

San Antonio Express News

Mexicans facing reduced U.S. visa limits

By David Hendricks - Express-News
04/09/2010

For Mexicans seeking refuge in the United States from crime-related violence in their own country and for many Mexicans already here, there's a new hurdle.

The State Department quietly changed its policy recently on many of its visas for Mexicans — mostly those who own or want to own businesses and houses here and who do not intend to immigrate.

It reduced the amount of time those visas are valid from the three to five years that had been common to just one year.

San Antonio immigration lawyer Nancy Shivers of the Shivers & Shivers law firm said the policy change, which caught immigration lawyers by surprise, applies to applications filed on or after Feb. 22.

“I found out about this when a client applied in March for a renewal of his E-2 visa that had been issued previously for five years,” Shivers said. “The client's investment (in a U.S. business) has increased significantly, and I anticipated he would be issued a five-year E-2 visa. The client was told by the U.S. consul that the visa was being issued for only one year and that it was a new policy.

“He couldn't believe it. He said he wanted to apply for an immigrant visa.”

She added that other immigration lawyers have called her, thinking the one-year visas their clients received were a mistake.

The change in policy applies both to Mexicans seeking to come to the United States and to Mexicans already in the United States and seeking visa renewals.

Lawyers say the new policy increases hassles, as Mexicans already in the U.S. will have to visit a U.S. consulate in Mexico each year to renew their visas.

It also increases the risk of denials and adds uncertainty for Mexicans about how long they can stay in the U.S.

Mexicans in the United States on E-1 and E-2 visas, which require putting their investment money at risk in U.S. businesses, will have to prove each year that their

businesses are viable, said immigration lawyer John Meyer. New businesses often lose money the first year or two because of start-up costs, but can turn profitable in later years.

“There will be a higher risk of being denied,” said Meyer, partner in the Houston-based FosterQuan firm that operates a San Antonio office.

One wary visa holder agrees.

“I believe for sure this is going to make it harder to start up a business. We know that a new business takes at least three years to break even,” said one newly arrived Mexican business owner.

The man, who owns a textile manufacturing company in San Antonio, asked not to be identified for fear of jeopardizing future visa applications.

“This law seems to be focused on being more selective and to have more control over the people who obtain their visas and to avoid any attempt to reside in the United States with a different purpose than the visa specifically allows,” the man said in Spanish through an interpreter.

“They (Mexicans in the United States) are going to be upset,” Meyer said. “But the one-year limit is not going to stop Mexicans from coming. If there's a shootout down the street (in Mexico), Mexicans are not going to think, ‘Well, the United States gives visas for only one year, so I'm staying here,’” Meyer said.

Some Mexicans are switching strategies, said another San Antonio immigration lawyer, Alfredo Lozano of the Lozano Law Firm.

Instead of pursuing visas requiring large business investments, they instead are applying for visas that do not, since all of the visas are for one year anyway, Lozano said.

“If the business climate is good here, they are still going to come,” he added.

The State Department said the policy was changed to conform to the reciprocity agreement it has with Mexico. For years, Mexico's work visas for U.S. citizens were good for one year.

When Mexico recently decided to raise its visa fees for U.S. citizens, the U.S. State Department decided to remove the multi-year option from the visas it gives to Mexicans, a spokesman said.

Shivers said she is not sure the State Department's explanation is the whole reason.

“The timing seems very strange,” she said, because it occurred at a time when Mexican visa applications are rising.

Shivers said Mexicans needing visa renewals can apply for extensions with the U.S. Citizenship and Immigration Services agency, but that step would require them to submit to a review of documents whenever they travel to Mexico and re-enter the United States.

“Many folks do not like having to deal with secondary inspection” of documents at the border, Shivers said. “It can take an hour or more, (and they) definitely prefer having the visa stamped into their passports to facilitate entry. The visa can only be placed in the passport by a U.S. consul who is outside of the United States in a U.S. consulate,” she said.

Obtaining visa renewals can take varying lengths of time among the 10 U.S. consulate offices in Mexico, depending on how busy they are, Meyer said.

“You must get an appointment and then wait for them to adjudicate the case,” he said.

Shivers said applicants sometimes receive their passports back a day later, sometimes five days later.

“You cannot plan to get the passport the same day,” Shivers said.

U.S. consulates are in the Mexican cities of Nuevo Laredo, Ciudad Juárez, Matamoros, Monterrey, Nogales, Tijuana, Hermosillo, Guadalajara and Tijuana, plus the U.S. Embassy in Mexico City.

Unaffected by the new one-year policy are student visas and the B visas. The B-1 and B-2 visas allow business and tourism visits for up to 10 years, but work incomes and payments aren't allowed, and children are not allowed to attend U.S. schools.

U.S. visas allowing Mexicans to enroll children in U.S. schools are in the E, L, TN and HB series. Those are all now issued for one-year validities.