

113TH CONGRESS
1ST SESSION

H. R. 707

To amend the Immigration and Nationality Act to simplify and rename the H-2C worker program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2013

Mr. CRAWFORD (for himself and Mr. AUSTIN SCOTT of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to simplify and rename the H-2C worker program, and for other purposes.

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 “Short Term Retention
5 for Agricultural Workers Act of 2013”.

6 **SEC. 2. IN GENERAL.**

7 (a) INCLUSION OF DAIRY OR RANCH WORKERS.—
8 Section 101(a)(15)(H) of the Immigration and Nationality

1 Act (8 U.S.C. 1101(a)(15)(H)) is amended by inserting
2 “labor on a dairy or ranch and” before “agricultural labor
3 defined in”.

4 (b) ELIMINATION OF 50 PERCENT RULE.—Section
5 218(c)(3) of such Act (8 U.S.C. 1188(c)(3)) is amended—

6 (1) in subparagraph (A), by striking “(A)”; and

7 (2) by striking subparagraph (B).

8 (c) WAGE RATE.—Section 218(a)(1)(B) of such Act
9 (8 U.S.C. 1188(a)(1)(B)) is amended by striking the pe-
10 riod at the end and inserting “, except that no employer
11 shall be required to pay a wage rate greater than the
12 greatest of the Federal, State, and local minimum wage
13 rates.”.

14 (d) LEGAL ASSISTANCE FROM THE LEGAL SERVICES
15 CORPORATION.—Section 218(h) of such Act (8 U.S.C.
16 1188(h)), as amended by subsection (g), is further amend-
17 ed by adding at the end the following:

18 “(4)(A) The Legal Services Corporation may not pro-
19 vide legal assistance for, or on behalf of, any alien, and
20 may not provide financial assistance to any person or enti-
21 ty that provides legal assistance for, or on behalf of, any
22 alien, unless—

23 “(i) the alien is present in the United States at
24 the time the legal assistance is provided; and

1 “(ii) the parties to the dispute have attempted,
2 in good faith, mediation or other non-binding dis-
3 pute resolution of all issues involving all such par-
4 ties.

5 “(B) If an employer and a nonimmigrant having sta-
6 tus under section 101(a)(15)(H)(ii)(a) have an arbitration
7 arrangement, the Legal Services Corporation shall respect
8 the arbitration process and outcome.

9 “(C) No employer of a nonimmigrant having status
10 under section 101(a)(15)(H)(ii)(a) shall be required to
11 permit any recipient of a grant or contract under section
12 1007 of the Legal Services Corporation Act (42 U.S.C.
13 2996f), or any employee of such a recipient, to enter upon
14 the employer’s property, unless such recipient or employee
15 has a pre-arranged appointment with a specific non-
16 immigrant having such status.”.

17 (e) LENGTH OF STAY.—Section 218 of such Act (8
18 U.S.C. 1188) is amended by adding at the end the fol-
19 lowing:

20 “(j) LENGTH OF STAY.—A STRAW worker who en-
21 ters the United States may remain in the United States
22 for a period of not more than 11 months. The STRAW
23 worker may not enter the United States on an additional
24 visa under section 101(a)(15)(H)(ii)(c) unless the
25 STRAW worker first returns to that worker’s country of

1 origin for a period of not less than 1 month. A STRAW
2 worker may enter and remain in the United States for
3 a total of not more than 3 years.”.

4 (f) HOUSING.—Section 218(c)(4) of such Act (8
5 U.S.C. 1188(c)(4)) is amended to read as follows:

6 “(4) HOUSING.—Except for STRAW workers
7 who are reasonably able to return to their perma-
8 nent residence (either within or outside the United
9 States) within the same day, the employer will pro-
10 vide housing to STRAW workers through one of the
11 following means:

12 “(A) Employer-owned housing in accord-
13 ance with regulations promulgated by the Sec-
14 retary of Agriculture.

15 “(B) Rental or public accommodations or
16 other substantially similar class of habitation in
17 accordance with regulations promulgated by the
18 Secretary of Agriculture.

19 “(C) Except where the Governor of the
20 State has certified that there is inadequate
21 housing available in the area of intended em-
22 ployment for migrant farm workers and
23 STRAW workers seeking temporary housing
24 while employed in agricultural work, the em-

1 ployer may furnish the worker with a housing
2 voucher in accordance with regulations, if—

3 “(i) the employer has verified that
4 housing is available for the period during
5 which the work is to be performed, within
6 a reasonable commuting distance of the
7 place of employment, for the amount of the
8 voucher provided, and that the voucher is
9 useable for that housing;

10 “(ii) upon the request of a worker
11 seeking assistance in locating housing for
12 which the voucher will be accepted, the em-
13 ployer makes a good faith effort to assist
14 the worker in identifying, locating and se-
15 curing housing in the area of intended em-
16 ployment; and

17 “(iii) payment for the housing is made
18 with a housing voucher that is only re-
19 deemable by the housing owner or their
20 agent.

21 An employer who provides housing through one of
22 the foregoing means shall not be deemed a housing
23 provider under section 203 of the Migrant and Sea-
24 sonal Agricultural Worker Protection Act (29 U.S.C.
25 1823) by virtue of providing such housing.”.

1 (g) BIOMETRIC IDENTIFICATION CARD.—The Sec-
2 retary of Homeland Security shall provide each non-
3 immigrant agricultural worker with an identification card
4 that contains—

5 (1) an encrypted, machine-readable, electronic
6 identification strip that is unique to the alien to
7 whom the card is issued;

8 (2) biometric identifiers, including fingerprints
9 and a digital photograph; and

10 (3) physical security features designed to pre-
11 vent tampering, counterfeiting, or duplication of the
12 card for fraudulent purposes.

13 (h) TRUST FUND.—

14 (1) ESTABLISHMENT.—The Secretary of Agri-
15 culture shall establish by regulation a trust fund the
16 purpose of which is to provide, without further ap-
17 propriation, funds for the administration and the en-
18 forcement of the program under this section, for the
19 cost of the cards issued under subsection (k), for a
20 monetary incentive for nonimmigrant agricultural
21 workers to return to their country of origin upon ex-
22 piration of their visas under the program, and for
23 payment with respect to emergency medical services
24 furnished to nonimmigrant agricultural workers. The
25 Secretary of Agriculture in consultation with the

1 Secretary of the Treasury shall promulgate such
2 other regulations as may be necessary to carry out
3 this subsection.

4 (2) PAYMENT OF FICA AND FUTA AMOUNTS
5 INTO TRUST FUND.—In the case of employment of
6 a nonimmigrant agricultural worker—

7 (A) the employer shall provide for payment
8 into the trust fund established under paragraph
9 (1) of the sum of—

10 (i) an amount equivalent to the
11 amount of excise taxes which the employer
12 would pay under the chapter 21 of the In-
13 ternal Revenue Code of 1986 with respect
14 to such employment if it were considered
15 employment for the purpose of such Act;
16 and

17 (ii) an amount equivalent to (and in
18 lieu of) the amount of excise taxes which
19 the employer would otherwise pay under
20 chapter 23 of such Code with respect to
21 such employment; and

22 (B) there shall be deducted from the wages
23 of the worker and paid into such trust fund an
24 amount equivalent to the amount of excise taxes
25 that the employee would pay under such chap-

1 ter 21 with respect to such employment if it
2 were considered employment for the purposes of
3 such Act.

4 (3) EXPENDITURES FROM TRUST FUND.—

5 (A) USE OF EMPLOYER CONTRIBUTIONS
6 FOR ADMINISTRATION.—Amounts described in
7 paragraph (2)(A) paid into the trust fund shall
8 be used for the purpose of administering and
9 enforcing the program under this section and
10 for the cost of the cards issued under sub-
11 section (k).

12 (B) USE OF EMPLOYEE CONTRIBUTIONS
13 FOR REPAYMENT OF EMPLOYEE CONTRIBU-
14 TIONS UPON RETURN TO COUNTRY OF ORI-
15 GIN.—Except as provided in subparagraph (C),
16 amounts described in paragraph (2)(B) paid
17 into the trust fund with respect to a non-
18 immigrant agricultural worker shall, upon ap-
19 plication by the worker at the United States
20 consulate nearest the worker's residence in the
21 country of origin, be paid to the worker if the
22 worker demonstrates the compliance of the
23 worker with the terms and conditions of the
24 program.

1 (C) USE OF EMPLOYEE CONTRIBUTIONS
2 ATTRIBUTABLE TO HI TAXES FOR EMERGENCY
3 MEDICAL SERVICES FOR NONIMMIGRANT AGRI-
4 CULTURAL WORKERS.—

5 (i) IN GENERAL.—Amounts described
6 in paragraph (2)(B) paid into the trust
7 fund which relate to excise tax in section
8 3101(b) of the Internal Revenue Code of
9 1986 shall be used to provide payment
10 with respect to emergency medical services
11 (as defined in clause (iii)) for non-
12 immigrant agricultural workers.

13 (ii) ADMINISTRATION.—The Secretary
14 of Agriculture shall establish rules, in con-
15 sultation with the Secretary of Health and
16 Human Services, with respect to the pay-
17 ments under this subparagraph, including
18 methods for determining qualifications for
19 payment and the amount of payment to be
20 made with respect to emergency medical
21 services.

22 (iii) EMERGENCY MEDICAL SERVICES
23 DEFINED.—In this subparagraph, the term
24 “emergency medical services” means those
25 items and services required to be provided

1 under section 1867 of the Social Security
2 Act (42 U.S.C. 1395dd) with respect to an
3 individual who is a nonimmigrant agricul-
4 tural worker and does not include items
5 and services for which coverage under
6 workers' compensation is required under
7 subsection (f)(3) with respect to the work-
8 er.

9 (i) SEMIANNUAL REPORTS TO CONGRESS.—The Sec-
10 retary of Agriculture shall report to Congress semiannu-
11 ally regarding the program under this section. Each such
12 report shall include a statement of the number of non-
13 immigrant visas issued under the program, an evaluation
14 of the effectiveness of the program, a description of any
15 problems related to the enforcement of the program, and
16 any recommendations for legislation relating to the pro-
17 gram.

18 (j) PROGRAM NAME AND ADMINISTRATOR
19 CHANGED.—Section 218 of the Immigration and Nation-
20 ality Act (8 U.S.C. 1188), as amended by this Act, is fur-
21 ther amended—

22 (1) by striking “H–2A worker” each place it
23 appears and inserting “STRAW worker”; and

- 1 (2) by striking “Secretary of Labor” each place
- 2 it appears and inserting “Secretary of Agriculture”.

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