

## **H.R. 1603, The Farm Workforce Modernization Act of 2021**

The American agricultural sector is struggling under the weight of a growing labor crisis, which has been exacerbated by the COVID-19 pandemic. Due to the diminishing supply of U.S. workers willing to perform migrant farm labor, our nation's farmers are increasingly dependent on foreign workers to meet labor demands. Without foreign workers, many U.S. farms will go out of business, causing a ripple effect in our economy and increasing our reliance on imported food. The Nation's trade deficits will increase, and we will become dangerously dependent on foreign countries for the health and safety of our national food supply.

**The Farm Workforce Modernization Act of 2021** will stabilize the agricultural sector and preserve our rural heritage by ensuring that farmers can meet their labor needs well into the future.

### **Title I. Securing the Domestic Agricultural Workforce.**

This title establishes a program for agricultural workers in the United States (and their spouses and minor children) to earn legal status through continued agricultural employment.

- Provides a process for farm workers to seek Certified Agricultural Worker (CAW) status—a temporary status for those who have worked at least 180 days in agriculture over the last 2 years. CAW status can be renewed indefinitely with continued farm work (at least 100 days per year).
- Applicants (including spouses and children) must undergo background checks and pass strict criminal and national security bars.
- There is no requirement that workers do anything else. But long-term workers who want to stay can earn a path to a green card by paying a \$1,000 fine and engaging in additional agricultural work, as follows:
  - Workers with 10 years of agricultural work prior to the date of enactment must complete 4 additional years of such work.
  - Workers with less than 10 years of agricultural work prior to the date of enactment must complete 8 additional years of such work.

### **Title II. Ensuring an Agricultural Workforce for the Future.**

This title reforms the H-2A temporary agricultural worker program to provide more flexibility for employers, while ensuring critical protections for workers.

- Streamlines the H-2A visa process by:
  - Consolidating the H-2A filing process through an electronic platform in which all agencies can concurrently perform their adjudicatory responsibilities.
  - Allowing most employers to file a single petition for staggered seasonal labor needs.
  - Transitioning recruitment from newspaper advertisements to electronic job postings.
  - Reducing costs associated with visa processing by providing H-2A workers with 3-year visas.

- Reforms H-2A wages to better reflect real-world wages, while protecting against sudden wage increases that disrupt employer planning and operations by:
  - Disaggregating wages for various agricultural occupations (e.g., crop workers, livestock workers, machine operators, etc.).
  - Freezing wages for one year and capping wage fluctuations for most of the country at 3.25% for the next 9 years.
  - Authorizing rulemaking to establish new wage standards after year 10.
  - Eliminating mid-contract wage fluctuations.
- Accommodates the need for workers in year-round agriculture by:
  - Providing up to 20,000 H-2A visas per year (for 3 years) for dairy and other year-round agricultural employers.
  - Allowing the year-round H-2A cap to increase or decrease annually thereafter based on labor metrics or increase based on an emergency determination of a significant labor shortage, and providing the Secretary of Labor and Secretary of Agriculture authority to determine whether to establish a numerical cap after 10 years.
  - Increasing the number of green cards that are available for employer sponsorship, while creating a means for workers to self-petition for green cards after 10 years of H-2A service.
- Establishes a Portable Agricultural Worker (PAW) pilot program to facilitate the free movement and employment of up to 10,000 H-2A workers with registered agricultural employers. Registered employers could employ individuals with PAW status without first having to file a petition.
- Improves the availability of farmworker housing while lowering employer costs related to such housing by:
  - Preserving existing housing stock, including by adopting the Strategy and Investment in Rural Housing Preservation Act, which authorizes \$1 billion to rehabilitate housing that is aging out of USDA incentives programs.
  - Incentivizing new housing by increasing funding for USDA section 514 and 516 rural housing loan and grant programs and as well as funding for the section 521 rental assistance program.
  - Increasing the USDA per-project loan limitation.
  - Granting operating subsidies to 514/516 property owners who house H-2A workers.
- Reduces the need for litigation by adopting prior compromises to expand the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) to cover H-2A workers, while effectively requiring mediation to resolve differences.
- Establishes a program to register and provide oversight over foreign labor recruiters engaged in the recruitment of workers for the H-2A program.

### **Title III. Electronic Verification of the Agricultural Workforce.**

This title would establish a mandatory, nationwide E-Verify system for all agricultural employment, phased in after all legalization and H-2A reforms have been implemented, and including necessary due process protections for authorized workers who are incorrectly rejected by the system. This serves as the last necessary piece to ensure a legal workforce for the agricultural sector.

*Prepared by House Judiciary Committee Democratic Staff*

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