

114TH CONGRESS
2D SESSION

H. R. 5801

To amend the Immigration and Nationality Act to modify the definition of “exempt H–1B nonimmigrant”.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. ISSA (for himself, Mr. PETERS, Mr. POLIS, Mr. VARGAS, Mr. FARENTHOLD, Mr. SMITH of Texas, Mr. HUNTER, and Mrs. DAVIS of California) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to modify the definition of “exempt H–1B nonimmigrant”.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect and Grow
5 American Jobs Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) The H–1B visa program allows businesses
9 temporarily to hire highly skilled foreign workers

1 with specialized knowledge, where a qualified worker
2 in the United States cannot be found.

3 (2) In 1990, the Congress created the H-1B
4 visa program to help ensure that access to qualified
5 highly skilled professionals was not an obstacle to
6 economic growth and job creation in the United
7 States.

8 (3) The H-1B visa program was never intended
9 to be used as a catalyst for laying off workers in the
10 United States and replacing them with H-1B work-
11 ers.

12 (4) The unintended consequences of the H-1B
13 visa program enabled a small number of companies
14 to hire large numbers of H-1B workers relative to
15 their United States worker populations.

16 (5) In 1998, Congress passed new enforcement
17 provisions to the H-1B program in order to prevent
18 companies from displacing United States workers
19 with lower-cost foreign professionals.

20 (6) The 1998 revisions defined a new class of
21 H-1B dependent employers and established addi-
22 tional conditions on their business and hiring prac-
23 tices unless they paid sufficiently high wages.

24 (7) The 1998 revisions, however, did not index
25 wage requirements to keep pace with wage growth,

1 and, as a result, the strength of provisions designed
2 to protect workers and employers committed to hir-
3 ing United States workers was reduced significantly.

4 **SEC. 3. PURPOSE.**

5 The purpose of this Act is to close a loophole in the
6 H-1B visa program by requiring H-1B dependent em-
7 ployers once again to pay sufficiently high wages to ensure
8 the protection of the workforce in the United States and
9 to remove other impediments to proper H-1B visa en-
10 forcement.

11 **SEC. 4. EXEMPT H-1B NONIMMIGRANT DEFINED.**

12 Section 212(n)(3)(B) of the Immigration and Nation-
13 ality Act (8 U.S.C. 1182(n)(3)(B)) is amended—

14 (1) by striking clause (i) and inserting the fol-
15 lowing:

16 “(i) the term ‘exempt H-1B nonimmigrant’
17 means an H-1B nonimmigrant who receives wages
18 (including cash bonuses) at an annual rate equal to
19 at least the greater of \$100,000 or the applicable
20 adjusted amount under clause (iii);”;

21 (2) in clause (ii), by striking the period at the
22 end and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(iii) the amount described in clause

25 (i) (as of the last increase to such amount)

1 shall be increased, effective for the third
2 fiscal year that begins after the date of the
3 enactment of this clause and for every
4 third fiscal year thereafter, by the percent-
5 age (if any) by which the Consumer Price
6 Index for the month of June preceding the
7 date on which such increase takes effect
8 exceeds the Consumer Price Index for the
9 same month of the third preceding cal-
10 endar year.”.

○