



Fact check: House bill does not grant amnesty to immigrants illegally in U.S.

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The claim: HEROES Act would grant immigrants here illegally amnesty

Democrats introduced the Health and Economic Recovery Omnibus Emergency Solutions Act, known as the HEROES Act, on May 12. The \$3 trillion bill proposes increasing unemployment aid, food stamps and small business emergency grants through the COVID-19 pandemic and the economic downfall to follow it.

Many Republicans said the bill came too soon after the \$2.4 trillion CARES Act and unnecessarily adds to the national debt.

The bill, which narrowly passed in the House on May 15, is expected to fail in the Senate. In a meeting on May 13, President Donald Trump told reporters the HEROES Act was “dead on arrival.”

Groups seeking tighter immigration restrictions have criticized the HEROES Act for its Title XII, which includes temporary immigration measures.

The bill would allow workers who are in the country illegally and working in jobs the local government deems “essential critical infrastructure” to pursue protections that expire 90 days after the public health emergency terminates.

Some critics, including nonprofit NumbersUSA, which advocates for “lower immigration levels” and Fox News’ Tucker Carlson, have labeled the policy an amnesty. Other popular memes have circulated the same idea.

“This is a blanket amnesty for virtually every illegal alien who has already taken an American job, and once this amnesty is granted, it will never be taken away,” Carlson said during his May 12 show.

But are 90-day protections really amnesty?

HEROES Act temporarily protects essential workers

The HEROES Act protects workers who are in the U.S. illegally and working in industries that local government deems essential critical infrastructure, as well as their employers.

These workers would be shielded from deportation and eligible for federal stimulus funds, for which they are ineligible under the CARES Act.

The bill's protections, which expire 90 days after the public health emergency ends, are only available for essential workers who are already in the United States.

The bill defines "essential critical infrastructure labor or services" based on the Department of Homeland Security's April 17 memo: "The industries they support represent, but are not limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works."

The DHS memo is intended as guidance to help local jurisdictions decide which industries must continue operating to ensure critical functions in their localities.

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Defining 'amnesty'

Yale Law School reports Black's Law Dictionary is the most frequently used U.S. legal dictionary. It defines amnesty as "a pardon extended by the government to a group or class of persons, usually for a political offense" and "the act of a sovereign power officially forgiving certain classes of persons who are subject to trial but have not yet been convicted."

In its definition of "pardon," Black's looks at "pardon" versus "amnesty" and further states: "(Amnesty) denotes an act of grace, extended by the government to all persons who may come within its terms, and which obliterates the criminality of past acts done, and declares that they shall not be treated as punishable."

The Legal Information Institute at Cornell Law School defines "amnesty" as a pardon for violating immigration policy that leads to permanent residence and lawful employment. "Immigration amnesty would include the government forgiving individuals for using false documentation to gain employment in the U.S. and to remain in the country, and would allow illegal immigrants or undocumented aliens to gain permanent residency in the United States," the Legal Information Institute states.

"The forgetting is total and absolute, not merely the resolution of a charge but its legal effacement," Yale Law School professor Muneer Ahmad wrote in his 2017 paper for Harvard Civil Rights-Civil Liberties Law Review.

By traditional definitions, the HEROES Act does not grant amnesty because it does not allow immigrant workers here illegally to stay permanently in the country and does not pardon them from future penalties.

However, immigration politics has made amnesty a loaded word.

Libertarian think tank the Cato Institute says opponents of immigration reform have been incorrectly labeling policies "amnesties" for years.

"In common terminology, an amnesty is a general forgiveness for past offenses," the Cato Institute wrote in 2013. "Calling immigration reform amnesty brands it with a scarlet letter in the minds of many who are skeptical of reform."

Ahmad described the term as a familiar "conservative dog whistle to demonize and criminalize immigrants." His 2017 paper explored how immigration reform proponents have avoided the term and those looking to reduce immigration have used the term for decades.

"That Carlson and others are now characterizing the HEROES Act as an amnesty is unsurprising," Ahmad told USA TODAY. "They have called DACA, Temporary Protected Status, and other temporary forms of relief from deportation 'amnesty.'"

"Tucker Carlson Tonight" did not reply to USA Today's request for comment.

NumbersUSA Deputy Director Chris Chmielenski told USA TODAY that NumbersUSA is aware that its use of "amnesty" differs from other definitions, but it still considers the policy an amnesty.

"The HEROES Act authorizes individuals illegally present and working in certain occupations to stay and work for a period of time, therefore we consider it an amnesty," he said.

Our ruling: Partly false

We rate the claim that House Resolution 6800, known as the HEROES Act, would grant amnesty to immigrants in the U.S. illegally as PARTLY FALSE because some of it was not supported by our research.

It is true that the bill contains some protection for those immigrants in the U.S. illegally and who are working in essential critical industries. But it is misleading to call that protection "amnesty." The HEROES Act's temporary protections for certain essential critical workers do not fit widely accepted legal definitions of "amnesty."

Our fact-check sources:

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