

109TH CONGRESS
1ST SESSION

H. R. 4065

To amend the Immigration and Nationality Act to provide certain undocumented workers with temporary work visas.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 17, 2005

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

A BILL

To amend the Immigration and Nationality Act to provide certain undocumented workers with temporary work visas.

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 “Temporary Worker
5 Registration and Visa Act of 2005”.

1 **SEC. 2. ISSUANCE OF TEMPORARY WORKER VISA FOR CER-**
2 **TAIN UNDOCUMENTED WORKER REG-**
3 **ISTRANTS.**

4 (a) IN GENERAL.—The Immigration and Nationality
5 Act is amended by inserting after section 245A (8 U.S.C.
6 1255a) the following new section:

7 **“SEC. 245B. ISSUANCE OF TEMPORARY WORKER VISA FOR**
8 **CERTAIN UNDOCUMENTED WORKER REG-**
9 **ISTRANTS.**

10 “(a) REGISTRATION PROCESS FOR CERTAIN UN-
11 DOCUMENTED WORKERS.—

12 “(1) IN GENERAL.—The Secretary of Homeland
13 Security shall register under this subsection an alien
14 if the alien demonstrates to the satisfaction of the
15 Secretary that the alien meets the following require-
16 ments:

17 “(A) APPLICATION.—

18 “(i) IN GENERAL.—The alien applies
19 for such registration in a form and manner
20 specified by the Secretary during the reg-
21 istration period under clause (ii).

22 “(ii) REGISTRATION PERIOD.—The
23 registration period under this clause shall
24 be a 12-month period beginning on a date
25 (not later than 180 days after the enact-

1 ment of this section) designated by the
2 Secretary.

3 “(B) CONTINUOUS UNLAWFUL PRES-
4 ENCE.—

5 “(i) IN GENERAL.—The alien has
6 been continuously unlawfully present in the
7 United States from January 1, 2005,
8 through the date the application under
9 subparagraph (A) is filed.

10 “(ii) UNLAWFUL PRESENCE NOT
11 KNOWN.—The alien’s unlawful presence in
12 the United States is not known to officials
13 of the Bureau of Immigration and Cus-
14 toms Enforcement of the Department of
15 Homeland Security (as evidenced by docu-
16 mentary records) at any time prior to the
17 alien’s application for registration under
18 this subsection.

19 “(iii) TREATMENT OF BRIEF, CASUAL,
20 AND INNOCENT ABSENCES.—An alien shall
21 not be considered to have failed to have
22 maintained continuous physical presence in
23 the United States for purposes of clause (i)
24 by virtue of brief, casual, and innocent ab-
25 sences from the United States or a brief,

1 temporary trip abroad required by emer-
2 gency or extenuating circumstances outside
3 the control of the alien

4 “(iv) NO AUTHORIZATION OF ADMIS-
5 SION.—Nothing in this section shall be
6 construed as authorizing an alien to apply
7 for admission to, or to be admitted to, the
8 United States in order to register under
9 this subsection.

10 “(C) NONIMMIGRANTS.—

11 “(i) IN GENERAL.—In the case of an
12 alien who entered the United States as a
13 nonimmigrant before the date specified in
14 subparagraph (B)(i), the alien’s period of
15 authorized stay as a nonimmigrant expired
16 through the passage of time before such
17 date.

18 “(ii) EXCHANGE VISITORS.—If the
19 alien was at any time a nonimmigrant ex-
20 change alien (as described in section
21 101(a)(15)(J)), the alien was not subject
22 to the two-year foreign residence require-
23 ment of section 212(e) or has fulfilled that
24 requirement or received a waiver thereof.

1 “(D) ADMISSIBLE AS TEMPORARY WORK-
2 ER.—The alien—

3 “(i) is admissible to the United States
4 as an immigrant, except as otherwise pro-
5 vided under paragraph (3), and is not in-
6 admissible under paragraph (2) or (3) of
7 section 212(a) or deportable under para-
8 graph (2)(A)(iii) or (4) of section 237(a);

9 “(ii) has not been convicted of any fel-
10 ony or of three or more misdemeanors
11 committed in the United States; and

12 “(iii) has not assisted in the persecu-
13 tion of any person or persons on account
14 of race, religion, nationality, membership
15 in a particular social group, or political
16 opinion.

17 “(E) BIOMETRIC IDENTIFIERS.—The alien
18 provides the Secretary with such biometric iden-
19 tifiers as the Secretary may require for the
20 issuance of a visa, in accordance with section
21 303(b)(1) of the Enhanced Border Security and
22 Visa Entry Reform Act of 2002 (8 U.S.C.
23 1732(b)(1)).

1 “(F) REGISTRATION FEE.—The alien has
2 paid such registration fee as the Secretary shall
3 specify.

4 “(G) ABANDONMENT OF OTHER APPLICA-
5 TIONS FOR RELIEF.—The alien has withdrawn
6 or has otherwise abandoned or terminated any
7 other application for relief from removal under
8 any law, which may have been pending prior to
9 the submission of the application under sub-
10 paragraph (A), and the alien has permanently
11 relinquished the opportunity subsequently to
12 submit any other such application for relief.

13 “(H) EMPLOYMENT IN THE UNITED
14 STATES.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii), the alien was employed
17 on a full-time basis in the United States
18 since the date specified in subparagraph
19 (B)(i).

20 “(ii) EXCEPTION FOR SPOUSES AND
21 MINOR CHILDREN OF REGISTRANTS.—
22 Clause (i) shall not apply in the case of an
23 alien who is the spouse or minor child of
24 an alien who is registered (or in the proc-
25 ess of registering) under this subsection.

1 “(2) BENEFITS OF REGISTRATION.—

2 “(A) WORK AUTHORIZATION.—

3 “(i) IN GENERAL.—The Secretary
4 shall authorize an alien who is registered
5 under this subsection to engage in employ-
6 ment in the United States during the term
7 of the alien’s registration and shall provide
8 the alien with an ‘employment authorized’
9 endorsement or other appropriate docu-
10 ment signifying authorization of employ-
11 ment.

12 “(ii) GRANTING UPON PRIMA FACIE
13 SHOWING OF ELIGIBILITY.—In the case of
14 an alien who applies for registration under
15 this subsection and who establishes a
16 prima facie case of eligibility to be so reg-
17 istered, the Secretary shall provide such
18 alien with the employment authorization
19 described in clause (i) during the pendency
20 of such application.

21 “(3) WAIVER OF CERTAIN GROUNDS FOR RE-
22 MOVAL.—

23 “(A) IN GENERAL.—Except as provided in
24 this paragraph, the provisions of subparagraphs
25 (A) and (B) of subsection (d)(2) of section

1 245A shall apply to determinations of eligibility
2 for registration under this subsection in the
3 same manner as they apply to determinations of
4 admissibility for purposes of such section.

5 “(B) MODIFICATION OF REFERENCE.—In
6 applying subparagraph (A), any reference in
7 section 245A(d)(2)(A) to section 212(a)(7)(A)
8 is deemed a reference to section 212(a)(7)(B).

9 “(C) INAPPLICABILITY OF CERTAIN
10 GROUNDS FOR SUBSEQUENT REMOVAL.—For
11 purposes of obtaining the benefits described in
12 this subsection, and for purposes of any other
13 determination under the immigration laws of
14 the United States, any ground for removal or
15 denial of admission (including grounds under
16 sections 212(a)(6)(A) and 212(a)(9)(B)) appli-
17 cable to an alien registered under this sub-
18 section shall be disregarded if the ground is re-
19 flected in the records of the Department of
20 Homeland Security or the Department of State
21 on the date on which the alien first applied for
22 such registration and if such ground is waived
23 under this paragraph.

24 “(4) TERMINATION OF REGISTRATION.—

1 “(A) EXPIRATION.—Except as provided in
2 subparagraph (B), the period of registration of
3 an alien under this section shall expire at the
4 end of the 6-month period beginning on the
5 date of the approval of such registration.

6 “(B) TERMINATION OF REGISTRATION.—
7 The Secretary of Homeland Security shall pro-
8 vide for the termination of registration of an
9 alien under this subsection—

10 “(i) if it appears to the Secretary that
11 the alien was in fact not eligible for such
12 registration; or

13 “(ii) if the alien commits an act that
14 makes the alien inadmissible to the United
15 States as a nonimmigrant under section
16 101(a)(15)(W).

17 “(b) PROVISION OF TEMPORARY WORKER VISA.—

18 “(1) IN GENERAL.—The Secretary of Homeland
19 Security shall approve the issuance of a visa to an
20 alien as a nonimmigrant described in section
21 101(a)(15)(W) if the alien—

22 “(A) is registered under subsection (a);
23 and

24 “(B) makes application for such visa at an
25 appropriate consular office outside the United

1 States in the alien's country of nationality or,
2 in the case of an alien having no nationality, in
3 the alien's country of last habitual residence
4 outside the United States, not later than 6
5 months after the date of approval of such reg-
6 istration.

7 “(2) PERIOD OF AUTHORIZED ADMISSION.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), the initial period of authorized ad-
10 mission as a nonimmigrant described in section
11 101(a)(15)(W) shall be 3 years.

12 “(B) EMPLOYMENT REQUIRED TO MAIN-
13 TAIN STATUS.—

14 “(i) IN GENERAL.—An alien's admis-
15 sion as a nonimmigrant under section
16 101(a)(15)(W), other than as the spouse
17 or child of such a nonimmigrant, is condi-
18 tioned upon continuous employment in the
19 United States.

20 “(ii) SHORT BREAKS IN EMPLOYMENT
21 PERMITTED WITH NOTICE.— An alien does
22 not violate clause (i) if—

23 “(I) the break in employment
24 does not exceed 30 days (or such
25 longer period as the Secretary may

1 provide based on extraordinary cir-
2 cumstances); and

3 “(II) the Secretary is provided
4 notice in a timely manner of the break
5 in employment and of the resumption
6 of employment.

7 “(C) EXTENSION.—

8 “(i) IN GENERAL.—The period of au-
9 thorized admission as a nonimmigrant
10 under section 101(a)(15)(W) may be ex-
11 tended by the Secretary in 3-year incre-
12 ments. The Secretary may not authorize
13 such extension for an alien if the alien vio-
14 lated subparagraph (B) for the previous
15 period of authorized admission.

16 “(ii) EXTENSION FEE.— The Sec-
17 retary shall impose a fee on applicants for
18 an extension under clause (i).

19 “(D) TERMINATION OF NONIMMIGRANT
20 STATUS.—The Secretary of Homeland Security
21 shall provide for the termination of non-
22 immigrant status granted an alien under this
23 subsection if it appears to the Secretary that
24 the alien was in fact not eligible for registration
25 under subsection (a).

1 “(c) APPLICATION OF CERTAIN PROVISIONS.—

2 “(1) CONFIDENTIALITY AND FALSE STATE-
3 MENT.—The provisions of paragraphs (5) and (6) of
4 subsection (c) of section 245A shall apply to applica-
5 tions for registration under subsection (a) in the
6 same manner as they applied to applications for ad-
7 justment under section 245A.

8 “(2) TEMPORARY STAY OF DEPORTATION.—The
9 provisions of subsection (e)(1) of section 245A shall
10 apply to aliens with respect to the application period
11 and registration under subsection (a) in the same
12 manner as they applied to the application period and
13 applications for adjustment under subsection (a) of
14 such section.

15 “(d) CONSTRUCTION.—

16 “(1) LIMITED FOLLOW-TO-JOIN AUTHORITY
17 FOR FAMILY MEMBERS.—Nothing in this section
18 shall be construed as authorizing, in the case of an
19 alien registered under subsection (a)—

20 “(A) the registration of any family member
21 of such alien unless such family member meets
22 the requirements for such registration; or

23 “(B) the issuance of a nonimmigrant visa
24 under section 101(a)(15)(W) to such family

1 member unless such family member qualifies
2 for such a visa.

3 “(2) CHANGE IN NONIMMIGRANT CLASSIFICA-
4 TION; ADJUSTMENT OF STATUS.—Nothing in this
5 section shall be construed as prohibiting the change
6 of nonimmigrant classification, or adjustment to
7 lawful permanent resident status, of an alien who
8 is a nonimmigrant described in section
9 101(a)(15)(W).”.

10 (b) NEW NONIMMIGRANT VISA CATEGORY.—Section
11 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) is amend-
12 ed—

13 (1) in subparagraph (U), by striking “or” at
14 the end;

15 (2) in subparagraph (V), by striking the period
16 at the end and inserting “; or”; and

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(W) an alien who is coming temporarily to the
20 United States to be employed in accordance with
21 subsection (b) of section 245B, and the spouse and
22 minor children of such alien if accompanying or fol-
23 lowing to join the alien and qualified under para-
24 graph (1) of such subsection to be provided non-
25 immigrant status under this subparagraph.”.

- 1 (c) CLERICAL AMENDMENT.—The table of contents
2 for such Act is amended by inserting after the item relat-
3 ing to section 245A the following:

“Sec. 245B. Issuance of temporary worker visa for certain undocumented work-
er registrants.”.

