforts that enhance our security and urges Congress not to be diverted by false solutions that use our concern about security to implement other agendas. We call on the Senate to squarely face the issue about how best to enhance our security and reform our immigration system so that dysfunction is replaced with a system that is worthy of our traditions, reunites families, serves American business, and enhances our security.

###

*Founded in 1946, AILA is a nonpartisan, nonprofit organization that provides its Members with continuing legal education, information, and professional services. AILA advocates before Congress and the Administration and provides liaison with the DHS and other government agencies. AILA is an Affiliated Organization of the American Bar Association.*

American Immigration Lawyers Association  
918 F Street, N.W.  
Washington, D.C. 20004  
(202) 216-2400 Phone  
(202) 783-7853 Fax  
[www.aila.org](http://www.aila.org)

28pr5004