



New Agricultural Guestworker Act Proposed in House

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Foster Swift Agricultural Law Update

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The Agricultural Guestworker Act (AG Act) of 2013 (H. R. 1773), a bill to provide American farmers with a revised temporary guestworker program, was introduced into the House of Representatives in late April.

The sponsor of the AG Act, Rep. Bob Goodlatte, R-VA, believes the plan will help farmers by streamlining access to a reliable workforce, reducing red tape, and protecting growers from lawsuits.

THE KEY PARTS OF THE AG ACT INCLUDE:

- The maximum stay for seasonal or temporary jobs is 18 months, after which workers must return to their native country for three months. Workers in permanent jobs can work for 36 months before leaving the country for three months, after which they will have to leave after each 18-month period of work.
- A grower must petition for an H-2C worker before that worker can be admitted to the US.
- Once a grower is designated as a registered agricultural employer by the USDA, they can hire guestworkers already admitted to the US without filing another petition for an individual worker.
- Workers can switch to another grower who petitions for them, or, once admitted, can seek at-will employment when they complete their original assignment.
- Workers will be paid the state minimum wage or the prevailing wage, whichever is greater.
- Ag employers are not required to provide housing or pay worker's transportation expenses.
- Employers concerned about litigation can require workers to accept mediation and binding arbitration of any grievance as a condition of employment.

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The workers under the AG Act are not eligible for federal tax credits such as the Earned Income Credit and the Child Tax Credit, nor can they participate in federal welfare programs or receive legal assistance under the Legal Services Corporation Act. They may only bring their spouses or children if they, too, are registered as guestworkers.

The Department of Agriculture, Homeland Security and State will administer the program.

STATUS OF BILL AS OF TIME OF PUBLICATION:

The bill was assigned to a congressional committee on April 26, 2013, and currently remains in committee. If the bill is reported out of committee, it will then be submitted to the House for its consideration.