

113TH CONGRESS
1ST SESSION

H. R. 1562

To amend the Immigration and Nationality Act to simplify the petitioning procedure for H-2A workers, to expand the scope of the H-2A program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2013

Mr. GIBSON (for himself, Mr. REED, Mr. OWENS, and Mr. SEAN PATRICK MALONEY of New York) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to simplify the petitioning procedure for H-2A workers, to expand the scope of the H-2A 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 “Family Farm Relief
5 Act of 2013”.

6 **SEC. 2. SECRETARY OF AGRICULTURE TO ADMINISTER H-**
7 **2A PROGRAM.**

8 (a) IN GENERAL.—Section 218 of the Immigration
9 and Nationality Act (8 U.S.C. 1188) is amended by strik-

1 ing the term “Secretary of Labor” each place it appears
2 and inserting “Secretary of Agriculture”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect on the date that is 1 year
5 after the date of enactment of this Act.

6 **SEC. 3. ELECTRONIC FILING SYSTEM FOR H-2A PETITIONS.**

7 Not later than 1 year after the date of enactment
8 of this Act, the Secretary of Agriculture shall establish
9 a process for receiving petitions for nonimmigrant visas
10 under section 101(a)(15)(H)(ii)(a) of the Immigration and
11 Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)). In es-
12 tablishing such process, the Secretary shall ensure—

13 (1) that petitioners may file such petitions over
14 the Internet on an Internet Web page of the Sec-
15 retary;

16 (2) that any software developed to process such
17 petitions on such Internet Web page shall indicate to
18 the petitioner any technical deficiency in the applica-
19 tion prior to submission; and

20 (3) that each petitioner shall be able to file
21 such petition in a paper format.

22 **SEC. 4. REPEAL OF 50-PERCENT DOMESTIC WORKFORCE**
23 **REQUIREMENT.**

24 Subparagraph (B) of section 218(c)(3) of the Immi-
25 gration and Nationality Act (8 U.S.C. 1188(c)(3)) is re-

1 pealed, and any rule made by the Secretary of Labor or
2 the Secretary of Homeland Security to carry out such sub-
3 paragraph may not continue in effect.

4 **SEC. 5. PREVAILING PRACTICES SURVEY.**

5 In the case of an employer petitioning under section
6 218 of the Immigration and Nationality Act (8 U.S.C.
7 1188), the submission of a prevailing practice survey re-
8 garding employment practices shall not be required.

9 **SEC. 6. ALTERATION OF REGION OF REFERENCE.**

10 Section 218(b)(3) of the Immigration and Nationality
11 Act (8 U.S.C. 1188(b)(3)) is amended by striking “within
12 a multi-state region of traditional or expected labor sup-
13 ply” and inserting “within an area of 150 square miles
14 in the United States centered around the place of employ-
15 ment”.

16 **SEC. 7. PROHIBITION AND REPEAL OF CERTAIN RULES.**

17 (a) RULES REGARDING RECRUITMENT AND REFER-
18 RAL REQUIREMENT.—The Secretary of Agriculture may
19 not make any rule for purposes of carrying out section
20 218(b)(3) of the Immigration and Nationality Act that—

21 (1) requires that an employer advertise an offer
22 of employment—

23 (A) on a particular date; or

24 (B) in a particular publication;

1 (2) requires that an employer contact workers
2 who the employer employed in the prior year or
3 growing season; or

4 (3) requires that an employer submit a recruit-
5 ment report.

6 (b) PROHIBITION ON REQUIREMENT OF CERTIFI-
7 CATION BY EMPLOYERS.—

8 (1) IN GENERAL.—The Secretary of Agriculture
9 or the Secretary of Homeland Security may not
10 make any rule pertaining to a petition under section
11 101(a)(15)(H)(ii)(a) of the Immigration and Nation-
12 ality Act, that requires an employer to provide a cer-
13 tification of—

14 (A) recruitment advertisements; or

15 (B) recruitment reports.

16 (2) RULE OF CONSTRUCTION.—Nothing in this
17 section shall be construed as limiting the authority
18 of the Secretary to require an attestation regarding
19 such matters from any such employer.

20 (c) REPEAL OF EXISTING RULES.—Any rule that is
21 described in subsection (a) that is currently in effect may
22 not continue in effect beginning on the date that is 60
23 days after the date of enactment of this Act.

1 **SEC. 8. INCLUSION OF CERTAIN YEAR-ROUND LIVESTOCK**
2 **WORKERS.**

3 (a) IN GENERAL.—Section 101(a)(15)(H)(ii)(a) of
4 the Immigration and Nationality Act (8 U.S.C.
5 1101(a)(15)(H)(ii)(a)) is amended by inserting “, labor
6 as a year-round livestock worker (including as a dairy
7 worker)” before “, and the pressing of apples for cider”.

8 (b) LENGTH OF STAY FOR YEAR-ROUND LIVESTOCK
9 WORKERS.—Section 218 of the Immigration and Nation-
10 ality Act (8 U.S.C. 1188), as amended by this Act, is fur-
11 ther amended by adding at the end the following:

12 “(j) SPECIAL RULE FOR YEAR-ROUND LIVESTOCK
13 WORKERS.—Notwithstanding any other provision of this
14 section, an H–2A worker who is admitted for purposes of
15 performing labor as a year-round livestock worker (includ-
16 ing as a dairy worker) may be admitted for a period of
17 not more than 12 months. At the end of that period, the
18 Secretary of Homeland Security may not approve a peti-
19 tion to import that alien as an H–2A worker for a period
20 of 3 months. Such a petition may be filed pertaining to
21 that alien any number of times. Such petition may not
22 be filed by any person who, at the time of filing, is an
23 alien who is unlawfully present in the United States.”.

1 **SEC. 9. REPLACEMENT OF WORKERS AND EXPEDITED AD-**
 2 **MINISTRATIVE APPEALS.**

3 Section 218 of the Immigration and Nationality Act
 4 (8 U.S.C. 1188), as amended by this Act, is further
 5 amended by adding at the end the following:

6 “(k) REPLACEMENT OF WORKERS.—On receiving no-
 7 tice that an H–2A worker recruited or hired by an em-
 8 ployer has prematurely abandoned employment or has
 9 failed to appear for employment, the Secretary of State
 10 shall promptly issue a visa under section
 11 101(a)(15)(H)(ii)(a) to an eligible alien designated by the
 12 employer to replace that worker and the Secretary of
 13 Homeland Security shall expeditiously admit such alien
 14 into the United States.”.

15 **SEC. 10. AGRICULTURAL ASSOCIATIONS AND POOLING OF**
 16 **WORKERS.**

17 Section 218(d) of the Immigration and Nationality
 18 Act (8 U.S.C. 1188(d)) is amended to read as follows:

19 “(d) ROLE OF AGRICULTURAL ASSOCIATIONS.—

20 “(1) FILING BY AGRICULTURAL ASSOCIATION
 21 PERMITTED.—An application to hire an H–2A work-
 22 er may be filed by an association of agricultural em-
 23 ployers which use agricultural labor.

24 “(2) TREATMENT OF ASSOCIATIONS ACTING AS
 25 EMPLOYERS.—If an association is a joint or sole em-
 26 ployer of H–2A workers, such H–2A workers may be

1 transferred among its members to perform agricul-
2 tural labor of the same nature for which the applica-
3 tion was approved.

4 “(3) TREATMENT OF VIOLATIONS.—

5 “(A) INDIVIDUAL MEMBERS.—If an indi-
6 vidual member of a joint employer association
7 violates any condition for approval with respect
8 to the member’s application, the Secretary of
9 Agriculture shall deny such application only
10 with respect to that member of the association
11 unless the Secretary determines that the asso-
12 ciation or other member participated in, had
13 knowledge of, or had reason to know of the vio-
14 lation.

15 “(B) ASSOCIATION OF AGRICULTURAL EM-
16 PLOYERS.—

17 “(i) JOINT EMPLOYER.—If an associa-
18 tion representing agricultural employers as
19 a joint employer violates any condition for
20 approval with respect to the association’s
21 application, the Secretary of Agriculture
22 shall deny such application only with re-
23 spect to the association and may not apply
24 the denial to any individual member of the
25 association, unless the Secretary deter-

1 mines that the member participated in,
2 had knowledge of, or had reason to know
3 of the violation.

4 “(ii) SOLE EMPLOYER.—If an associa-
5 tion of agricultural employers approved as
6 a sole employer violates any condition for
7 approval with respect to the association’s
8 application, no individual member of the
9 association may be the beneficiary of the
10 services of H–2A workers admitted under
11 this section in the occupation in which
12 such H–2A workers were employed by the
13 association which was denied approval dur-
14 ing the period such denial is in force.”.

15 **SEC. 11. AGENCY REPORT REQUIRED WHEN DELAYS**
16 **OCCUR.**

17 Section 218(c) of the Immigration and Nationality
18 Act (8 U.S.C (c)) is amended by adding at the end the
19 following:

20 “(5) AGENCY REPORT REQUIRED WHEN
21 DELAYS OCCUR.—A report shall be submitted to the
22 Committee on Agriculture of the Senate and the
23 Committee on Agriculture of the House of Rep-
24 resentatives for any month in which the average
25 reponse time under paragraph (2) to a filing is

1 greater than 7 days. The report shall be submitted
2 not later than the last day of the month that imme-
3 diately follows the month in which such average re-
4 sponse time limit was exceeded.”.

5 **SEC. 12. GAO REPORT.**

6 Not later than 90 days after the date of enactment
7 of this Act, the Comptroller General shall submit to Con-
8 gress a report on a study—

9 (1) evaluating the effects of introducing biomet-
10 ric identification cards to H-2A workers;

11 (2) whether the usage of such identification
12 cards would promote efforts to efficiently enforce the
13 immigration laws and streamline the visa application
14 and admission process for H-2A workers; and

15 (3) examining any delay in the processing of
16 applications and petitions under the H-2A program
17 and in the administration of the program.

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