

113TH CONGRESS
1ST SESSION

S. 891

To increase the employment of Americans by requiring State workforce agencies to certify that employers are actively recruiting Americans and that Americans are not qualified or available to fill the positions that the employer wants to fill with H-2B nonimmigrants.

IN THE SENATE OF THE UNITED STATES

MAY 8, 2013

Mr. MERKLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To increase the employment of Americans by requiring State workforce agencies to certify that employers are actively recruiting Americans and that Americans are not qualified or available to fill the positions that the employer wants to fill with H-2B nonimmigrants.

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 “American Jobs in
5 American Forests Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) FORESTRY.—The term “forestry” means—

2 (A) propagating, protecting, and managing
3 forest tracts;

4 (B) felling trees and cutting them into
5 logs;

6 (C) using hand tools or operating heavy
7 powered equipment to perform activities such as
8 preparing sites for planting, tending crop trees,
9 reducing competing vegetation, moving logs, pil-
10 ing brush, and yarding and trucking logs from
11 the forest;

12 (D) planting seedlings and trees; and

13 (E) preventing, controlling and extin-
14 guishing fires.

15 (2) H-2B NONIMMIGRANT.—The term “H-2B
16 nonimmigrant” means a nonimmigrant described in
17 section 101(a)(15)(H)(ii)(b) of the Immigration and
18 Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).

19 (3) PROSPECTIVE H-2B EMPLOYER.—The term
20 “prospective H-2B employer” means a United
21 States business that is considering employing 1 or
22 more nonimmigrants described in section
23 101(a)(15)(H)(ii)(b) of the Immigration and Nation-
24 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).

1 (4) STATE WORKFORCE AGENCY.—Except as
2 used in section 3, the term “State workforce agen-
3 cy” means the workforce agency of the State in
4 which the prospective H–2B employer intends to em-
5 ploy H–2B nonimmigrants.

6 **SEC. 3. DEPARTMENT OF LABOR.**

7 (a) RECRUITMENT.—As a component of the labor
8 certification process required before H–2B nonimmigrants
9 are offered forestry employment in the United States, the
10 Secretary of Labor shall require all prospective H–2B em-
11 ployers, before they submit a petition to hire H–2B non-
12 immigrants to work in forestry, to conduct a robust effort
13 to recruit United States workers, including—

14 (1) advertising at employment or job-placement
15 events, such as job fairs;

16 (2) advertising with State or local workforce
17 agencies, nonprofit organizations, or other appro-
18 priate entities, and working with such entities to
19 identify potential employees;

20 (3) advertising in appropriate media, including
21 local radio stations and commonly used, reputable
22 Internet job-search sites; and

23 (4) such other recruitment strategies as the
24 State workforce agency considers appropriate for the

1 sector or positions for which H-2B nonimmigrants
2 would be considered.

3 (b) SEPARATE PETITIONS.—A prospective H-2B em-
4 ployer shall submit a separate petition for each State in
5 which the employer plans to employ H-2B nonimmigrants
6 in forestry for a period of 7 days or longer.

7 **SEC. 4. STATE WORKFORCE AGENCIES.**

8 The Secretary of Labor may not grant a temporary
9 labor certification to a prospective H-2B employer seeking
10 to employ H-2B nonimmigrants in forestry until after the
11 Director of the State workforce agency—

12 (1) has formally consulted with the workforce
13 agency director of each contiguous State listed on
14 the prospective H-2B employer's application and de-
15 termined that—

16 (A) the employer has complied with all re-
17 cruitment requirements set forth in section 3
18 and there is a legitimate demand for the em-
19 ployment of H-2B nonimmigrants in each of
20 those States; or

21 (B) the employer has amended the applica-
22 tion by removing or making appropriate modi-
23 fications with respect to the States in which the
24 criteria set forth in subparagraph (A) have not
25 been met;

1 (2) certifies that the prospective H-2B em-
2 ployer has complied with all recruitment require-
3 ments set forth in section 3 or any other applicable
4 provision of law; and

5 (3) makes a formal determination that nation-
6 als of the United States are not qualified or avail-
7 able to fill the employment opportunities offered by
8 the prospective H-2B employer.

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