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POSITION PAPER

The Agricultural Job Opportunity, Benefits, and Security Act “AgJOBS” 2010

Background

Like many in agriculture, America’s wineries and grape growers struggle to find affordable and reliable agricultural labor in a marketplace that is fraught with uncertainty and potential legal hazards. Vineyards are long-term, fairly inflexible investments. Many of the cultural practices for our high-value specialty crops require an inordinate amount of hand labor to achieve the quality expectations of winemakers and consumers. The availability of a reliable, affordable agricultural work force is one consideration for planning a vineyard for mechanization or hand labor.

Under the current H-2A guest worker program, American grape growers do not have the stable workforce necessary to make these key business decisions. A bipartisan and bicameral Congressional coalition reintroduced legislation proposed in the last Congress that addresses legal, ethical and business questions and would have greatly enhanced the long-term stability and competitiveness of America’s wineries and grape growers. In spite of the strong efforts of leaders in Congress, including Senators Feinstein and Craig, Representatives Berman and Cannon, and many others, the AgJOBS legislation did not pass the last Congress. With the new Congress the Agricultural Coalition for Immigration Reform (ACIR) is gearing up to promote AgJOBS once again. The effort will be led by Senator Feinstein and Representatives Berman and Putnam.

Position

WineAmerica and Winegrape Growers of America support passage of comprehensive immigration reform containing AgJobs. AgJOBS is a common-sense reform of the existing H-2A guest worker program that will bring stability to the nation’s seasonal agricultural work force. Its provisions regularize the permit process and allow workers, who abide by the law, to gain credits towards attaining permanent residency while promoting U.S. border and food security.

A growing number of the leaders in Congress, as well as the President, recognize that the nation’s immigration policy is flawed and that America needs immediate reforms that are compassionate, realistic and economically sensible. These reforms must also enhance the rule of law and contribute to national security. AgJOBS has bridged the gap between adversaries who realize that a rare opportunity exists to achieve reforms supportive of these goals, as well the nation’s agricultural productivity and food security. While some parties opposed to the bill have stated it grants amnesty, it actually functions as an earned adjustment program in which workers legally and ethically earn their citizenship through years of productive work in the labor force.

AgJOBS is a balanced solution for American agriculture that can be enacted with broad bipartisan support.

Key Components of AgJOBS

AgJobs restructures and reforms the current H-2A temporary agricultural worker program. This is accomplished by (1) substantially **streamlining** the program's administrative procedures, including eliminating the labor certification process, (2) reforming the requirements for H-2A employers, including an immediate reduction and gradual elimination of the Adverse Effect Wage Rate, (3) streamlining the process for admission of H-2A aliens, and (4) allowing aliens not currently in the program to acquire H-2A status.

- Employers seeking H-2A foreign workers for seasonal jobs that last 10 months or less must file an application and job offer with the Secretary of Labor. If the application and job offer is in accordance with the program, the Secretary must approve the application. However, employers must seek "qualified U.S. workers prior to the arrival of H-2A foreign workers."
- Workers in a job opportunity covered by an H-2A application must be provided with workers' compensation insurance, and no jobs may be filled by H-2A workers during a strike or labor dispute.
- A user fee paid by agricultural employers would fund the administration of the reformed H-2A program.
- Foreign agricultural workers who can demonstrate that they have worked in agricultural employment 863 hours or 150 or more days during the 24 months ending December 31, 2006, would be granted temporary resident status.
- To obtain permanent resident status a foreign agricultural worker must meet the following requirements:
 - ✓ Work in agriculture at least 100 work days during the five years beginning on the date of enactment of the act, or
 - ✓ Work in agriculture at least 150 work days per year, each year in the three years after enactment, or
 - ✓ Work in agriculture for four years with at least 150 work days in three of those years and 100 work days in the remaining year during the four years after enactment.
- If the worker does not complete the required work days while under temporary resident status, they cannot pursue non-agricultural work in addition to their agricultural duties.

WineAmerica is the national trade association of American wine producers with more than 800 wineries in 48 states. Questions should be directed to Bill Nelson President of WineAmerica, at (202) 783-2756 x123.

Winegrape Growers of America is a federation of state winegrape grower organizations representing America's production of grapes for wine. For more information contact Fowler West at Clark and Weinstock, (202) 261-4000.