

# Stay Current.

April 2004

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### **Important H-1B and L-1 Visa Legislation Introduced in the House of Representatives**

Lamar Smith (R-TX) has introduced the American Workforce Improvement and Jobs Protection Act, which contains important provisions affecting the H-1B and L-1 visa classifications. The bill would exempt each year, from the H-1B cap, up to 20,000 graduates of U.S. universities who have earned a Master's or higher degree. The bill would reinstate the \$1,000 "education and training" filing fee for H-1B petitions, and would add a new \$500 "fraud detection and prevention" fee for both H-1B and L-1 petitions/applications.

The Smith bill also incorporates language identical to the L-1 Visa Reform bill introduced in the Senate last year by Senator Chambliss (R-GA), who chairs the Senate immigration and border security subcommittee (see Immigration Newsflash dated September 2003). These L-1 visa provisions prohibit placement of L-1 visa holders at the work site of an unrelated employer if the L-1 visa holder will be controlled by the unrelated employer, or if the placement is, in essence, a contract labor arrangement, which does not involve the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary. The bill would also require all L-1 visa applicants to have been employed for at least 12 months by the company abroad. Under current law, applicants pursuant to a Blanket L petition are eligible for L-1 status with only six months of prior employment abroad.

### **Machine Readable Passports - Update**

The Department of Homeland Security (DHS) and the Department of State announced Friday that the Bush Administration has asked Congress to pass legislation that would extend for two years the October 26, 2004 deadline for Visa Waiver Program (VWP) countries to have a program for issuing machine-readable passports that include biometric identifiers. Under the existing rules, any passport issued on or after that date must include those features if its bearer wishes to enter the United States through the VWP. The Administration's request was prompted by the inability of most VWP countries, for technology-related reasons, to meet the October 2004 deadline. It is not certain how Congress will respond to this request, however, and persons who are nationals of VWP countries and who anticipate entering the United States through the VWP should consider renewing their passports in advance of October 26, 2004.

### **US-VISIT Program Extended**

In light of the Administration's above request, DHS announced that it will extend US-VISIT program requirements to visitors traveling under the VWP.

Currently, US-VISIT requires that most foreign visitors traveling to the U.S. on a non-immigrant visa and arriving at an air or sea port have their two index fingers scanned and a digital photograph taken to verify identity. By September 30, 2004, this process will also apply to visitors traveling under the VWP at all air and sea ports of entry. It will soon be expanded to land ports of entry as well. The proposal does not seem to impact the rules governing entry by Canadians. Mexicans entering the United States with a Border Crossing Card (BCC) are not subject to US-VISIT program requirements.

The following 27 countries are currently in the VWP: Andorra, Austria, Australia, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom (for citizens with the unrestricted right of permanent abode in England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man).

## Register Now for April 21 Seminar on Global Employment and Immigration Issues

Featuring speakers from the Department of Homeland Security, Capitol Hill, Paul Hastings, and globally-active companies.

April 21, 2004 8:00 am to 5:00 pm The Grand Hyatt New York New York, NY

To register, visit [www.paulhastings.com/seminar](http://www.paulhastings.com/seminar). Please direct questions to Clara Rodriguez at (212) 318-6036 or via email at [clararodriguez@paulhastings.com](mailto:clararodriguez@paulhastings.com).

This timely seminar, sponsored by the Global Personnel Alliance (GPA)\*, will provide vital updates from key experts in the government and the private sector. Seminar topics will include:

- *Controversial L-1 legislation*
- *The H-1B cap and what the future portends*
- *I-9 compliance in the current enforcement environment*
- *Immigration and employment law issues with transferring personnel around the world*
- *Multinational employment and benefits issues*
- *Overview of U.S. and foreign visas*
- *Best practices utilized by internationally-active companies to deal with global employment and immigration issues*

Speakers will include:

- *Bill Yates*, Associate Director for Operations, USCIS, Dept. of Homeland Security
- *Ania Przybylski Kleczek*, Chief, Adjudications Law Division, Office of the Principal Legal Advisor for Citizenship and Immigration Services, U.S. Department of Homeland Security
- *Joe Jacquot*, Majority Chief Counsel, U.S. Senate Subcommittee on Immigration, Border Security and Citizenship
- *Theresa Brown*, Director of Immigration Policy, U.S. Chamber of Commerce
- *Bo Cooper*, past General Counsel, Immigration and Naturalization Service, and now with Paul Hastings
- *Daryl Buffenstein*, past national President and former General Counsel, American Immigration Lawyers Association; and co-Chair of the Paul Hastings immigration practice
- *Anna Amato*, Immigration Manager, Visas and Immigration, The Coca-Cola Company
- *Nutan Sinha*, Immigration Administrator, Capital One Services, Inc.
- *Lydia Tamez*, Associate General Counsel, Microsoft Corporation

- *Jonathan Ware*, Senior Attorney, Delta Air Lines, Inc.
- *Jamie Zablaway*, Senior Immigration Consultant, America Online, Inc.

This seminar is presented by the Global Personnel Alliance (GPA) and is co-sponsored by Paul Hastings. The fee is \$275 per company, and multiple attendees from each company are welcome. The seminar is being held in conjunction with the Paul Hastings Employment Law Seminar the following day on April 22, also at the Grand Hyatt in NY. Persons registered for the Global Employment and Immigration Issues seminar may also attend the April 22 Seminar at no additional cost. MCLE credit for both seminars has been approved for New York, CA and GA.

*\* The Global Personnel Alliance (GPA) is a forum for diverse, internationally-active companies and business organizations interested in global personnel mobility and related legal concerns. The alliance provides companies with the opportunity to share information regarding international personnel issues and policies. GPA also formulates positions and represents the interests of its members on these matters. An area of particular interest is the impact of immigration law and policy on trade and investment.*

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*Our business is to apply legal knowledge*

*that lets you maintain yours.*

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