

9 FAM 40.104 UNLAWFUL VOTERS

*(CT:VISA-1334; 10-05-2009)
(Office of Origin: CA/VO/L/R)*

9 FAM 40.104 RELATED STATUTORY PROVISIONS

(CT:VISA-1334; 10-05-2009)

See INA 212(a)(10)(D) (8 U.S.C. 1182(a)(10)(D)) and INA 237(a)(6) (8 U.S.C. 1227(a)(6)).

INA 212(A)(10)(D)

(10) Miscellaneous

(D) Unlawful Voters

(i) In general

Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is inadmissible.

(ii) Exception

In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such violation.

INA 237(a)(6)

a. Classes of Deportable Aliens.-Any alien (including an alien crewman) in

and admitted to the United States shall, upon the order of the Attorney General, be removed if the alien is within one or more of the following classes of deportable aliens:

(i) In general

Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is inadmissible.

(ii) Exception

In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such violation.

Amended by Sec. 201(c)(1), Child Citizenship Act of 2000, Public Law No. 106-395, 114 Stat. 1361.

9 FAM 40.104 RELATED REGULATORY PROVISIONS

(CT:VISA-1334; 10-05-2009)

See 22 CFR 40.104.

§ 40.104 Unlawful voters.

(a) Subject to paragraph (b) of this section, an alien is ineligible for a visa if the alien has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation.

(b) Such alien shall not be considered to be ineligible under paragraph (a) of this section if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably

believed at the time of such violation that he or she was a citizen.

70 FR 35526, (6/21/05) (interim) and 73 FR 34519 (6/15/06)(final).