

108TH CONGRESS
1ST SESSION

H. R. 1606

To amend the Immigration and Nationality Act to impose a limitation on the wage that the Secretary of Labor may require an employer to pay an alien who is an H-2A nonimmigrant agricultural worker.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2003

Mr. GOODE introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to impose a limitation on the wage that the Secretary of Labor may require an employer to pay an alien who is an H-2A nonimmigrant agricultural worker.

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 “Wage Equity Act of
5 2003”.

1 **SEC. 2. LIMITATION ON H-2A NONIMMIGRANT WAGE RE-**
2 **QUIREMENT.**

3 (a) CONDITIONS FOR APPROVAL OF H-2A PETI-
4 TIONS.—Section 218(a) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1188(a)) is amended by redesignating
6 paragraph (2) as paragraph (3) and by inserting after
7 paragraph (1) the following new paragraph:

8 “(2)(A) In making the certification described in para-
9 graph (1), the Secretary of Labor may not require an em-
10 ployer to pay workers more than the greater of—

11 “(i) the prevailing wage for seasonal agricul-
12 tural workers in the occupation in the area of in-
13 tended employment, or

14 “(ii) the greater of the hourly wage described in
15 section 6(a)(1) of the Fair Labor Standards Act of
16 1938 (29 U.S.C. 206(a)(1)), or the applicable State
17 minimum wage.

18 “(B) In complying with subparagraph (A)(i), an em-
19 ployer (or the employer’s agent) may request and obtain
20 a prevailing wage determination from the State employ-
21 ment security agency. An employer who obtains such a
22 determination and pays the wage determined to be pre-
23 vailing shall be considered to have met the requirement
24 of subparagraph (A)(i).

25 “(C) In lieu of the procedure described in subpara-
26 graph (B), an employer may rely on other wage informa-

1 tion, including a survey of the prevailing wages of workers
2 in the occupation in the area of intended employment that
3 has been conducted or funded by the employer or a group
4 of employers, that meets criteria specified by the Secretary
5 of Labor in regulations.

6 “(D) If the prevailing wage described in subpara-
7 graph (A)(i) is an hourly wage, the employer may pay
8 workers in the occupation by an incentive method of pay
9 such as a piece rate, task rate, group incentive rate, or
10 other incentive method, if the average hourly earnings of
11 the employer’s workers paid by such incentive method,
12 taken as a group, are at least equal to the prevailing hour-
13 ly wage required by subparagraph (A)(i) for the hours
14 worked at the incentive payment method, after making
15 any additions to any worker’s pay required to comply sub-
16 paragraph (A)(ii).”.

17 (b) DEFINITIONS.—Section 218(i) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1188(i)) is amended
19 by adding at the end the following:

20 “(3) The term ‘prevailing wage’ means, with re-
21 spect to an agricultural occupation in an area of in-
22 tended employment, the rate of wages that includes
23 the 51st percentile of employees with similar experi-
24 ence and qualifications in the agricultural occupation
25 in the area of intended employment, expressed in

- 1 terms of the prevailing method of pay for the occu-
- 2 pation in the area of intended employment.”.

