

3 and 10 Year Bars to Entry

A foreign national in the US in a temporary status (not green card holders) who remains in the US beyond the authorized period of stay (usually listed on the white I-94 card, not the Visa), may be prevented from reentering the US. As of April 1, 1997, a foreign national who remains in the US for more than 180 days after the expiration date on his/her I-94 card, who then leaves the US, including brief trips to Canada or Mexico, is prevented, also called "barred," from coming back to the US for three years. Children under the age of 18 are exempt from this penalty.

A foreign national who remains in the US for more than 364 days, after the expiration date on his/her I-94 card, and then leaves the US, will be barred from coming back to the US for 10 years. Children under the age of 18 are exempt from this penalty.

These bars to reentering the US apply even if the foreign national is able to secure a Visa from a US Consulate. However, these do not apply if the foreign national has an application for Adjustment of Status pending, and he/she received an Advance Parole document from the US Citizenship and Immigration Services to travel internationally. In very limited circumstances, a formal waiver of the three or ten year bar may be obtained.

A foreign national who continues to stay in the US beyond the period authorized on his/her I-94 card, who continues to enter and leave the US, and gathers a total of 365 days in the US out of status (a repeat abuser) is permanently barred from reentering the US. There is no waiver allowed for the permanent bar. Children under the age of 18 are not exempt from this penalty.

Special Visa Penalty (Also Called 222(g))

In addition to other penalties, if a foreign national with a temporary Visa remains in the US beyond the period of his/her I-94 card, his/her visa will be automatically cancelled by operation of law. Moreover, the foreign national would be required to leave the US and apply for a new Visa only at the consulate in his/her home country. From that time forward, all temporary US Visa applications would have to be applied for only at the consulate in the country of his/her nationality.



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Immigration Law Areas of Practice

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- Commuter Green Cards
- EB-5 Immigrant Investor Program
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