

### FAQ 1) What is a US entry waiver?

A US entry waiver is a document issued by the Department of Homeland Security (DHS) that grants entry to a Canadian citizen with a conviction into the US. The waiver will remove all risks of being refused entry at the border. Because the DHS is considered a “*superior governing body*” to the border guards, it overrides any discretion the guards might have when you try to cross the border.

A US entry waiver can be granted for a period of one (1), two (2) or five (5) years by the US Government and can be renewed. (It is recommended you start the renewal process six months prior to the expiry of your US entry waiver.) The length of the waiver normally depends on the extent or seriousness of the crimes you have committed and the period of time that has elapsed since conviction. Once you have received your US entry waiver, you will be legally permitted to enter the US despite your criminal record.

N.B. This rule only applies to the US. You may not be prevented from travelling to other countries around the world. However, if your method of travelling to another country is flying, you will still be prevented from landing in the United States to do a flight transfer.

### FAQ 2) What is the difference between getting a record suspension (pardon) and a US entry waiver?

Depending on your situation, you might need 1) a record suspension (pardon) and/or 2) a US entry waiver. If you have never been refused entry into the US for having a criminal record, a Canadian record suspension may suffice to enter the US.

However, if you have been denied entry at the border for a criminal record, you will need a US entry waiver. If you have been stopped at the border and were refused entry because of your criminal record, your record will forever stay in the US Department of Homeland Security criminal database. Canadian pardons are not recognized by the US government if they are aware of your conviction, but US entry waivers are recognized.

If you have not been refused entry prior to getting your record suspension, the border guards and the Department of Homeland Security may not know of your previous criminal record, unless you tell them at the border.

### FAQ 3) Do I need a record suspension before I apply for a US entry waiver?

You do not need to apply for, or receive a record suspension, before applying for a US entry waiver. If you need to travel to the US and have a Canadian criminal record you can choose to apply only for a US entry waiver to ensure access to the US.

However, if you have a Canadian criminal record and have not been pardoned, and the requisite amount of time has elapsed, you may want to consider applying for a record suspension at the same time. *Commissionaires Ottawa* offers a fast and affordable record suspension service.

### FAQ 4) If I have received a record suspension am I guaranteed entry to the US?

A record suspension is not recognized by US border guards. If at any time you have been denied access to the US, you will still be denied access to the US even if you have a record suspension. You must apply for a US entry waiver.

### **FAQ 5) Can my application for a US entry waiver be denied by the US government?**

If you are deemed to be high-risk to re-offend, your application for a US entry waiver will most likely be turned down. Generally, applicants with numerous drug trafficking and/or sex-related offences are considered to be high-risk re-offenders. Other reasons why your US waiver might be denied includes: 1) the risk of harm to the society if the applicant is admitted, 2) the seriousness of the applicant's prior violation(s) of immigration or criminal law, if any, and 3) the nature of the applicant's reasons for seeking entry.

### **FAQ 6) What are the rights of the border guards? How much discretion do they have to refuse my entry?**

The US border guards are given permission by US law to refuse entry to anyone for any and all convictions showing up on your criminal record without taking into account the details of the crime(s). Anyone granted a US entry waiver should be at no risk of being refused entry to the US. A US entry waiver overrides any personal discretion border guards may have.

### **FAQ 7) What are some of the risks associated with entering the US illegally?**

There are numerous risks involved in trying to enter the US illegally. You are not only exposing yourself to a refusal of entry but also confiscation of your property, which could include the seizure of your vehicle. You will also most likely be detained or incarcerated for entering the US in an illegal manner. There are numerous risks involved in entering the US illegally such as:

- Arrest
- Confiscation of your vehicle
- Conviction
- Deportation
- Detention
- Embarrassment
- Inability to travel internationally via the US
- Incarceration
- Fines
- Loss of travel expenses
- Removal
- Refused entry/Voluntary departure
- Lost business opportunity
- Missed vacation opportunity

People travelling to the US with you face the same risk as you because of your inadmissibility. If you are travelling with a friend or relative who is aware of your inadmissibility and you do not have a US entry waiver, your friend or relative could be subject to all of the above risks AND they can be charged and convicted with harbouring an illegal alien, an offence that would make them inadmissible to the US.

It is noteworthy to mention that you might think you are still in Canada while trying to cross the border but you will most likely be under US jurisdiction if you lie to US border guards. Being honest with US border guards will likely only result in your entry being denied with no further consequences.

### **FAQ 8) How long does it take to receive a US entry waiver?**

The application process for a US entry waiver can take from six to 18 months depending on its complexity.

### **FAQ 9) What will I need to provide to get a US entry waiver?**

Your knowledgeable Commissionaires service agent will explain in detail what you will need to provide. Some of the items we will require to prepare your application include:

- Letter from your employer stating current occupation and length of service, including the need for you to travel to the US (if applicable);
- If self-employed, a copy of your last tax return;
- Three (3) letters of reference from members of the community (not relatives);
- Two (2) recent passport photographs;
- Copy of passport or driver's licence showing nationality;
- \$585 US, payable to US Citizenship and Immigrations Services (USCIS), when your application is presented.

### **FAQ 10) How much does it cost to get a US entry waiver?**

The cost of the US waiver service is \$499 plus taxes, which includes obtaining your criminal record via digital fingerprinting and a total of four court requests.

- Fee of \$585 US, payable to US Citizenship and Immigrations Services (USCIS).

### **FAQ 11) What do I need to know before travelling to the US?**

International events, such as 9/11, have led the US Department of Homeland Security to take numerous measures to increase border security services. The most important thing to know when you are travelling to the US is that if you have a Canadian criminal record, or if you are suspected of having a criminal record, the Department of Homeland Security (DHS) can legally prevent you from entering the country. The US Department of Homeland Security and the Federal Bureau of Investigation (FBI) have access to the RCMP's databases such as CPIC and APIS.

Once the border agent enters your name into their database, your criminal file will show up with an FPS# number attached to your name. This FPS# prevents you from entering the US.

### **FAQ 12) How do I prevent the border guards from refusing or stopping me at the US borders?**

If you have a Canadian criminal record, you are at risk of being denied entry into the US. You can ensure you will not be denied entry to the US by getting a US entry waiver. Anyone granted a US entry waiver should be at no risk of being refused entry to the US. A US entry waiver overrides any personal discretion that border guards may have.