

The ABC'S Of Immigration: C Visas for Aliens in Transit Through the US and D Visas for Crewmembers

by Gregory Siskind

What is a C Visa?

The C visa category is reserved for aliens who are passing through the US on their way to another country. To obtain a C visa, the person must demonstrate that they will be in "immediate and continuous transit through the US." C visas are available in four general categories:

- o General — merely passing through the US
- o TWOV transit — Transit without visa; under agreements with transportation lines, aliens from certain countries can transit through the US without fulfilling documentary requirements. Entry must be made at a designated international airport, and a person's stay in the US is limited to eight hours.
- o Transit to UN Headquarters — certain people involved in the UN can travel to the UN
- o Foreign government officials — must be passing through the US to another country

How long can I stay in the country with a C visa?

The maximum length of a C visa is 29 days. Applicants must meet all of the standard nonimmigrant requirements, plus they must prove the following:

- o Their only purpose in coming to the US is to pass through in transit
- o They have a ticket or other means to reach their final destination
- o They have sufficient funds to reach their final destination
- o They have permission to enter the country in which their final destination is located, if such permission is needed

What restrictions come with holding a C visa?

Entering the US on a transit visa is not considered an official entry into the US. C visa holders cannot change status in the US, except to that of an employee or official of a foreign government or international organization. Aliens in transit cannot work, and they cannot seek any extensions of stay.

What is a D visa?

D visas are reserved to crewmembers, which includes workers on both ships and airplanes. A crewmember must be part of the regular functioning of the vessel. Family members cannot get derivative status.

What restrictions come with holding a D visa?

Since 1990, D visa holders have been specifically prohibited from performing longshoreman work, except in a few limited cases. They are, however, allowed to load and unload hazardous materials. If their country of origin has an agreement allowing US

crewmembers to do longshoreman work, the D visa holder can. If the area longshoremen's union has a collective bargaining agreement allowing alien crewmembers to perform such work, it is allowed. Also, where there is no such agreement, the employer can attest to the prevailing practice of allowing alien crewmembers to do such work.

The person in charge of the vessel must present to USCIS at docking a crew list showing the names of all crewmembers, their position on the ship, and whether they will be discharged at that port. Vessels working solely within the Great Lakes do not need to fulfill this obligation, except for crewmembers who are not US, Canadian, or British citizens. When the vessel prepares to leave, it must present a list documenting any changes in the crewmembers. If there have been no changes, a statement to that effect should be submitted.

Before an alien crewmember can be allowed to leave the vessel, they must be inspected by USCIS. Operators are subject to serious penalties if they fail to fulfill this requirement. Even after the inspection, the crewmember cannot leave unless they are given a conditional landing permit. Again, the operator is subject to harsh penalties if this rule is not followed. The crewmember has no right to appeal the denial of shore leave.

As a general rule, crewmembers are not allowed to extend their stay or change their status. However, crewmembers who, because of unforeseen circumstances are not able to leave with their vessel, can change to another crewmember visa that will allow them to leave with another vessel. Crewmembers are not eligible to seek relief from a deportation order, and are not allowed to apply for adjustment of status except under section 245(i). http://www.exchanges.state.gov/education/jexchanges/designated_sponsors.pdf. article.I-485.

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