



House of Representatives  
**Judiciary Committee**

Chairman Bob Goodlatte

## THE AGRICULTURAL GUESTWORKER ACT OF 2017

SPONSOR: HOUSE JUDICIARY COMMITTEE CHAIRMAN BOB GOODLATTE

**The Problem:** The current agricultural guestworker program, known as the H-2A program, is expensive, flawed and plagued with red tape. A guestworker program should help farmers who are willing to pay a fair wage for law-abiding, dependable workers when American workers are not available, not punish them.

Instead, H-2A employers are burdened with costly mandates and exposed to frivolous litigation. For example, H-2A employers must pay an artificially inflated wage rate—higher than the prevailing wage in their region—and provide housing and transportation for their workers at their own expense. Unnecessarily burdensome requirements like this place H-2A employers at a competitive disadvantage in the marketplace and threaten the future of U.S. agricultural production. And dairies and other agricultural employers with year-round labor needs aren't even eligible for the program.

**The Solution:** The AG Act replaces the outdated and broken H-2A program with a reliable, efficient, and fair program, ensuring that farmers and ranchers will have access to a legal, stable supply of workers for seasonal as well as year-round work. Under the AG Act, 450,000 visas will be available each year for H-2C workers. Returning H-2A workers and previously unauthorized farmworkers who participate legally in the new program will not count toward the annual visa limit. The following are some of the key components of the bill.

### Creates a Workable Guestworker Program:

- The AG Act replaces the H-2A program with a more efficient and flexible guestworker program—known as H-2C—that is designed to meet the needs of the diverse agriculture industry.
- The H-2C program will serve the diverse interests of the agriculture industry. In addition to meeting seasonal agricultural labor needs, the adaptable H-2C program will support year-round agricultural employers, such as aquaculture operations, dairies, raw food processors, forestry-related activities, and others.
- The AG Act also includes an automatic escalator should the base allocation of 450,000 H-2C visas be reached in a given year.

### Allows Experienced Unauthorized Agricultural Workers to Participate in the New Program:

- The AG Act will allow experienced unauthorized agricultural workers to join the H-2C guestworker program and participating legally. Farm workers who are currently illegally present in the U.S. can identify themselves, participate in the H-2C program, and return home to re-establish ties to their home countries.



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### Provides Farmers with Much-Needed Flexibility:

- Not all agriculture jobs require the same level of skill and experience. Therefore, the H-2C program gives employers the ability to invest in training workers for specialized or hard to fill jobs by allowing workers an initial stay of 36 months. Subsequent visas for year-round agricultural jobs and all other H-2C visas will afford a work period of 18 months.
- The AG Act includes meaningful, yet workable, touchback requirements. H-2C workers must leave the U.S. for 45 days, or a time period equal to 1/12th of their stay, whichever is less. Most notably, the AG Act also will foster stronger ties between workers and their communities and family outside the U.S. by allowing workers to achieve the important touchback requirement by accruing time through multiple periods of absence from the U.S.
- Once agricultural employers are required to use E-Verify, H-2C workers already in the U.S. can seek at-will employment with registered farmers (who still need to comply with program requirements) during the time of their visa authorization.

### Relieves Farmers of Excessive Burdens

- Employers must pay H-2C workers not less than the State or local minimum wage, 115% of the Federal minimum wage (150% in the case of meat or poultry processing jobs), or the actual wage level paid by the employer to similarly situated workers in the same job, whichever is greatest.
- The H-2C program gives employers the option of providing housing and transportation for their workers.
- In order to discourage abusive litigation, farmers and H-2C workers can agree to binding arbitration and mediation of any grievances, and H-2C workers are not eligible for tax-payer funded legal assistance under the *Legal Services Corporation Act*.

### Ensures Guestworkers Return Home

- Employers must report any H-2C workers who abandon their jobs within 72 hours.
- H-2C workers who do not return home as required are barred from reentry to the U.S.
- As part of the new guestworker program, employers will deposit 10% of H-2C workers' wages into a trust fund. Workers can only access the escrowed amounts by going to a U.S. embassy or consulate in their home country.
- H-2C workers cannot bring spouses and minor children, unless they are also guestworkers.

### Protects U.S. Taxpayers

- H-2C workers are ineligible for federal public benefits, are ineligible for Obamacare subsidies, and are ineligible for federal refundable tax credits (the Earned Income Tax Credit and the Child Tax Credit).
- H-2C workers are also required to have health insurance in order to protect taxpayers from footing the bill for expensive medical care.