



House of Representatives
Judiciary Committee

Chairman Bob Goodlatte

AGRICULTURAL GUESTWORKER PROGRAM

H.R. 4760, THE *SECURING AMERICA'S FUTURE ACT*

The Problem: The current agricultural guestworker program, known as the H-2A program, is expensive, flawed, plagued with red tape and unworkable.

H-2A employers are burdened with costly mandates, exposed to frivolous litigation, required to pay an artificially inflated wage rate and required to 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The Solution: The *Securing America's Future Act* replaces the outdated and broken H-2A program with a reliable, efficient, and fair program, ensuring that farmers and ranchers will have access to a legal, stable supply of workers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 this legislation, 450,000 visas will be available each year for H-2C workers. The following are some of the key components of the bill.

Expands Eligible Agriculture Sectors and Provides Generous Cap:

- The new 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 be available to year-round agricultural employers, such as aquaculture operations, dairies, raw food processors, forestry-related activities, and others.
- The total number of visas available each year includes 40,000 visas for workers employed in meat and poultry processing and 410,000 for all other agricultural workers.
- Returning H-2A workers and previously unauthorized farmworkers who participate legally in the new program will not count toward the annual visa cap on non-meat and poultry processing workers.
- The *Securing America's Future Act* also includes an automatic escalator to increase the cap on non-meat and poultry processing visas should the allocation be reached in a given year.

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

- The *Securing America's Future Act* will allow experienced unauthorized agricultural workers to join the H-2C guestworker program and participate legally. Farm workers who are currently illegally present in the U.S. can get pre-certified to join the H-2C program, and after leaving the U.S. briefly, can begin working legally.

Provides Flexible Visa Term Lengths and Touchback Requirements:

- 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 24 months.



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- The *Securing America's Future 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 *Securing America's Future 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.

Requires Reasonable Wages and Ends Excessive Regulatory 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 but does not require it.
- 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 Effective Enforcement

- 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.