

116TH CONGRESS
1ST SESSION

H. R. 2801

To provide temporary resident status and employment authorization for certain non-seasonal agricultural workers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2019

Mr. COLLINS of New York introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide temporary resident status and employment authorization for certain non-seasonal agricultural workers, 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 “Helping Labor Per-
5 sonnel on Farms Act” or the “HELP Farms Act”.

6 **SEC. 2. TEMPORARY RESIDENT STATUS AND EMPLOYMENT**

7 **AUTHORIZATION FOR CERTAIN NON-SEA-**

8 **SONAL AGRICULTURAL WORKERS.**

9 (a) IN GENERAL.—

1 (1) TREATMENT OF PRINCIPAL ALIENS.—In the
2 case of an alien described in subsection (b) who sat-
3 isfies the requirements of subsection (c) and is not
4 ineligible under subsection (e), the Secretary of
5 Homeland Security, in consultation with the Sec-
6 retary of Labor and the Secretary of State, shall—

7 (A) adjust the status of the alien to that
8 of an alien lawfully admitted for temporary res-
9 idence for a two-year period not subject to re-
10 newal, and issue documentary evidence of such
11 temporary resident status;

12 (B) grant the alien authorization to engage
13 in employment in the United States during
14 such two-year period in an agricultural labor or
15 services occupation not of a seasonal nature;
16 and

17 (C) provide the alien an “employment au-
18 thorized” endorsement or other appropriate
19 work permit valid during such two-year period.

20 (2) TREATMENT OF SPOUSES AND CHIL-
21 DREN.—A spouse or unmarried child under 21 years
22 of age of a principal alien who is included in an ap-
23 plication under subsection (c)(1) and is not ineligible
24 under subsection (e) shall be eligible for the same

1 temporary resident status (and documentation of
2 such status) as is granted to the principal alien.

3 (b) ALIENS DESCRIBED.—

4 (1) IN GENERAL.—An alien is described in this
5 subsection if the alien—

6 (A) during the preceding calendar year,
7 was considered a United States resident for
8 purposes of the Internal Revenue Code of 1986;

9 (B) does not qualify for status under sec-
10 tion 101(a)(15)(H)(ii)(a) of the Immigration
11 and Nationality Act (8 U.S.C. 1101(a)(15)(a));
12 and

13 (C) is, and during the 2-year period pre-
14 ceeding the date of the filing of the application
15 under subsection (c) has been, employed by the
16 sponsoring employer described in sub-
17 section(c)(2) in an agricultural labor or services
18 occupation not of a seasonal nature.

19 (2) DEFINITION.—For purposes of this section,
20 the term “agricultural labor or services” includes—

21 (A) agricultural labor as defined in section
22 3121(g) of the Internal Revenue Code of 1986;

23 (B) agriculture as defined in section 3(f)
24 of the Fair Labor Standards Act of 1938 (29
25 U.S.C. 203(f));

1 (C) all activities required for the prepara-
2 tion, processing or manufacturing of a product
3 of agriculture (as such term is defined in such
4 section 3(f)), or fish or shellfish, for further dis-
5 tribution;

6 (D) the handling, planting, drying, pack-
7 ing, packaging, processing, freezing, or grading
8 prior to delivery for storage of any agricultural
9 or horticultural commodity in its unmanufac-
10 tured state;

11 (E) dairy cattle and milk production;

12 (F) range production of livestock;

13 (G) sheep herding or goat herding;

14 (H) commercial beekeeping and polli-
15 nation;

16 (I) animal shearing;

17 (J) the killing of animals for meat or poul-
18 try processing and the breakdown of their car-
19 casses; and

20 (K) activities related to the management
21 and training of equines.

22 (c) APPLICATION REQUIREMENTS.—

23 (1) IN GENERAL.—An alien shall apply for ad-
24 justment of status and work authorization under
25 this section during the 6-month period beginning on

1 the date of the enactment of this Act. The applica-
2 tion shall collect such information as the Secretary
3 of Homeland Security determines necessary and ap-
4 propriate. The Secretary shall establish a process
5 through which an alien may submit a single applica-
6 tion under this section on behalf of the alien and the
7 alien's eligible spouse and children.

8 (2) SPONSORING EMPLOYER.—

9 (A) IN GENERAL.—An application under
10 paragraph (1) shall be accompanied by an at-
11 testation from the alien's employer that the
12 alien continuously has been employed by the
13 employer in an agricultural labor or services oc-
14 cupation not of a seasonal nature during the 2-
15 year period preceding the date of the filing of
16 the application.

17 (B) EMPLOYER PROTECTIONS.—

18 (i) USE OF EMPLOYMENT RECORDS.—

19 Copies of employment records or other evi-
20 dence of employment provided by an alien
21 or by an alien's employer in support of an
22 alien's application under paragraph (1)
23 may not be used in a civil or criminal pros-
24 ecution or investigation of that employer
25 under section 274A of the Immigration

1 and Nationality Act (8 U.S.C. 1324a) or
2 under the Internal Revenue Code of 1986
3 for the prior unlawful employment of that
4 alien regardless of the adjudication of such
5 application or reconsideration by the Sec-
6 retary of Homeland Security of such
7 alien's prima facie eligibility determination.
8 Employers that provide unauthorized
9 aliens with copies of employment records
10 or other evidence of employment pursuant
11 to an application under paragraph (1) shall
12 not be subject to civil and criminal liability
13 pursuant to such section 274A for employ-
14 ing such unauthorized aliens.

15 (ii) LIMIT ON APPLICABILITY.—The
16 protections for employers and aliens under
17 clause (i) shall not apply if the aliens or
18 employers submit employment records that
19 are determined to be fraudulent.

20 (d) SPECIAL RULES FOR APPLICANTS.—

21 (1) DOCUMENTATION.—Upon the filing of an
22 application under subsection (c)(1), the Secretary of
23 Homeland Security shall furnish the applicant or ap-
24 plicants with documentation of status as an appli-
25 cant under this section.

1 (2) ALIENS APPREHENDED BEFORE OR DURING
2 THE APPLICATION PERIOD.—If an alien who is ap-
3 prehended during the period beginning on the date
4 of the enactment of this Act and ending on the last
5 day of the application period described in subsection
6 (c)(1) appears prima facie eligible for temporary
7 resident status under this section, the Secretary of
8 Homeland Security—

9 (A) shall provide the alien with a reason-
10 able opportunity to submit an application for
11 such status under this section during such pe-
12 riod; and

13 (B) if such an application is submitted,
14 may not remove the individual until a final ad-
15 ministrative determination is made on such ap-
16 plication.

17 (3) ALIENS IN REMOVAL PROCEEDINGS.—Not-
18 withstanding any other provision of the Immigration
19 and Nationality Act (8 U.S.C. 1101 et seq.) if an
20 alien is in removal, deportation, or exclusion pro-
21 ceedings during the period beginning on the date of
22 the enactment of this Act and ending on the last day
23 of the application period described in subsection
24 (c)(1) and is prima facie eligible for temporary resi-
25 dent status under this section, upon motion by the

1 Secretary of Homeland Security and with the con-
2 sent of the alien or upon motion by the alien, the
3 Executive Office for Immigration Review shall—

4 (A) terminate such proceedings without
5 prejudice to future proceedings; and

6 (B) permit the alien a reasonable oppor-
7 tunity to apply for such status.

8 (4) PERIOD PENDING ADJUDICATION OF APPLI-
9 CATION.—During the period beginning on the date
10 on which an alien applies for temporary resident sta-
11 tus under this section and ending on the date on
12 which the Secretary of Homeland Security makes a
13 final decision regarding such application, the alien—

14 (A) is eligible to apply for advance parole;

15 (B) may not be detained by the Secretary
16 or Homeland Security or removed from the
17 United States unless the Secretary makes a
18 prima facie determination that such alien is, or
19 has become, ineligible for temporary resident
20 status;

21 (C) shall not be considered unlawfully
22 present under section 212(a)(9)(B) of the Im-
23 migration and Nationality Act (8 U.S.C.
24 1182(a)(9)(B)); and

1 (D) shall not be considered an unauthor-
2 ized alien (as defined in section 274A(h)(3) of
3 such Act (8 U.S.C. 1324a(h)(3))).

4 (e) INELIGIBLE ALIENS.—

5 (1) IN GENERAL.—An alien shall be ineligible
6 for adjustment of status and work authorization
7 under this section if the Secretary of Homeland Se-
8 curity determines that—

9 (A) the alien ordered, incited, assisted, or
10 otherwise participated in the persecution of any
11 person on account of race, religion, nationality,
12 membership in a particular social group, or po-
13 litical opinion;

14 (B) the alien has been convicted in the
15 United States by a final judgment of a particu-
16 larly serious crime (as defined in paragraph
17 (2));

18 (C) there are serious reasons for believing
19 that the alien has committed a serious non-
20 political crime outside the United States prior
21 to the arrival of the alien in the United States;

22 (D) there are reasonable grounds for re-
23 garding the alien as a danger to the security of
24 the United States;

1 (E) the alien is described in subclause (I),
2 (II), (III), (IV), or (VI) of section
3 212(a)(3)(B)(i) or section 237(a)(4)(B) of the
4 Immigration and Nationality Act (8 U.S.C.
5 1101 et seq.) (relating to terrorist activity), un-
6 less, in the case only of an alien inadmissible
7 under subclause (IV) of section 212(a)(3)(B)(i)
8 of such Act, the Secretary of Homeland Secu-
9 rity determines, in the Secretary's discretion,
10 that there are not reasonable grounds for re-
11 garding the alien as a danger to the security of
12 the United States; or

13 (F) the alien has not satisfied all Federal,
14 State, and local tax liabilities.

15 (2) DEFINITION.—For purposes of paragraph
16 (1)(B), an alien who has been convicted of the fol-
17 lowing shall be considered to have been convicted of
18 a particularly serious crime:

19 (A) A felony for which the alien was sen-
20 tenced to a term of imprisonment of not less
21 than 60 months.

22 (B) Murder, rape, kidnapping, or a felony
23 offense described in chapter 77 (relating to pe-
24 onage and slavery) or 113B (relating to ter-
25 rorism) of title 18, United States Code.

1 (C) Three or more felonies of any kind.

2 (3) TERMINATION OF BENEFITS.—Temporary
3 resident status and work authorization granted
4 under this section shall be terminated if the Sec-
5 retary of Homeland Security determines that the
6 alien—

7 (A) meets a condition described in para-
8 graph (1); or

9 (B) is not employed in an agricultural
10 labor or services occupation not of a seasonal
11 nature.

12 (f) DOCUMENTATION FEATURES.—Documentary evi-
13 dence of temporary resident status provided under this
14 section shall—

15 (1) be machine-readable and tamper-resistant;

16 (2) contain a digitized photograph;

17 (3) during the alien's authorized period of ad-
18 mission, serve as a valid travel and entry document
19 for the purpose of applying for admission to the
20 United States; and

21 (4) include such other features and information
22 as the Secretary of Homeland Security may pre-
23 scribe.

24 (g) CONFIDENTIALITY OF INFORMATION.—

1 (1) IN GENERAL.—Except for purposes of car-
2 rying out paragraph (2), and consistent with sub-
3 section (c)(2)(B), the Secretary of Homeland Secu-
4 rity, the Attorney General, or any other official or
5 employee of the Department of Justice or the De-
6 partment of Homeland Security shall not—

7 (A) use the information furnished by the
8 applicant, or the sponsoring employer described
9 in subsection (c)(2)(A), pursuant to an applica-
10 tion filed under this section for any purpose
11 other than to make a determination on the ap-
12 plication;

13 (B) make any publication whereby the in-
14 formation furnished by any particular applicant
15 or sponsoring employer can be identified; or

16 (C) permit anyone other than the sworn of-
17 ficers and employees of the Department of
18 Homeland Security to examine individual appli-
19 cations.

20 (2) PENALTIES FOR FALSE STATEMENTS IN AP-
21 PLICATIONS.—Whoever files an application under
22 this section and knowingly and willfully falsifies,
23 misrepresents, conceals, or covers up a material fact
24 or makes any false, fictitious, or fraudulent state-
25 ments or representations, or makes or uses any false

1 writing or document knowing the same to contain
2 any false, fictitious, or fraudulent statement or
3 entry, shall be subject to section 1001 of title 18,
4 United States Code.

5 **SEC. 3. MODIFICATION OF H-2A REGULATIONS.**

6 Not later than 2 years after the date of the enact-
7 ment of this Act, the Secretary of Labor shall modify the
8 Secretary's regulations governing the program under sec-
9 tion 101(a)(15)(H)(ii)(a) of the Immigration and Nation-
10 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) so as to ensure
11 that aliens desiring to come temporarily to the United
12 States to work in an agricultural labor or services occupa-
13 tion not of a seasonal nature are eligible to be granted
14 authorization for employment in the United States on an
15 annual, rather than a seasonal, basis under such program.

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