

116TH CONGRESS
1ST SESSION

H. R. 3740

To amend the Immigration and Nationality Act to simplify and rename the H-2C worker program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2019

Mr. CRAWFORD introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to simplify and rename the H-2C worker 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 “Agricultural Guest
5 Worker Reform Initiative Act of 2019” or as the “AGRI
6 Act of 2019”.

1 **SEC. 2. IN GENERAL.**

2 (a) **INCLUSION OF DAIRY OR RANCH WORKERS.—**

3 Section 101(a)(15)(H) of the Immigration and Nationality
4 Act (8 U.S.C. 1101(a)(15)(H)) is amended by inserting
5 “labor on a dairy or ranch and” before “agricultural labor
6 defined in”.

7 (b) **ELIMINATION OF 50 PERCENT RULE.—**Section
8 218(c)(3) of such Act (8 U.S.C. 1188(c)(3)) is amended—

9 (1) in subparagraph (A), by striking “(A)”; and

10 (2) by striking subparagraph (B).

11 (c) **WAGE RATE.—**Section 218(a)(1)(B) of such Act

12 (8 U.S.C. 1188(a)(1)(B)) is amended by striking the pe-
13 riod at the end and inserting “, except that no employer
14 shall be required to pay a wage rate greater than the
15 greatest of the Federal, State, and local minimum wage
16 rates.”.

17 (d) **LEGAL ASSISTANCE FROM THE LEGAL SERVICES**

18 **CORPORATION; EXPEDITED PROCEDURES FOR REPLACE-**

19 **MENT OF AN ABSCONDED WORKER.—**Section 218(h) of

20 such Act (8 U.S.C. 1188(h)) is amended by adding at the
21 end the following:

22 “(3)(A) The Legal Services Corporation may not pro-
23 vide legal assistance for, or on behalf of, any alien, and
24 may not provide financial assistance to any person or enti-
25 ty that provides legal assistance for, or on behalf of, any
26 alien, unless—

1 “(i) the alien is present in the United States at
2 the time the legal assistance is provided; and

3 “(ii) the parties to the dispute have attempted,
4 in good faith, mediation or other non-binding dis-
5 pute resolution of all issues involving all such par-
6 ties.

7 “(B) If an employer and a nonimmigrant having sta-
8 tus under section 101(a)(15)(H)(ii)(a) have an arbitration
9 arrangement, the Legal Services Corporation shall respect
10 the arbitration process and outcome.

11 “(C) No employer of a nonimmigrant having status
12 under section 101(a)(15)(H)(ii)(a) shall be required to
13 permit any recipient of a grant or contract under section
14 1007 of the Legal Services Corporation Act (42 U.S.C.
15 2996f), or any employee of such a recipient, to enter upon
16 the employer’s property, unless such recipient or employee
17 has a pre-arranged appointment with a specific non-
18 immigrant having such status.

19 “(4) If any agricultural guest worker absconds from
20 his or her place of employment, the Secretary of Home-
21 land Security, in coordination with the Secretary of State,
22 the Secretary of Agriculture, and the Secretary of Labor,
23 shall establish expedited procedures for permitting the em-
24 ployer to import a agricultural guest worker to replace the
25 absconded worker.”.

1 (e) LENGTH OF STAY.—Section 218 of such Act (8
2 U.S.C. 1188) is amended by adding at the end the fol-
3 lowing:

4 “(j) LENGTH OF STAY.—An agricultural guest work-
5 er who enters the United States may remain in the United
6 States for a period of not more than 11 months. The agri-
7 cultural guest worker may not enter the United States on
8 an additional visa under section 101(a)(15)(H)(ii)(c) un-
9 less the agricultural guest worker first returns to that
10 worker’s country of origin for a period of not less than
11 1 month. An agricultural guest worker may enter and re-
12 main in the United States for a total of not more than
13 3 years.”.

14 (f) HOUSING.—Section 218(c)(4) of such Act (8
15 U.S.C. 1188(c)(4)) is amended to read as follows:

16 “(4) HOUSING.—Except for agricultural guest
17 workers who are reasonably able to return to their
18 permanent residence (either within or outside the
19 United States) within the same day, the employer
20 will provide housing to agricultural guest workers
21 through one of the following means:

22 “(A) Employer-owned housing in accord-
23 ance with regulations promulgated by the Sec-
24 retary of Agriculture.

1 “(B) Rental or public accommodations or
2 other substantially similar class of habitation in
3 accordance with regulations promulgated by the
4 Secretary of Agriculture.

5 “(C) Except where the Governor of the
6 State has certified that there is inadequate
7 housing available in the area of intended em-
8 ployment for migrant farm workers and agricul-
9 tural guest workers seeking temporary housing
10 while employed in agricultural work, the em-
11 ployer may furnish the worker with a housing
12 voucher in accordance with regulations, if—

13 “(i) the employer has verified that
14 housing is available for the period during
15 which the work is to be performed, within
16 a reasonable commuting distance of the
17 place of employment, for the amount of the
18 voucher provided, and that the voucher is
19 useable for that housing;

20 “(ii) upon the request of a worker
21 seeking assistance in locating housing for
22 which the voucher will be accepted, the em-
23 ployer makes a good faith effort to assist
24 the worker in identifying, locating, and se-

1 curing housing in the area of intended em-
2 ployment; and

3 “(iii) payment for the housing is made
4 with a housing voucher that is only re-
5 deemable by the housing owner or their
6 agent.

7 An employer who provides housing through one of
8 the foregoing means shall not be deemed a housing
9 provider under section 203 of the Migrant and Sea-
10 sonal Agricultural Worker Protection Act (29 U.S.C.
11 1823) by virtue of providing such housing.”.

12 (g) ABSCONDING ALIENS.—Section 218(f) of such
13 Act (8 U.S.C. 1188(f)) is amended by adding at the end
14 the following: “If the alien absconds, the employer shall
15 not be liable for any violation of this section. The employer
16 may, in a civil action, recover any costs of transportation
17 paid to the alien and any fees paid pertaining to the im-
18 porting of the alien.”.

19 (h) BIOMETRIC IDENTIFICATION CARD.—The Sec-
20 retary of Homeland Security shall provide each non-
21 immigrant agricultural worker with an identification card
22 that contains—

23 (1) an encrypted, machine-readable, electronic
24 identification strip that is unique to the alien to
25 whom the card is issued;

1 (2) biometric identifiers, including fingerprints
2 and a digital photograph; and

3 (3) physical security features designed to pre-
4 vent tampering, counterfeiting, or duplication of the
5 card for fraudulent purposes.

6 (i) TRUST FUND.—

7 (1) ESTABLISHMENT.—The Secretary of Agri-
8 culture shall establish by regulation a trust fund the
9 purpose of which is to provide, without further ap-
10 propriation, funds for the administration and the en-
11 forcement of the program under this section, for the
12 cost of the cards issued under subsection (k), for a
13 monetary incentive for nonimmigrant agricultural
14 workers to return to their country of origin upon ex-
15 piration of their visas under the program, and for
16 payment with respect to emergency medical services
17 furnished to nonimmigrant agricultural workers. The
18 Secretary of Agriculture in consultation with the
19 Secretary of the Treasury shall promulgate such
20 other regulations as may be necessary to carry out
21 this subsection.

22 (2) PAYMENT OF FICA AND FUTA AMOUNTS
23 INTO TRUST FUND.—In the case of employment of
24 a nonimmigrant agricultural worker—

1 (A) the employer shall provide for payment
2 into the trust fund established under paragraph
3 (1) of the sum of—

4 (i) an amount equivalent to the
5 amount of excise taxes which the employer
6 would pay under chapter 21 of the Internal
7 Revenue Code of 1986 with respect to such
8 employment if it were considered employ-
9 ment for the purpose of such Act; and

10 (ii) an amount equivalent to (and in
11 lieu of) the amount of excise taxes which
12 the employer would otherwise pay under
13 chapter 23 of such Code with respect to
14 such employment; and

15 (B) there shall be deducted from the wages
16 of the worker and paid into such trust fund an
17 amount equivalent to the amount of excise taxes
18 that the employee would pay under such chap-
19 ter 21 with respect to such employment if it
20 were considered employment for the purposes of
21 such Act.

22 (3) EXPENDITURES FROM TRUST FUND.—

23 (A) USE OF EMPLOYER CONTRIBUTIONS
24 FOR ADMINISTRATION.—Amounts described in
25 paragraph (2)(A) paid into the trust fund shall

1 be used for the purpose of administering and
2 enforcing the program under this section and
3 for the cost of the cards issued under sub-
4 section (k).

5 (B) USE OF EMPLOYEE CONTRIBUTIONS
6 FOR REPAYMENT OF EMPLOYEE CONTRIBU-
7 TIONS UPON RETURN TO COUNTRY OF ORI-
8 GIN.—Except as provided in subparagraph (C),
9 amounts described in paragraph (2)(B) paid
10 into the trust fund with respect to a non-
11 immigrant agricultural worker shall, upon ap-
12 plication by the worker at the United States
13 consulate nearest the worker's residence in the
14 country of origin, be paid to the worker if the
15 worker demonstrates the compliance of the
16 worker with the terms and conditions of the
17 program.

18 (C) USE OF EMPLOYEE CONTRIBUTIONS
19 ATTRIBUTABLE TO HI TAXES FOR EMERGENCY
20 MEDICAL SERVICES FOR NONIMMIGRANT AGRI-
21 CULTURAL WORKERS.—

22 (i) IN GENERAL.—Amounts described
23 in paragraph (2)(B) paid into the trust
24 fund which relate to excise tax in section
25 3101(b) of the Internal Revenue Code of

1 1986 shall be used to provide payment
2 with respect to emergency medical services
3 (as defined in clause (iii)) for non-
4 immigrant agricultural workers.

5 (ii) ADMINISTRATION.—The Secretary
6 of Agriculture shall establish rules, in con-
7 sultation with the Secretary of Health and
8 Human Services, with respect to the pay-
9 ments under this subparagraph, including
10 methods for determining qualifications for
11 payment and the amount of payment to be
12 made with respect to emergency medical
13 services.

14 (iii) EMERGENCY MEDICAL SERVICES
15 DEFINED.—In this subparagraph, the term
16 “emergency medical services” means those
17 items and services required to be provided
18 under section 1867 of the Social Security
19 Act (42 U.S.C. 1395dd) with respect to an
20 individual who is a nonimmigrant agricul-
21 tural worker and does not include items
22 and services for which coverage under
23 workers’ compensation is required under
24 subsection (f)(3) with respect to the work-
25 er.

1 (j) SEMIANNUAL REPORTS TO CONGRESS.—The Sec-
2 retary of Agriculture shall report to Congress semiannu-
3 ally regarding the program under this section. Each such
4 report shall include a statement of the number of non-
5 immigrant visas issued under the program, an evaluation
6 of the effectiveness of the program, a description of any
7 problems related to the enforcement of the program, and
8 any recommendations for legislation relating to the pro-
9 gram.

10 (k) PROGRAM NAME AND ADMINISTRATOR
11 CHANGED.—Section 218 of the Immigration and Nation-
12 ality Act (8 U.S.C. 1188), as amended by this Act, is fur-
13 ther amended—

14 (1) by striking “H–2A worker” each place it
15 appears and inserting “agricultural guest worker”;
16 and

17 (2) by striking “Secretary of Labor” each place
18 it appears and inserting “Secretary of Agriculture”.

○