



The H-2B Program Benefits Seasonal Small Businesses & Their American Workers

PLEASE PROVIDE NEEDED H-2B CAP AND REGULATORY RELIEF THROUGH THE FISCAL 2018 APPROPRIATIONS PROCESS.

PERMANENT REFORM LEGISLATION IS ALSO NEEDED TO ADDRESS BURDENSOME REGULATORY REQUIREMENTS, LEGAL UNCERTAINTIES AND THE ARBITRARY CAP ON THE NUMBER OF H-2B WORKERS ADMITTED TO THE U.S. EACH FISCAL YEAR. PLEASE COSPONSOR THE SAVE OUR SMALL AND SEASONAL BUSINESSES ACT OF 2016 (S. 792) OR THE STRENGTHEN EMPLOYMENT AND SEASONAL OPPORTUNITIES NOW (SEASON) ACT (H.R. 2004).

The H-2B Program Creates American Jobs

- The H-2B program is essential for small and seasonal businesses that are committed to hiring a legal workforce but are unable to fill seasonal jobs with American workers despite extensive recruitment efforts. Seasonal industries that use the H-2B program include seafood processing, horse training, hospitality and amusement parks, forestry, landscaping, circuses, carnivals, food concessionaires, swimming pool maintenance, construction and stone quarries.
- The H-2B program is important to workers. For H-2B workers, the program provides well-paying seasonal jobs that allow them to provide for their families and still maintain their homes in their native countries. This program is also important for American workers whose year round positions are reliant upon seasonal laborers during peak seasons.
- Every H-2B worker is estimated to create and sustain 4.64 American jobs.

Immediate Cap Relief is Needed

- In a strong economy, the program's congressionally mandated cap of 66,000 (33,000 for each half of the fiscal year) is inadequate to meet the seasonal needs of small businesses.
- The cap was hit in 2015 year for the first time in several years, leaving many seasonal employers in the lurch. If Congress had not re-instated the H-2B returning worker exemption for fiscal 2016, many small and seasonal businesses would have had to close their doors and lay off their American workers.
- For fiscal 2017, the 33,000 cap for the first half of the fiscal year was reached on January 10 and the 33,000 cap for the second half of the fiscal year was reached on March 13.
- Under the Consolidated Appropriations Act of 2017, the Department of Homeland Security (DHS) released an additional 15,000 H-2B visas, along with additional employer attestation requirements about that company would suffer irreparable harm (permanent and severe financial loss) without the ability to employ the requested H-2B workers.
- The number of visas released by DHS was well below the amount authorized by Congress and came very late in summer, limiting their benefit for financially strapped American businesses. President Trump signed potential H-2B cap relief into law on May 5, but DHS did not begin processing H-2B petitions until July 19. Given that DHS processing takes time and that individual H-2B workers then need to go through a consular vetting processing in their native countries, businesses who were impacted by the program's 66,000 cap are not likely to be able to hire H-2B workers until September. These companies faced significant financial losses during the busy spring and summer seasons.
- The attestation process established in DHS's temporary H-2B rule was unnecessary given that the Department of Labor (DOL) foreign labor certification required to obtain an H-2B visa clearly documents that a company's seasonal labor needs could not be fulfilled with American workers. Further, while businesses can document significant financial loss due to the lack of H-2B workers, the standard of "permanent harm" is difficult to quantify and subject to interpretation.

Small and Seasonal Businesses Need a Stable H-2B Program

- In 2015, DHS and DOL jointly issued a final wage rule and an interim final comprehensive program rule. The rules created additional costs and obstacles for seasonal employers on top of the requirements that employers work with four government agencies, undertake extensive recruitment to find American workers, and pay workers a premium wage.
- The fiscal 2016 and 2017 omnibus appropriations bills provided temporary relief from some of the most onerous provisions of the rules.
- The program has been plagued with litigation, program shutdowns, constantly changing H-2B regulations and severe processing delays. Seasonal employers cannot plan for future business growth when they do not know if they will be able to use the program from one year to the next or if they will be able to keep up with increasing costs and complexities associated with the program.
- S. 792 and H.R. 2004 would provide certainty for seasonal employers, make the program run more efficiently and provide permanent cap relief.



CONGRESSIONAL ACTION IS NEEDED

ASK: PLEASE INCLUDE H-2B CAP AND REGULATORY RELIEF THROUGH THE FISCAL 2018 APPROPRIATIONS PROCESS.

ASK: PLEASE CO-SPONSOR THE FOLLOWING BILLS, WHICH ADDRESS THE MOST PRESSING PROBLEMS FACING THE H-2B PROGRAM, AND DIRECTLY AFFECT THE BUSINESSES THAT RELY ON THE PROGRAM.

S. 792, Save our Small and Seasonal Businesses Act of 2017 (Senator Tillis, R-NC)

- Co-sponsors: King (I-ME), Thune (R-SD), Collins (R-ME), Rounds (R-SD), Cornyn (R-TX), Murkowski (R-AK), Blunt (R-MO), Warner (D-VA), Flake (R-AZ), Cassidy (R-LA), and Graham (R-SC)
- This bipartisan legislation would streamline the program to eliminate ambiguities and establish clear parameters for employers hiring H-2B workers, require increased coordination between federal agencies, and bring transparency to the program operations for greater efficiency while ensuring American workers are not displaced.
- Provides H-2B cap relief by exempting well vetted H-2B workers who worked in the program of one the previous three years.
- Staff Contact: Courtney Temple (Tillis); courtney_temple@tillis.senate.gov; 224-6342

H.R. 2004, Strengthen Employment and Seasonal Opportunities Now (SEASON) Act (Rep. Chabot, R-OH)

- Co-sponsors: Chaffetz (R-UT), Harris (R-MD), Yoder (R-KS), Gibbs (R-OH), Long (R-MO), Goodlatte (R-VA), Meehan (R-PA), Stewart (R-UT) and Thompson (R-PA)
- Provides expedited processing of H-2B applications so that U.S. employers have access to workers during their peak work seasons. Department of Homeland Security is to run the H-2B program and ensure employer compliance with the program's obligations.
- Would provide H-2B cap relief by exempting well vetted H-2B workers who worked in the program of one the previous three years.
- Provides H-2B cap relief by exempting well vetted H-2B workers who worked in the program during the previous fiscal year.
- Staff Contact: Jonathan Lowe (Chabot); jonathan.lowe@mail.house.gov, 225-2216



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