

107TH CONGRESS
1ST SESSION

S. 1313

To provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2001

Mr. KENNEDY (for himself, Mr. DODD, and Mr. WELLSTONE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “H-2A Reform and Agricultural Worker Adjustment Act
6 of 2001”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—ADJUSTMENT TO LAWFUL STATUS

Sec. 101. Agricultural workers.

Sec. 102. Correction of Social Security records.

TITLE II—REFORM OF H-2A WORKER PROGRAM

Sec. 201. Amendment to the Immigration and Nationality Act.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Coverage of H-2A agricultural workers under the Migrant and Seasonal Agricultural Worker Protection Act.

Sec. 302. Right to organize.

Sec. 303. Tax equity and workforce improvement fund.

Sec. 304. Regulations.

Sec. 305. Effective date.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **AGRICULTURAL EMPLOYMENT.**—The term
 4 “agricultural employment” means any service or ac-
 5 tivity that is considered to be agricultural under sec-
 6 tion 3(f) of the Fair Labor Standards Act of 1938
 7 (29 U.S.C. 203(f)) or agricultural labor under sec-
 8 tion 3121(g) of the Internal Revenue Code of 1986
 9 (26 U.S.C. 3121(g)). For purposes of this para-
 10 graph, agricultural employment includes employment
 11 under section 101(a)(15)(H)(ii)(a) of the Immigra-
 12 tion and Nationality Act (8 U.S.C.
 13 1101(a)(15)(H)(ii)(a)).

14 (2) **DISPLACE.**—In the case of an application
 15 with respect to one or more H-2A workers by an
 16 employer, the employer is considered to “displace” a
 17 United States worker from a job if the employer lays

1 off the worker from a job for which the H-2A work-
2 er or workers is or are sought.

3 (3) ELIGIBLE.—The term “eligible”, when used
4 with respect to an individual, means an individual
5 who is not an unauthorized alien (as defined in sec-
6 tion 274A(h)(3) of the Immigration and Nationality
7 Act (8 U.S.C. 1324a(h)(3))).

8 (4) EMPLOYER.—The term “employer” means
9 any person or entity, including any farm labor con-
10 tractor and any agricultural association, that em-
11 ploys workers in agricultural employment.

12 (5) H-2A WORKER.—The term “H-2A worker”
13 means a nonimmigrant described in section
14 101(a)(15)(H)(ii)(a) of the Immigration and Nation-
15 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

16 (6) JOB OPPORTUNITY.—The term “job oppor-
17 tunity” means a job opening for temporary full-time
18 employment at a place in the United States to which
19 United States workers can be referred.

20 (7) LAYS OFF.—

21 (A) IN GENERAL.—The term “lays off”,
22 with respect to a worker—

23 (i) means to cause the worker’s loss of
24 employment, other than through a dis-
25 charge for inadequate performance, viola-

1 tion of workplace rules, cause, voluntary
2 departure, voluntary retirement, contract
3 impossibility (as described in section
4 218A(b)(4)(D) of the Immigration and
5 Nationality Act, as added by section 201 of
6 this Act), temporary layoffs due to weath-
7 er, markets, or other temporary conditions;
8 but

9 (ii) does not include any situation in
10 which the worker is offered, as an alter-
11 native to such loss of employment, a simi-
12 lar employment opportunity with the same
13 employer (or, in the case of a placement of
14 a worker with another employer under sec-
15 tion 218(b)(2)(E) of the Immigration and
16 Nationality Act, as added by section 201 of
17 this Act, with either employer described in
18 such section 218(b)(2)(E)) at equivalent or
19 higher compensation and benefits than the
20 position from which the employee was dis-
21 charged, regardless of whether or not the
22 employee accepts the offer.

23 (B) STATUTORY CONSTRUCTION.—Nothing
24 in this paragraph is intended to limit an em-

1 ployee’s rights under a collective bargaining
2 agreement or other employment contract.

3 (8) SECRETARY.—The term “Secretary” means
4 the Secretary of Labor.

5 (9) TEMPORARY.—A worker is employed on a
6 “temporary” basis where the employment is in-
7 tended not to exceed 10 months.

8 (10) UNITED STATES WORKER.—The term
9 “United States worker” means any worker, whether
10 a United States citizen or national, a lawfully admit-
11 ted permanent resident alien, or any other alien,
12 who is authorized to work in the job opportunity
13 within the United States, except an alien admitted
14 or otherwise provided status under section
15 101(a)(15)(H)(ii)(a) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

17 (11) WORK DAY.—The term “work day” means
18 any day in which the individual is employed one or
19 more hours in agriculture.

20 **TITLE I—ADJUSTMENT TO** 21 **LAWFUL STATUS**

22 **SEC. 101. AGRICULTURAL WORKERS.**

23 (a) TEMPORARY RESIDENT STATUS.—

24 (1) IN GENERAL.—Notwithstanding any other
25 provision of law, the Attorney General shall adjust

1 the status of an alien who qualifies under this sub-
2 section to that of an alien lawfully admitted for tem-
3 porary residence if the Attorney General determines
4 that the following requirements are satisfied with re-
5 spect to the alien:

6 (A) PERFORMANCE OF AGRICULTURAL EM-
7 PLOYMENT IN THE UNITED STATES.—The alien
8 must establish that the alien has—

9 (i) performed agricultural employment
10 in the United States for at least 540 hours
11 or 90 work days, whichever is less, during
12 any 12 consecutive months during the 18-
13 month period ending on June 30, 2001; or

14 (ii) applied for lawful residence as a
15 special agricultural worker under section
16 210 of the Immigration and Nationality
17 Act or section 210A of that Act (as in ef-
18 fect prior to October 25, 1994), was other-
19 wise eligible, but was denied relief because
20 the alien’s employment in sugar cane was
21 determined to fall outside of the section’s
22 definition of “seasonal agricultural serv-
23 ices”.

24 (B) APPLICATION PERIOD.—The alien
25 must apply for such adjustment during the 18-

1 month application period beginning on the 1st
2 day of the 7th month that begins after the date
3 of the enactment of this Act.

4 (C) ADMISSIBLE AS IMMIGRANT.—The
5 alien must establish that the alien is otherwise
6 admissible to the United States under section
7 212 of the Immigration and Nationality Act (8
8 U.S.C. 1182), except as otherwise provided
9 under subsection (e)(2).

10 (2) AUTHORIZED TRAVEL.—During the period
11 an alien is in lawful temporary resident status
12 granted under this subsection, the alien has the
13 right to travel abroad (including commutation from
14 a residence abroad) in the same manner as an alien
15 lawfully admitted for permanent residence.

16 (3) AUTHORIZED EMPLOYMENT.—During the
17 period an alien is in lawful temporary resident sta-
18 tus granted under this subsection, the alien shall be
19 provided an “employment” authorized endorsement
20 or other appropriate work permit, in the same man-
21 ner as an alien lawfully admitted for permanent resi-
22 dence.

23 (4) TERMINATION OF TEMPORARY RESIDENT
24 STATUS.—During the period of temporary resident
25 status granted an alien under this subsection, the

1 Attorney General may terminate such status only
2 upon a determination under this Act that the alien
3 is deportable.

4 (5) RECORD OF EMPLOYMENT.—

5 (A) IN GENERAL.—Each employer of a
6 worker whose status is adjusted under this sub-
7 section annually shall—

8 (i) provide a written record of employ-
9 ment to the alien; and

10 (ii) provide a copy of such record to
11 the Immigration and Naturalization Serv-
12 ice.

13 (B) SUNSET.—The obligation under sub-
14 paragraph (A) terminates on the date that is 6
15 years after the date of enactment of this Act.

16 (b) RIGHTS OF ALIENS GRANTED TEMPORARY RESI-
17 DENT STATUS.—

18 (1) IN GENERAL.—Except as otherwise pro-
19 vided in this subsection, an alien who acquires the
20 status of an alien lawfully admitted for temporary
21 residence under subsection (a), such status not hav-
22 ing changed, shall be considered to be an alien law-
23 fully admitted for permanent residence for purposes
24 of any law other than any provision of the Immigra-
25 tion and Nationality Act (8 U.S.C. 1101 et seq.).

1 (2) TERMS OF EMPLOYMENT RESPECTING
2 ALIENS ADMITTED UNDER THIS SECTION.—

3 (A) PROHIBITION.—No alien whose status
4 is adjusted under subsection (a) may be termi-
5 nated from employment by any employer during
6 the period of temporary resident status except
7 for just cause.

8 (B) TREATMENT OF COMPLAINTS.—

9 (i) ESTABLISHMENT OF PROCESS.—

10 The Attorney General shall establish a
11 process for the receipt, initial review, and
12 disposition in accordance with this sub-
13 paragraph of complaints by aliens granted
14 temporary resident status under subsection
15 (a) who allege that they have been termi-
16 nated without just cause. No proceeding
17 shall be conducted under this subpara-
18 graph with respect to a termination unless
19 the Attorney General determines that the
20 complaint was filed not later than 6
21 months after the date of the termination.

22 (ii) INITIATION OF ARBITRATION.—If

23 the Attorney General finds that a com-
24 plaint has been filed in accordance with
25 clause (i) and there is reasonable cause to

1 believe that the complainant was termi-
2 nated without just cause, the Attorney
3 General shall initiate binding arbitration
4 proceedings by requesting the Federal Me-
5 diation and Conciliation Service to appoint
6 a mutual arbitrator from the roster of ar-
7 bitrators maintained by such Service for
8 the geographical area in which the em-
9 ployer is located. The procedure and rules
10 of such Service shall be applicable to the
11 selection of such arbitrator and to such ar-
12 bitration proceedings. The Attorney Gen-
13 eral shall pay the fee and expenses of the
14 arbitrator.

15 (iii) ARBITRATION PROCEEDINGS.—

16 The arbitrator shall conduct the pro-
17 ceeding in accordance with the policies and
18 procedures promulgated by the American
19 Arbitration Association applicable to pri-
20 vate arbitration of employment disputes.
21 The arbitrator shall make findings respect-
22 ing whether the termination was for just
23 cause. The arbitrator may not find that
24 the termination was for just cause unless
25 the employer so demonstrates by a prepon-

1 derance of the evidence. If the arbitrator
2 finds that the termination was not for just
3 cause, the arbitrator shall make a specific
4 finding of the number of days or hours of
5 work lost by the employee as a result of
6 the termination. The arbitrator shall have
7 no authority to order any other remedy, in-
8 cluding, but not limited to, reinstatement,
9 back pay, or front pay to the affected em-
10 ployee. Within 30 days from the conclusion
11 of the arbitration proceeding, the arbi-
12 trator shall transmit the findings in the
13 form of a written opinion to the parties to
14 the arbitration and the Attorney General.
15 Such findings shall be final and conclusive,
16 and no official or court of the United
17 States shall have the power or jurisdiction
18 to review any such findings.

19 (iv) EFFECT OF ARBITRATION FIND-
20 INGS.—If the Attorney General receives a
21 finding of an arbitrator that an employer
22 has terminated an alien granted temporary
23 resident status under subsection (a) with-
24 out just cause, the Attorney General shall
25 credit the alien for the number of days or

1 hours of work lost for purposes of the re-
2 quirement of subsection (c)(1).

3 (v) TREATMENT OF ATTORNEYS'
4 FEES.—The parties shall bear the cost of
5 their own attorneys' fees involved in the
6 litigation of the complaint.

7 (vi) NONEXCLUSIVE REMEDY.—The
8 complaint process provided for in this sub-
9 paragraph is in addition to any other
10 rights an employee may have in accordance
11 with applicable law.

12 (vii) EFFECT ON OTHER ACTIONS OR
13 PROCEEDINGS.—Any finding of fact or
14 law, judgment, conclusion, or final order
15 made by an arbitrator in the proceeding
16 before the Attorney General shall not be
17 conclusive or binding in any separate or
18 subsequent action or proceeding between
19 the employee and the employee's current or
20 prior employer brought before an arbi-
21 trator, administrative agency, court, or
22 judge of any State or the United States,
23 regardless of whether the prior action was
24 between the same or related parties or in-
25 volved the same facts, except that the arbi-

1 trator’s specific finding of the number of
2 days or hours of work lost by the employee
3 as a result of the employment termination
4 may be referred to the Attorney General
5 pursuant to clause (iv).

6 (C) CIVIL PENALTIES.—

7 (i) IN GENERAL.—If the Secretary
8 finds, after notice and opportunity for a
9 hearing, that an employer of a worker
10 whose status has been adjusted under sub-
11 section (a) has failed to provide the record
12 of employment required under subsection
13 (a)(5) or has provided a false statement of
14 material fact in such a record, the em-
15 ployer shall be subject to a civil money
16 penalty in an amount not to exceed \$1,000
17 per violation.

18 (ii) LIMITATION.—The penalty appli-
19 cable under clause (i) for failure to provide
20 records shall not apply unless the alien has
21 provided the employer with evidence of em-
22 ployment authorization granted under this
23 section.

24 (c) ADJUSTMENT TO PERMANENT RESIDENCE.—

25 (1) AGRICULTURAL WORKERS.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), the Attorney General shall
3 adjust the status of any alien granted lawful
4 temporary resident status under subsection (a)
5 to that of an alien lawfully admitted for perma-
6 nent residence if the Attorney General deter-
7 mines that the following requirements are satis-
8 fied:

9 (i) QUALIFYING EMPLOYMENT.—The
10 alien has performed at least 540 hours or
11 90 work days, whichever is less, of agricul-
12 tural employment in the United States, in
13 each of 3 years during the 4-year period
14 beginning on the date that the alien first
15 obtains employment authorization.

16 (ii) APPLICATION PERIOD.—The alien
17 applies for adjustment of status not later
18 than the date that is 7 years after the date
19 of enactment of this Act.

20 (iii) PROOF.—In meeting the require-
21 ments of clause (i), an alien may submit
22 the record of employment described in sub-
23 section (a)(5) or such documentation as
24 may be submitted under subsection (d)(3).

1 (iv) DISABILITY.—In determining
2 whether an alien has met the requirements
3 of clause (i) the Attorney General shall
4 credit the alien with any work days lost be-
5 cause the alien is unable to work in agri-
6 cultural employment due to injury or dis-
7 ease arising out of and in the course of the
8 alien’s agricultural employment, if the
9 alien can establish such disabling injury or
10 disease through medical records.

11 (B) GROUNDS FOR DENIAL OF ADJUST-
12 MENT OF STATUS.—The Attorney General may
13 deny an alien adjustment to permanent resident
14 status, and provide for termination of the tem-
15 porary resident status granted such alien under
16 subsection (a), if—

17 (i) the Attorney General finds by a
18 preponderance of the evidence that the ad-
19 justment to temporary resident status was
20 the result of fraud or willful misrepresenta-
21 tion, as described in section
22 212(a)(6)(C)(i) of the Immigration and
23 Nationality Act (8 U.S.C.
24 1182(a)(6)(C)(i)); or

25 (ii) the alien—

1 (I) commits an act that makes
2 the alien inadmissible to the United
3 States under section 212 of the Immi-
4 gration and Nationality Act (8 U.S.C.
5 1182), except as provided under sub-
6 section (e)(2); or

7 (II) is convicted of a felony or 3
8 or more misdemeanors committed in
9 the United States.

10 (C) GROUNDS FOR REMOVAL.—Any alien
11 granted temporary resident status under sub-
12 section (a) who does not apply for adjustment
13 of status under this subsection before the expi-
14 ration of the application period described in
15 subparagraph (A)(ii), or who fails to meet the
16 other requirements of subparagraph (A) by the
17 end of the applicable period, is deportable and
18 may be removed under section 240 of the Immi-
19 gration and Nationality Act (8 U.S.C. 1229a).

20 (2) SPOUSES AND MINOR CHILDREN.—

21 (A) IN GENERAL.—Notwithstanding any
22 other provision of law, the Attorney General
23 shall adjust the status of any spouse or minor
24 child of an alien granted status under para-
25 graph (1), including any individual who was a

1 minor child on the date such alien was granted
2 temporary resident status, if the spouse or
3 minor child applies for such adjustment, or if
4 the principal alien includes the spouse or minor
5 child in an application for such adjustment.

6 (B) TREATMENT OF SPOUSES AND MINOR
7 CHILDREN PRIOR TO ADJUSTMENT OF STA-
8 TUS.—A spouse or minor child of an alien
9 granted temporary resident status under sub-
10 section (a) may not be—

11 (i) removed while such alien maintains
12 such status; and

13 (ii) granted authorization to engage in
14 employment in the United States or be
15 provided an “employment authorized” en-
16 dorsement or other work permit, unless
17 such employment authorization is granted
18 under another provision of law.

19 (d) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

20 (1) TO WHOM MAY BE MADE.—

21 (A) WITHIN THE UNITED STATES.—The
22 Attorney General shall provide that—

23 (i) applications for adjustment of sta-
24 tus under subsection (a) may be filed—

1 (I) with the Attorney General,
2 but only if the applicant is rep-
3 resented by an attorney; or

4 (II) with a qualified designated
5 entity (designated under paragraph
6 (2)), but only if the applicant consents
7 to the forwarding of the application to
8 the Attorney General; and

9 (ii) applications for adjustment of sta-
10 tus under subsection (c) shall be filed di-
11 rectly with the Attorney General.

12 (B) OUTSIDE THE UNITED STATES.—The
13 Attorney General, in cooperation with the Sec-
14 retary of State, shall establish a procedure
15 whereby an alien may apply for adjustment of
16 status under subsection (a) at an appropriate
17 consular office outside the United States.

18 (C) PRELIMINARY APPLICATIONS.—

19 (i) IN GENERAL.—During the applica-
20 tion period described in subsection
21 (a)(1)(B), the Attorney General may grant
22 admission to the United States as a tem-
23 porary resident and provide an “employ-
24 ment authorized” endorsement or other ap-
25 propriate work permit to any alien who

1 presents a preliminary application for ad-
2 justment of status under subsection (a) at
3 a designated port of entry on the southern
4 land border of the United States. An alien
5 who does not enter through a port of entry
6 is subject to deportation and removal as
7 otherwise provided in this Act.

8 (ii) DEFINITION.—For purposes of
9 clause (i), the term “preliminary applica-
10 tion” means a fully completed and signed
11 application which contains specific infor-
12 mation concerning the performance of
13 qualifying employment in the United
14 States, together with the payment of the
15 appropriate fee and the submission of pho-
16 tographs and the documentary evidence
17 which the applicant intends to submit as
18 proof of such employment.

19 (iii) ELIGIBILITY.—An applicant
20 under clause (i) must be otherwise admis-
21 sible to the United States under subsection
22 (e)(2) and must establish to the satisfac-
23 tion of the examining officer during an
24 interview that the applicant’s claim to eli-

1 gibility for agricultural worker status is
2 credible.

3 (D) TRAVEL DOCUMENTATION.—The At-
4 torney General shall provide each alien whose
5 status is adjusted under this section with a
6 counterfeit-resistant document of authorization
7 to enter or reenter the United States.

8 (2) DESIGNATION OF ENTITIES TO RECEIVE AP-
9 PLICATIONS.—

10 (A) IN GENERAL.—For purposes of receiv-
11 ing applications under subsection (a), the Attor-
12 ney General—

13 (i) shall designate qualified farm labor
14 organizations and associations of employ-
15 ers; and

16 (ii) may designate such other persons
17 as the Attorney General determines are
18 qualified and have substantial experience,
19 demonstrate competence, and have tradi-
20 tional long-term involvement in the prepa-
21 ration and submittal of applications for ad-
22 justment of status under section 209, 210,
23 or 245 of the Immigration and Nationality
24 Act, Public Law 89–732, Public Law 95–

1 145, or the Immigration Reform and Con-
2 trol Act of 1986.

3 (B) REFERENCES.—Organizations, asso-
4 ciations, and persons designated under subpara-
5 graph (A) are referred to in this Act as “quali-
6 fied designated entities”.

7 (3) PROOF OF ELIGIBILITY.—

8 (A) IN GENERAL.—An alien may establish
9 that the alien meets the requirement of sub-
10 section (a)(1)(A) or subsection (c)(1)(A)
11 through government employment records or
12 records supplied by employers or collective bar-
13 gaining organizations, and other reliable docu-
14 mentation as the alien may provide. The Attor-
15 ney General shall establish special procedures to
16 properly credit work in cases in which an alien
17 was employed under an assumed name.

18 (B) DOCUMENTATION OF WORK HIS-
19 TORY.—(i) An alien applying for adjustment of
20 status under subsection (a)(1) or subsection
21 (c)(1) has the burden of proving by a prepon-
22 derance of the evidence that the alien has
23 worked the requisite number of hours or days
24 (as required under subsection (a)(1)(A) or sub-
25 section (c)(1)(A)).

1 (ii) If an employer or farm labor con-
2 tractor employing such an alien has kept proper
3 and adequate records respecting such employ-
4 ment, the alien's burden of proof under clause
5 (i) may be met by securing timely production of
6 those records under regulations to be promul-
7 gated by the Attorney General.

8 (iii) An alien can meet such burden of
9 proof if the alien establishes that the alien has
10 in fact performed the work described in sub-
11 section (a)(1)(A) or subsection (c)(1)(A) by
12 producing sufficient evidence to show the extent
13 of that employment as a matter of just and rea-
14 sonable inference.

15 (4) TREATMENT OF APPLICATIONS BY QUALI-
16 FIED DESIGNATED ENTITIES.—Each qualified des-
17 ignated entity must agree to forward to the Attorney
18 General applications filed with it in accordance with
19 paragraph (1)(A)(ii) but not to forward to the Attor-
20 ney General applications filed with it unless the ap-
21 plicant has consented to such forwarding. No such
22 entity may make a determination required by this
23 section to be made by the Attorney General. Upon
24 the request of the alien, a qualified designated entity

1 shall assist the alien in obtaining documentation of
2 the work history of the alien.

3 (5) LIMITATION ON ACCESS TO INFORMA-
4 TION.—Files and records prepared for purposes of
5 this subsection by qualified designated entities oper-
6 ating under this subsection are confidential and the
7 Attorney General and the Immigration and Natu-
8 ralization Service shall not have access to such files
9 or records relating to an alien without the consent
10 of the alien, except as allowed by a court order
11 issued pursuant to paragraph (6).

12 (6) CONFIDENTIALITY OF INFORMATION.—

13 (A) IN GENERAL.—Except as otherwise
14 provided in this subsection, neither the Attor-
15 ney General, nor any other official or employee
16 of the Department of Justice, or bureau or
17 agency thereof, may—

18 (i) use the information furnished by
19 the applicant pursuant to an application
20 filed under this section, the information
21 provided to the applicant by a person des-
22 ignated under paragraph (2)(A), or any in-
23 formation provided by an employer or
24 former employer, for any purpose other
25 than to make a determination on the appli-

1 cation, or for enforcement of paragraph
2 (7);

3 (ii) make any publication whereby the
4 information furnished by any particular in-
5 dividual can be identified; or

6 (iii) permit anyone other than the
7 sworn officers and employees of the De-
8 partment of Justice, or bureau or agency
9 thereof, or, with respect to applications
10 filed with a qualified designated entity,
11 that qualified designated entity, to examine
12 individual applications.

13 (B) CRIME.—Whoever knowingly uses,
14 publishes, or permits information to be exam-
15 ined in violation of this paragraph shall be fined
16 not more than \$10,000.

17 (7) PENALTIES FOR FALSE STATEMENTS IN AP-
18 PPLICATIONS.—

19 (A) CRIMINAL PENALTY.—Whoever—

20 (i) files an application for adjustment
21 of status under subsection (a) or (c) and
22 knowingly and willfully falsifies, conceals,
23 or covers up a material fact or makes any
24 false, fictitious, or fraudulent statements
25 or representations, or makes or uses any

1 false writing or document knowing the
2 same to contain any false, fictitious, or
3 fraudulent statement or entry; or

4 (ii) creates or supplies a false writing
5 or document for use in making such an ap-
6 plication;

7 shall be fined in accordance with title 18,
8 United States Code, or imprisoned not more
9 than 5 years, or both.

10 (B) INADMISSIBILITY.—An alien who is
11 convicted of a crime under subparagraph (A)
12 shall be considered to be inadmissible to the
13 United States on the ground described in sec-
14 tion 212(a)(6)(C)(i) of the Immigration and
15 Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

16 (8) ELIGIBILITY FOR LEGAL SERVICES.—Sec-
17 tion 504(a)(11) of Public Law 104–134 (110 Stat.
18 1321–53 et seq.) shall not be construed to prevent
19 a recipient of funds under the Legal Services Cor-
20 poration Act (42 U.S.C. 2996 et seq.) from pro-
21 viding legal assistance directly related to an applica-
22 tion for adjustment of status under this section.

23 (9) APPLICATION FEES.—

24 (A) FREE SCHEDULE.—The Attorney Gen-
25 eral shall provide for a schedule of fees that—

1 (i) shall be charged for the filing of
2 applications for adjustment under sub-
3 sections (a) and (c); and

4 (ii) may be charged by qualified des-
5 ignated entities to help defray the costs of
6 services provided to such applicants.

7 (B) PROHIBITION ON EXCESS FEES BY
8 QUALIFIED DESIGNATED ENTITIES.—A quali-
9 fied designated entity may not charge any fee
10 in excess of, or in addition to, the fees author-
11 ized under subparagraph (A)(ii) for services
12 provided to applicants.

13 (C) DISPOSITION OF FEES.—

14 (i) IN GENERAL.—There is established
15 in the general fund of the Treasury a sepa-
16 rate account, which shall be known as the
17 “Agricultural Worker Immigration Status
18 Adjustment Account”. Notwithstanding
19 any other provision of law, there shall be
20 deposited as offsetting receipts into the ac-
21 count all fees collected under subparagraph
22 (A)(i).

23 (ii) USE OF FEES FOR APPLICATION
24 PROCESSING.—Amounts deposited in the
25 “Agricultural Worker Immigration Status

1 Adjustment Account” shall remain avail-
2 able to the Attorney General until ex-
3 pended for processing applications for ad-
4 justment under subsections (a) and (c).

5 (e) WAIVER OF NUMERICAL LIMITATIONS AND CER-
6 TAIN GROUNDS FOR INADMISSIBILITY.—

7 (1) NUMERICAL LIMITATIONS DO NOT APPLY.—

8 The numerical limitations of sections 201 and 202
9 of the Immigration and Nationality Act (8 U.S.C.
10 1151 and 1152) shall not apply to the adjustment
11 of aliens to lawful permanent resident status under
12 this section.

13 (2) WAIVER OF CERTAIN GROUNDS OF INAD-
14 MISSIBILITY.—In the determination of an alien’s ad-
15 missibility under subsection (a)(1)(C) or an alien’s
16 eligibility for adjustment of status under subsection
17 (c)(1)(B)(ii)(I), the following rules shall apply:

18 (A) GROUNDS OF EXCLUSION NOT APPLI-
19 CABLE.—The provisions of paragraphs (5),
20 (6)(A), (7)(A), and (9)(B) of section 212(a) of
21 the Immigration and Nationality Act (8 U.S.C.
22 1182(a)) shall not apply.

23 (B) WAIVER OF OTHER GROUNDS.—

24 (i) IN GENERAL.—Except as provided
25 in clause (ii), the Attorney General may

1 waive any other provision of such section
2 212(a) in the case of individual aliens for
3 humanitarian purposes, to ensure family
4 unity, or when it is otherwise in the public
5 interest.

6 (ii) GROUNDS THAT MAY NOT BE
7 WAIVED.—The following provisions of such
8 section 212(a) may not be waived by the
9 Attorney General under clause (i):

10 (I) Subparagraphs (A) and (B)
11 of paragraph (2) (relating to crimi-
12 nals).

13 (II) Paragraph (4) (relating to
14 aliens likely to become public
15 charges).

16 (III) Paragraph (2)(C) (relating
17 to drug offenses).

18 (IV) Paragraph (3) (relating to
19 security and related grounds), except
20 subparagraph (E).

21 (iii) CONSTRUCTION.—Nothing in this
22 subparagraph shall be construed as affect-
23 ing the authority of the Attorney General
24 other than under this subparagraph to
25 waive provisions of such section 212(a).

1 (C) SPECIAL RULE FOR DETERMINATION
2 OF PUBLIC CHARGE.—An alien is not ineligible
3 for adjustment of status under this section by
4 reason of a ground of inadmissibility under sec-
5 tion 212(a)(4) of the Immigration and Nation-
6 ality Act if the alien demonstrates a history of
7 employment in the United States evidencing
8 self-support without reliance on public cash as-
9 sistance.

10 (f) TEMPORARY STAY OF REMOVAL AND WORK AU-
11 THORIZATION FOR CERTAIN APPLICANTS.—

12 (1) BEFORE APPLICATION PERIOD.—Effective
13 on the date of the enactment of this Act, the Attor-
14 ney General shall provide that, in the case of an
15 alien who is apprehended before the beginning of the
16 application period described in subsection (a)(1)(B)
17 and who can establish a nonfrivolous case of eligi-
18 bility to have the alien’s status adjusted under sub-
19 section (a) (but for the fact that the alien may not
20 apply for such adjustment until the beginning of
21 such period), until the alien has had the opportunity
22 during the first 30 days of the application period to
23 complete the filing of an application for adjustment,
24 the alien—

25 (A) may not be removed; and

1 (B) shall be granted authorization to en-
2 gage in employment in the United States and
3 be provided an “employment authorized” en-
4 dorsement or other appropriate work permit for
5 such purpose.

6 (2) DURING APPLICATION PERIOD.—The Attor-
7 ney General shall provide that, in the case of an
8 alien who presents a nonfrivolous application for ad-
9 justment of status under subsection (a) during the
10 application period described in subsection (a)(1)(B),
11 including an alien who files such an application
12 within 30 days of the alien’s apprehension, and until
13 a final determination on the application has been
14 made in accordance with this section, the alien—

15 (A) may not be removed; and

16 (B) shall be granted authorization to en-
17 gage in employment in the United States and
18 be provided an “employment authorized” en-
19 dorsement or other appropriate work permit for
20 such purpose.

21 (g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

22 (1) IN GENERAL.—There shall be no adminis-
23 trative or judicial review of a determination respect-
24 ing an application for adjustment of status under

1 subsection (a) or (c) except in accordance with this
2 subsection.

3 (2) ADMINISTRATIVE REVIEW.—

4 (A) SINGLE LEVEL OF ADMINISTRATIVE
5 APPELLATE REVIEW.—The Attorney General
6 shall establish an appellate authority to provide
7 for a single level of administrative appellate re-
8 view of such a determination.

9 (B) STANDARD FOR REVIEW.—Such ad-
10 ministrative appellate review shall be based
11 solely upon the administrative record estab-
12 lished at the time of the determination on the
13 application and upon such additional or newly
14 discovered evidence as may not have been avail-
15 able at the time of the determination.

16 (3) JUDICIAL REVIEW.—

17 (A) LIMITATION TO REVIEW OF RE-
18 MOVAL.—There shall be judicial review of such
19 a denial only in the judicial review of an order
20 of removal under section 242 of the Immigra-
21 tion and Nationality Act (8 U.S.C. 1252).

22 (B) STANDARD FOR JUDICIAL REVIEW.—
23 Such judicial review shall be based solely upon
24 the administrative record established at the
25 time of the review by the appellate authority

1 and the findings of fact and determinations
2 contained in such record shall be conclusive un-
3 less the applicant can establish abuse of discre-
4 tion or that the findings are directly contrary to
5 clear and convincing facts contained in the
6 record considered as a whole.

7 (h) DISSEMINATION OF INFORMATION ON ADJUST-
8 MENT PROGRAM.—Beginning not later than the 1st day
9 of the application period described in subsection (a)(1)(B),
10 the Attorney General, in cooperation with qualified des-
11 ignated entities, shall broadly disseminate information re-
12 specting the benefits that aliens may receive under this
13 section and the requirements to be satisfied to obtain such
14 benefits.

15 (i) REGULATIONS.—The Attorney General shall issue
16 regulations to implement this section not later than the
17 1st day of the 7th month that begins after the date of
18 the enactment of this Act.

19 (j) EFFECTIVE DATE.—This section shall take effect
20 on the date that regulations are issued implementing this
21 section on an interim or other basis.

22 (k) FUNDING.—There are hereby appropriated, out
23 of any money in the Treasury not otherwise appropriated,
24 \$40,000,000 for each of fiscal years 2002 through 2005
25 to the Attorney General to carry out this section.

1 **SEC. 102. CORRECTION OF SOCIAL SECURITY RECORDS.**

2 (a) IN GENERAL.—Section 208(d)(1) of the Social
3 Security Act (42 U.S.C. 408(d)(1)) is amended—

4 (1) in subparagraph (B), by striking “or” at
5 the end of clause (ii);

6 (2) in subparagraph (C), by inserting “or” at
7 the end;

8 (3) by inserting after subparagraph (C) the fol-
9 lowing:

10 “(D) whose status is adjusted to that of lawful
11 temporary resident under the H-2A Reform and Ag-
12 ricultural Worker Adjustment Act of 2001,”; and

13 (4) by striking “1990.” and inserting “1990, or
14 in the case of an alien described in subparagraph
15 (D), if such conduct is alleged to have occurred prior
16 to the date on which the alien became lawfully ad-
17 mitted for temporary residence.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on the 1st day of the 7th
20 month that begins after the date of the enactment of this
21 Act.

1 **TITLE II—REFORM OF H-2A**
2 **WORKER PROGRAM**

3 **SEC. 201. AMENDMENT TO THE IMMIGRATION AND NATION-**
4 **ALITY ACT.**

5 (a) IN GENERAL.—The Immigration and Nationality
6 Act is amended by striking section 218 (8 U.S.C. 1188)
7 and inserting the following:

8 “H-2A EMPLOYER APPLICATIONS

9 “SEC. 218. (a) APPLICATIONS TO THE SEC-
10 RETARY.—

11 “(1) IN GENERAL.—No alien may be admitted
12 to the United States as an H-2A worker, or other-
13 wise provided status as an H-2A worker, unless the
14 employer has filed with the Secretary an application
15 containing—

16 “(A) the assurances described in sub-
17 section (b);

18 “(B) a description of the nature and loca-
19 tion of the work to be performed;

20 “(C) the anticipated period (expected be-
21 ginning and ending dates) for which workers
22 will be needed; and

23 “(D) the number of job opportunities in
24 which the employer seeks to employ workers.

1 “(2) ACCOMPANIED BY JOB OFFER.—Each ap-
2 plication filed under paragraph (1) shall be accom-
3 panied by a copy of the job offer describing the
4 wages and other terms and conditions of employ-
5 ment and the bona fide occupational qualifications
6 that must be possessed by a worker to be employed
7 in the job opportunity in question.

8 “(b) ASSURANCES FOR INCLUSION IN APPLICA-
9 TIONS.—The assurances referred to in subsection (a)(1)
10 are the following:

11 “(1) JOB OPPORTUNITIES COVERED BY COL-
12 LECTIVE BARGAINING AGREEMENTS.—With respect
13 to a job opportunity that is covered under a collec-
14 tive bargaining agreement:

15 “(A) UNION CONTRACT DESCRIBED.—The
16 job opportunity is covered by a union contract
17 which was negotiated at arm’s length between a
18 bona fide union and the employer.

19 “(B) NO STRIKE OR LOCKOUT.—There is
20 not a strike or lockout in the course of a labor
21 dispute in the occupational classification at the
22 place of employment.

23 “(C) NOTIFICATION OF BARGAINING REP-
24 RESENTATIVES.—The employer, at the time of
25 filing the application, has provided notice of the

1 filing under this paragraph to the bargaining
2 representative of the employer's employees in
3 the occupational classification at the place or
4 places of employment for which aliens are
5 sought.

6 “(D) TEMPORARY OR SEASONAL JOB OP-
7 PORTUNITIES.—The job opportunity is tem-
8 porary or seasonal.

9 “(E) OFFERS TO UNITED STATES WORK-
10 ERS.—The employer has offered or will offer
11 the job to any eligible United States worker
12 who applies and is equally or better qualified
13 for the job for which the nonimmigrant is, or
14 the nonimmigrants are, sought and who will be
15 available at the time and place of need.

16 “(F) PROVISION OF INSURANCE.—If the
17 job opportunity is not covered by the State
18 workers' compensation law, the employer will
19 provide, at no cost to the worker, insurance cov-
20 ering injury and disease arising out of, and in
21 the course of, the worker's employment which
22 will provide benefits at least equal to those pro-
23 vided under the State's workers' compensation
24 law for comparable employment.

1 “(2) JOB OPPORTUNITIES NOT COVERED BY
2 COLLECTIVE BARGAINING AGREEMENTS.—With re-
3 spect to a job opportunity that is not covered under
4 a collective bargaining agreement:

5 “(A) NO STRIKE OR LOCKOUT.—There is
6 not a strike or lockout in the course of a labor
7 dispute in the occupational classification at the
8 place of employment.

9 “(B) TEMPORARY OR SEASONAL JOB OP-
10 PORTUNITIES.—The job opportunity is tem-
11 porary or seasonal.

12 “(C) BENEFIT, WAGE, AND WORKING CON-
13 DITIONS.—The employer will provide, at a min-
14 imum, the benefits, wages, and working condi-
15 tions required by section 218A to all workers
16 employed in the job opportunities for which the
17 employer has applied under subsection (a) and
18 to all other workers in the same occupation at
19 the place of employment.

20 “(D) NONDISPLACEMENT OF UNITED
21 STATES WORKERS.—The employer did not dis-
22 place and will not displace a United States
23 worker employed by the employer during the
24 period of employment and for a period of 30
25 days preceding the period of employment in the

1 occupation at the place of employment for
2 which the employer seeks approval to employ
3 H-2A workers.

4 “(E) REQUIREMENTS FOR PLACEMENT OF
5 NONIMMIGRANT WITH OTHER EMPLOYERS.—

6 The employer will not place the nonimmigrant
7 with another employer unless—

8 “(i) the nonimmigrant performs du-
9 ties in whole or in part at one or more
10 work sites owned, operated, or controlled
11 by such other employer;

12 “(ii) there are indicia of an employ-
13 ment relationship between the non-
14 immigrant and such other employer; and

15 “(iii) the employer has inquired of the
16 other employer as to whether, and has no
17 actual knowledge or notice that, during the
18 period of employment and for a period of
19 30 days preceding the period of employ-
20 ment, the other employer has displaced or
21 intends to displace a United States worker
22 employed by the other employer in the oc-
23 cupation at the place of employment for
24 which the employer seeks approval to em-
25 ploy H-2A workers.

1 “(F) STATEMENT OF LIABILITY.—The ap-
2 plication form shall include a clear statement
3 explaining the liability under subparagraph (E)
4 of an employer if the other employer described
5 in such subparagraph displaces a United States
6 worker as described in such subparagraph.

7 “(G) PROVISION OF INSURANCE.—If the
8 job opportunity is not covered by the State
9 workers’ compensation law, the employer will
10 provide, at no cost to the worker, insurance cov-
11 ering injury and disease arising out of and in
12 the course of the worker’s employment which
13 will provide benefits at least equal to those pro-
14 vided under the State’s workers’ compensation
15 law for comparable employment.

16 “(H) EMPLOYMENT OF UNITED STATES
17 WORKERS.—

18 “(i) RECRUITMENT.—The employer
19 has taken or will take the following steps
20 to recruit United States workers for the
21 job opportunities for which the H-2A non-
22 immigrant is, or H-2A nonimmigrants are,
23 sought:

24 “(I) CONTACTING FORMER
25 WORKERS.—The employer shall make

1 reasonable efforts through the sending
2 of a letter by United States Postal
3 Service mail, or otherwise, to contact
4 any United States worker the em-
5 ployer employed during the previous
6 season in the occupation at the place
7 of intended employment for which the
8 employer is applying for workers and
9 has made the availability of the em-
10 ployer's job opportunities in the occu-
11 pation at the place of intended em-
12 ployment known to such previous
13 workers, unless the worker was termi-
14 nated from employment by the em-
15 ployer for a lawful job-related reason
16 or abandoned the job before the work-
17 er completed the period of employ-
18 ment of the job opportunity for which
19 the worker was hired.

20 “(II) FILING A JOB OFFER WITH
21 THE LOCAL OFFICE OF THE STATE
22 EMPLOYMENT SECURITY AGENCY.—
23 Not later than 28 days prior to the
24 date on which the employer desires to
25 employ an H-2A worker in a tem-

1 porary or seasonal agricultural job op-
2 portunity, the employer shall submit a
3 copy of the job offer described in sub-
4 section (a)(2) to the local office of the
5 State employment security agency
6 which serves the area of intended em-
7 ployment and authorize the posting of
8 the job opportunity on ‘America’s Job
9 Bank’ or other electronic job registry,
10 except that nothing in this subclause
11 shall require the employer to file an
12 interstate job order under section 653
13 of title 20, Code of Federal Regula-
14 tions.

15 “(III) ADVERTISING OF JOB OP-
16 PORTUNITIES.—Not later than 14
17 days prior to the date on which the
18 employer desires to employ an H-2A
19 worker in a temporary or seasonal ag-
20 ricultural job opportunity, the em-
21 ployer shall advertise the availability
22 of the job opportunities for which the
23 employer is seeking workers in a pub-
24 lication in the local labor market that

1 is likely to be patronized by potential
2 farm workers.

3 “(IV) EMERGENCY PROCE-
4 DURES.—The Secretary shall, by reg-
5 ulation, provide a procedure for ac-
6 ceptance and approval of applications
7 in which the employer has not com-
8 plied with the provisions of this sub-
9 paragraph because the employer’s
10 need for H-2A workers could not rea-
11 sonably have been foreseen.

12 “(ii) JOB OFFERS.—The employer has
13 offered or will offer the job to any eligible
14 United States worker who applies and is
15 equally or better qualified for the job for
16 which the nonimmigrant is, or non-
17 immigrants are, sought and who will be
18 available at the time and place of need.

19 “(iii) PERIOD OF EMPLOYMENT.—The
20 employer will provide employment to any
21 qualified United States worker who applies
22 to the employer during the period begin-
23 ning on the date on which the foreign
24 worker departs for the employer’s place of
25 employment and ending on the date on

1 which 50 percent of the period of employ-
2 ment for which the foreign worker who is
3 in the job was hired has elapsed, subject
4 to the following requirements:

5 “(I) PROHIBITION.—No person
6 or entity shall willfully and knowingly
7 withhold United States workers prior
8 to the arrival of H-2A workers in
9 order to force the hiring of United
10 States workers under this clause.

11 “(II) COMPLAINTS.—Upon re-
12 ceipt of a complaint by an employer
13 that a violation of subclause (I) has
14 occurred, the Secretary shall imme-
15 diately investigate. The Secretary
16 shall, within 36 hours of the receipt of
17 the complaint, issue findings con-
18 cerning the alleged violation. If the
19 Secretary finds that a violation has
20 occurred, the Secretary shall imme-
21 diately suspend the application of this
22 clause with respect to that certifi-
23 cation for that date of need.

24 “(III) PLACEMENT OF UNITED
25 STATES WORKERS.—Prior to referring

1 a United States worker to an em-
2 ployer during the period described in
3 the matter preceding subclause (I),
4 the Secretary shall make all reason-
5 able efforts to place the United States
6 worker in an open job acceptable to
7 the worker, if there are other job of-
8 fers pending with the job service that
9 offer similar job opportunities in the
10 area of intended employment.

11 “(iv) STATUTORY CONSTRUCTION.—
12 Nothing in this subparagraph shall be con-
13 strued to prohibit an employer from using
14 such legitimate selection criteria relevant
15 to the type of job that are normal or cus-
16 tomary to the type of job involved so long
17 as such criteria are not applied in a dis-
18 criminatory manner.

19 “(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF
20 OF EMPLOYER MEMBERS.—

21 “(1) IN GENERAL.—An agricultural association
22 may file an application under subsection (a) on be-
23 half of one or more of its employer members that
24 the association certifies in its application has or have

1 agreed in writing to comply with the requirements of
2 this section and sections 218A through 218C.

3 “(2) TREATMENT OF ASSOCIATIONS ACTING AS
4 EMPLOYERS.—If an association filing an application
5 under paragraph (1) is a joint or sole employer of
6 the temporary or seasonal agricultural workers re-
7 quired on the application, the certifications granted
8 under subsection (e)(2)(B) to the association may be
9 used for the certified job opportunities of any of its
10 producer members named on the application, and
11 such workers may be transferred among such pro-
12 ducer members to perform the agricultural services
13 of a temporary or seasonal nature for which the cer-
14 tifications were granted.

15 “(d) WITHDRAWAL OF APPLICATIONS.—

16 “(1) IN GENERAL.—An employer may withdraw
17 an application under subsection (a), except that if
18 the employer is an agricultural association, the asso-
19 ciation may withdraw an application under sub-
20 section (a) with respect to one or more of its mem-
21 bers. To withdraw an application, the employer or
22 association shall notify the Secretary in writing, and
23 the Secretary shall acknowledge in writing the re-
24 ceipt of such withdrawal notice. An employer who
25 withdraws an application under subsection (a), or on

1 whose behalf an application is withdrawn, is relieved
2 of the obligations undertaken in the application.

3 “(2) LIMITATION.—An application may not be
4 withdrawn while any alien provided status under sec-
5 tion 101(a)(15)(H)(ii)(a) pursuant to such applica-
6 tion is employed by the employer.

7 “(3) OBLIGATIONS UNDER OTHER STATUTES.—
8 Any obligation incurred by an employer under any
9 other law or regulation as a result of the recruit-
10 ment of United States workers or H-2A workers
11 under an offer of terms and conditions of employ-
12 ment required as a result of making an application
13 under subsection (a) is unaffected by withdrawal of
14 such application.

15 “(e) REVIEW AND APPROVAL OF APPLICATIONS.—

16 “(1) RESPONSIBILITY OF EMPLOYERS.—The
17 employer shall make available for public examina-
18 tion, within 1 working day after the date on which
19 an application under subsection (a) is filed, at the
20 employer’s principal place of business or work site,
21 a copy of each such application (and such accom-
22 panying documents as are necessary).

23 “(2) RESPONSIBILITY OF THE SECRETARY.—

24 “(A) COMPILATION OF LIST.—The Sec-
25 retary shall compile, on a current basis, a list

1 (by employer and by occupational classification)
2 of the applications filed under this subsection.
3 Such list shall include the wage rate, number
4 of workers sought, period of intended employ-
5 ment, and date of need. The Secretary shall
6 make such list available for examination in the
7 District of Columbia.

8 “(B) REVIEW OF APPLICATIONS.—The
9 Secretary shall review such an application only
10 for completeness and obvious inaccuracies. Un-
11 less the Secretary finds that the application is
12 incomplete or obviously inaccurate, the Sec-
13 retary shall certify that the intending employer
14 has filed with the Secretary an application as
15 described in subsection (a). Such certification
16 shall be provided within 7 days of the filing of
17 the application.

18 “H-2A EMPLOYMENT REQUIREMENTS
19 “SEC. 218A. (a) PREFERENTIAL TREATMENT OF
20 ALIENS PROHIBITED.—Employers seeking to hire United
21 States workers shall offer the United States workers no
22 less than the same benefits, wages, and working conditions
23 that the employer is offering, intends to offer, or will pro-
24 vide to H-2A workers. Conversely, no job offer may im-
25 pose on United States workers any restrictions or obliga-

1 tions which will not be imposed on the employer’s H–2A
2 workers.

3 “(b) MINIMUM BENEFITS, WAGES, AND WORKING
4 CONDITIONS.—Except in cases where higher benefits,
5 wages, or working conditions are required by the provi-
6 sions of subsection (a), in order to protect similarly em-
7 ployed United States workers from adverse effects with
8 respect to benefits, wages, and working conditions, every
9 job offer which must accompany an application under sec-
10 tion 218 shall include each of the following benefit, wage,
11 and working condition provisions:

12 “(1) REQUIREMENT TO PROVIDE HOUSING OR A
13 HOUSING ALLOWANCE.—

14 “(A) IN GENERAL.—An employer applying
15 under section 218(a) for H–2A workers shall
16 offer to provide housing at no cost to all work-
17 ers in job opportunities for which the employer
18 has applied under that section and to all other
19 workers in the same occupation at the place of
20 employment, whose place of residence is beyond
21 normal commuting distance.

22 “(B) TYPE OF HOUSING.—In complying
23 with subparagraph (A), an employer may, at
24 the employer’s election, provide housing that
25 meets applicable Federal standards for tem-

1 porary labor camps or secure housing that
2 meets applicable local standards for rental or
3 public accommodation housing or other sub-
4 stantially similar class of habitation, or in the
5 absence of applicable local standards, State
6 standards for rental or public accommodation
7 housing or other substantially similar class of
8 habitation. In the absence of applicable local or
9 State standards, Federal temporary labor camp
10 standards shall apply.

11 “(C) FAMILY HOUSING.—When it is the
12 prevailing practice in the area and occupation
13 of intended employment to provide family hous-
14 ing, family housing shall be provided to workers
15 with families who request it.

16 “(D) WORKERS ENGAGED IN THE RANGE
17 PRODUCTION OF LIVESTOCK.—The Occupa-
18 tional Safety and Health Administration shall
19 issue regulations that address the specific re-
20 quirements for the provision of housing to
21 workers engaged in the range production of
22 livestock.

23 “(E) LIMITATION.—Nothing in this para-
24 graph shall be construed to require an employer
25 to provide or secure housing for persons who

1 were not entitled to such housing under the
2 temporary labor certification regulations in ef-
3 fect on June 1, 1986.

4 “(F) CHARGES FOR HOUSING.—

5 “(i) CHARGES FOR PUBLIC HOUS-
6 ING.—If public housing provided for mi-
7 grant agricultural workers under the aus-
8 pices of a local, county, or State govern-
9 ment is secured by an employer, and use of
10 the public housing unit normally requires
11 charges from migrant workers, such
12 charges shall be paid by the employer di-
13 rectly to the appropriate individual or enti-
14 ty affiliated with the housing’s manage-
15 ment.

16 “(ii) DEPOSIT CHARGES.—Charges in
17 the form of deposits for bedding or other
18 similar incidentals related to housing shall
19 not be levied upon workers by employers
20 who provide housing for their workers.
21 However, an employer may require a work-
22 er found to have been responsible for dam-
23 age to such housing which is not the result
24 of normal wear and tear related to habi-

1 tation to reimburse the employer for the
2 reasonable cost of repair of such damage.

3 “(G) HOUSING ALLOWANCE AS ALTER-
4 NATIVE.—

5 “(i) IN GENERAL.—In lieu of offering
6 housing pursuant to subparagraph (A), the
7 employer may provide a reasonable housing
8 allowance, but only if the requirement of
9 clause (ii) is satisfied. Upon the request of
10 a worker seeking assistance in locating
11 housing, the employer shall make a good
12 faith effort to assist the worker in identi-
13 fying and locating housing in the area of
14 intended employment. An employer who of-
15 fers a housing allowance to a worker, or
16 assists a worker in locating housing which
17 the worker occupies, pursuant to this
18 clause shall not be deemed a housing pro-
19 vider under section 203 of the Migrant and
20 Seasonal Agricultural Worker Protection
21 Act (29 U.S.C. 1823) solely by virtue of
22 providing such housing allowance. How-
23 ever, no housing allowance may be used for
24 housing which is owned or controlled by
25 the employer.

1 “(ii) CERTIFICATION.—The require-
2 ment of this clause is satisfied if the Gov-
3 ernor of the State certifies to the Secretary
4 that there is adequate housing available in
5 the area of intended employment for mi-
6 grant farm workers, and H-2A workers,
7 who are seeking temporary housing while
8 employed at farm work. Such certification
9 shall expire after 3 years unless renewed
10 by the Governor of the State.

11 “(iii) AMOUNT OF ALLOWANCE.—

12 “(I) NONMETROPOLITAN COUN-
13 TIES.—If the place of employment of
14 the workers provided an allowance
15 under this subparagraph is a non-
16 metropolitan county, the amount of
17 the housing allowance under this sub-
18 paragraph shall be equal to the state-
19 wide average fair market rental for
20 existing housing for nonmetropolitan
21 counties for the State, as established
22 by the Secretary of Housing and
23 Urban Development pursuant to sec-
24 tion 8(c) of the United States Hous-
25 ing Act of 1937 (42 U.S.C. 1437f(c)),

1 based on a 2-bedroom dwelling unit
2 and an assumption of 2 persons per
3 bedroom.

4 “(II) METROPOLITAN COUN-
5 TIES.—If the place of employment of
6 the workers provided an allowance
7 under this paragraph is in a metro-
8 politan county, the amount of the
9 housing allowance under this subpara-
10 graph shall be equal to the statewide
11 average fair market rental for existing
12 housing for metropolitan counties for
13 the State, as established by the Sec-
14 retary of Housing and Urban Devel-
15 opment pursuant to section 8(c) of
16 the United States Housing Act of
17 1937 (42 U.S.C. 1437f(c)), based on
18 a 2-bedroom dwelling unit and an as-
19 sumption of 2 persons per bedroom.

20 “(2) REIMBURSEMENT OF TRANSPORTATION.—

21 “(A) TO PLACE OF EMPLOYMENT.—A
22 worker who completes 50 percent of the period
23 of employment of the job opportunity for which
24 the worker was hired shall be reimbursed by the
25 employer for the cost of the worker’s transpor-

1 tation and subsistence from the place from
2 which the worker came to work for the em-
3 ployer (or place of last employment, if the
4 worker traveled from such place) to the place of
5 employment.

6 “(B) FROM PLACE OF EMPLOYMENT.—A
7 worker who completes the period of employment
8 for the job opportunity involved shall be reim-
9 bursed by the employer for the cost of the
10 worker’s transportation and subsistence from
11 the place of employment to the place from
12 which the worker, disregarding intervening em-
13 ployment, came to work for the employer, or to
14 the place of next employment, if the worker has
15 contracted with a subsequent employer who has
16 not agreed to provide or pay for the worker’s
17 transportation and subsistence to such subse-
18 quent employer’s place of employment.

19 “(C) LIMITATION.—

20 “(i) AMOUNT OF REIMBURSEMENT.—
21 Except as provided in clause (ii), the
22 amount of reimbursement provided under
23 subparagraph (A) or (B) to a worker or
24 alien shall not exceed the lesser of—

1 “(I) the actual cost to the worker
2 or alien of the transportation and sub-
3 sistence involved; or

4 “(II) the most economical and
5 reasonable common carrier transpor-
6 tation charges and subsistence costs
7 for the distance involved.

8 “(ii) DISTANCE TRAVELED.—No reim-
9 bursement under subparagraph (A) or (B)
10 shall be required if the distance traveled is
11 100 miles or less, or the worker is not re-
12 siding in employer-provided housing or
13 housing secured through an allowance as
14 provided in paragraph (1)(G).

15 “(D) EARLY TERMINATION.—If the worker
16 is laid off or employment is terminated for con-
17 tract impossibility (as described in paragraph
18 (4)(D)) before the anticipated ending date of
19 employment, the employer shall provide the
20 transportation and subsistence required by sub-
21 paragraph (B) and, notwithstanding whether
22 the worker has completed 50 percent of the pe-
23 riod of employment, shall provide the transpor-
24 tation reimbursement required by subparagraph
25 (A).

1 “(E) TRANSPORTATION BETWEEN LIVING
2 QUARTERS AND WORK SITE.—The employer
3 shall provide transportation between the work-
4 er’s living quarters (i.e., housing provided by
5 the employer pursuant to paragraph (1), includ-
6 ing housing provided through a housing allow-
7 ance) and the employer’s work site without cost
8 to the worker, and such transportation will be
9 in accordance with applicable laws and regula-
10 tions.

11 “(3) REQUIRED WAGES.—

12 “(A) IN GENERAL.—An employer applying
13 for workers under section 218(a) shall offer to
14 pay, and shall pay, all workers in the occupa-
15 tion for which the employer has applied for
16 workers, not less (and is not required to pay
17 more) than the greater of the prevailing wage
18 in the occupation in the area of intended em-
19 ployment or the adverse effect wage rate. No
20 worker shall be paid less than the greater of the
21 hourly wage prescribed under section 6(a)(1) of
22 the Fair Labor Standards Act of 1938 (29
23 U.S.C. 206(a)(1)) or the applicable State min-
24 imum wage.

1 “(B) DEDUCTIONS.—The employer shall
2 make only those deductions from the worker’s
3 paycheck which are authorized by law or are
4 reasonable and customary in the occupation and
5 area of employment. The job offer shall specify
6 all deductions not required by law which the
7 employer will make from the worker’s paycheck.

8 “(C) REPORT ON WAGE PROTECTIONS.—
9 Not later than January 1, 2004, the Resources,
10 Community and Economic Development Divi-
11 sion, and the Health, Education and Human
12 Services Division, of the General Accounting
13 Office shall jointly prepare and transmit to the
14 Secretary of Labor and to the Committee on
15 the Judiciary of the House of Representatives
16 and the Committee on the Judiciary of the Sen-
17 ate a report which shall address—

18 “(i) whether the adverse effect wage
19 rate is effective in preventing the wages of
20 United States farm workers from being de-
21 pressed in occupations in which H-2A
22 workers are employed;

23 “(ii) whether alternative wage protec-
24 tions, such as a prevailing wage standard,

1 are sufficient to prevent such wage depres-
2 sion;

3 “(iii) whether any changes are war-
4 ranted in the current methodologies for
5 calculating the adverse effect wage rate
6 and the prevailing wage; and

7 “(iv) recommendations for future
8 wage protections under the this section.

9 “(D) COMMISSION ON WAGE STAND-
10 ARDS.—

11 “(i) ESTABLISHMENT.—There is es-
12 tablished the Commission on Agricultural
13 Wage Standards under the H-2A program
14 (in this subparagraph referred to as the
15 ‘Commission’).

16 “(ii) COMPOSITION.—The Commission
17 shall consist of 10 members as follows:

18 “(I) 4 representatives of agricul-
19 tural employers and 1 representative
20 of the Department of Agriculture,
21 each appointed by the Secretary of
22 Agriculture.

23 “(II) 4 representatives of agricul-
24 tural workers and 1 representative of

1 the Department of Labor, each ap-
2 pointed by the Secretary of Labor.

3 “(iii) FUNCTIONS.—The Commission
4 shall conduct a study that shall address—

5 “(I) whether the adverse effect
6 wage rate is effective in preventing
7 the wages of United States farm
8 workers from being depressed in occu-
9 pations in which H-2A workers are
10 employed;

11 “(II) whether alternative wage
12 protections, such as a prevailing wage
13 standard, are sufficient to prevent
14 such wage depression;

15 “(III) whether any changes are
16 warranted in the current methodolo-
17 gies for calculating the adverse effect
18 wage rate and the prevailing wage;
19 and

20 “(IV) recommendations to raise
21 farm workers earnings and to reduce
22 farm worker poverty while ensuring a
23 profitable, efficient, labor-intensive ag-
24 ricultural sector with a minimum of
25 governmental intervention.

1 “(iv) FINAL REPORT.—Not later than
2 January 1, 2004, the Commission shall
3 submit a report to the Congress setting
4 forth the findings of the study conducted
5 under clause (iii).

6 “(v) TERMINATION DATE.—The Com-
7 mission shall terminate upon submitting
8 its final report.

9 “(4) GUARANTEE OF EMPLOYMENT.—

10 “(A) OFFER TO WORKER.—The employer
11 shall guarantee to offer the worker employment
12 for the hourly equivalent of at least three-
13 fourths of the work days of the total period of
14 employment, beginning with the first work day
15 after the arrival of the worker at the place of
16 employment and ending on the expiration date
17 specified in the job offer. For purposes of this
18 subparagraph, the hourly equivalent means
19 eight hours times the number of work days as
20 stated in the job offer and shall exclude the
21 worker’s Sabbath and Federal holidays. If the
22 employer affords the United States or H-2A
23 worker less employment than that required
24 under this paragraph, the employer shall pay
25 such worker the amount which the worker

1 would have earned had the worker, in fact,
2 worked for the guaranteed number of hours.

3 “(B) FAILURE TO WORK.—Any hours
4 which the worker fails to work, up to a max-
5 imum of eight hours on a work day, when the
6 worker has been offered an opportunity to do
7 so, and all hours of work actually performed
8 (including voluntary work in excess of eight
9 hours on a work day, on the worker’s Sabbath,
10 or on Federal holidays) may be counted by the
11 employer in calculating whether the period of
12 guaranteed employment has been met.

13 “(C) ABANDONMENT OF EMPLOYMENT,
14 TERMINATION FOR CAUSE.—If the worker vol-
15 untarily abandons employment before the end
16 of the contract period, or is terminated for
17 cause, the worker is not entitled to the ‘three-
18 fourths guarantee’ described in subparagraph
19 (A).

20 “(D) CONTRACT IMPOSSIBILITY.—If, be-
21 fore the expiration of the period of employment
22 specified in the job offer, the services of the
23 worker are no longer required for reasons be-
24 yond the control of the employer due to any
25 form of natural disaster, including but not lim-

1 ited to a flood, hurricane, freeze, earthquake,
2 fire, drought, plant or animal disease or pest in-
3 festation, or regulatory drought, before the
4 guarantee in subparagraph (A) is fulfilled, the
5 employer may terminate the worker’s employ-
6 ment. In the event of such termination, the em-
7 ployer shall fulfill the employment guarantee in
8 subparagraph (A) for the work days that have
9 elapsed from the first work day after the arrival
10 of the worker to the termination of employ-
11 ment. In such cases, the employer will make ef-
12 forts to transfer the United States worker to
13 other comparable employment acceptable to the
14 worker. If such transfer is not effected, the em-
15 ployer shall provide the return transportation
16 required in paragraph (2)(D).

17 “(c) COMPLIANCE WITH LABOR LAWS.—An em-
18 ployer shall assure that, except as otherwise provided in
19 this section the employer will comply with all applicable
20 Federal, State, and local labor laws, including laws affect-
21 ing migrant and seasonal agricultural workers, with re-
22 spect to all United States workers and alien workers em-
23 ployed by the employer, except that a violation of this sub-
24 section shall not constitute a violation of the Migrant and

1 Seasonal Agricultural Worker Protection Act (29 U.S.C.
2 1801 et seq.).

3 “(d) DISCLOSURE OF TERMS AND CONDITIONS OF
4 EMPLOYMENT.—With respect to H-2A aliens recruited
5 from outside the United States, the disclosure required
6 under section 201(c) of the Migrant and Seasonal Agricul-
7 tural Worker Protection Act (29 U.S.C. 1821(c)) may be
8 made at any time prior to the time the alien is issued a
9 visa permitting entry into the United States, except that
10 if a fee is paid by the alien to a person who has been
11 authorized by the employer or an association of employers
12 to recruit aliens on behalf of the employer for employment
13 as an H-2A worker, the disclosure shall be made not later
14 than the time such fee is paid to such person.

15 “PROCEDURE FOR ADMISSION AND EXTENSION OF STAY
16 OF H-2A WORKERS

17 “SEC. 218B. (a) PETITIONING FOR ADMISSION.—An
18 employer, or an association acting as an agent or joint
19 employer for its members, that seeks the admission into
20 the United States of an H-2A worker may file a petition
21 with the Attorney General. The petition shall be accom-
22 panied by an accepted and currently valid certification
23 provided by the Secretary under section 218(e)(2)(B) cov-
24 ering the petitioner.

25 “(b) EXPEDITED ADJUDICATION BY THE ATTORNEY
26 GENERAL.—The Attorney General shall establish a proce-

1 dure for expedited adjudication of petitions filed under
2 subsection (a) and within 7 working days shall, by fax,
3 cable, or other means assuring expedited delivery, trans-
4 mit a copy of notice of action on the petition to the peti-
5 tioner and, in the case of approved petitions, to the appro-
6 priate immigration officer at the port of entry or United
7 States consulate (as the case may be) where the petitioner
8 has indicated that the alien beneficiary (or beneficiaries)
9 will apply for a visa or admission to the United States.

10 “(c) CRITERIA FOR ADMISSIBILITY.—

11 “(1) IN GENERAL.—An H-2A worker shall be
12 considered admissible to the United States if the
13 alien is otherwise admissible under this section, sec-
14 tion 218, and section 218A, and the alien is not in-
15 eligible under paragraph (2).

16 “(2) DISQUALIFICATION.—An alien shall be
17 considered inadmissible to the United States and in-
18 eligible for nonimmigrant status under section
19 101(a)(15)(H)(ii)(a) if the alien has, at any time
20 during the past 5 years—

21 “(A) violated a material provision of this
22 section, including the requirement to promptly
23 depart the United States when the alien’s au-
24 thorized period of admission under this section
25 has expired; or

1 “(B) otherwise violated a term or condition
2 of admission into the United States as a non-
3 immigrant, including overstaying the period of
4 authorized admission as such a nonimmigrant.

5 “(3) WAIVER OF INELIGIBILITY FOR UNLAW-
6 FUL PRESENCE.—

7 “(A) IN GENERAL.—An alien who has not
8 previously been admitted into the United States
9 pursuant to this section, and who is otherwise
10 eligible for admission in accordance with para-
11 graphs (1) and (2), shall not be deemed inad-
12 missible by virtue of section 212(a)(9)(B). If an
13 alien described in the preceding sentence is
14 present in the United States, the alien may
15 apply from abroad for H-2A worker status, but
16 may not be granted that status by adjustment
17 in the United States.

18 “(B) MAINTENANCE OF WAIVER.—An
19 alien provided an initial waiver of ineligibility
20 pursuant to subparagraph (A) shall remain eli-
21 gible for such waiver unless the alien violates
22 the terms of this section or again becomes ineli-
23 gible under section 212(a)(9)(B) by virtue of
24 unlawful presence in the United States after

1 the date of the initial waiver of ineligibility pur-
2 suant to subparagraph (A).

3 “(d) PERIOD OF ADMISSION.—

4 “(1) IN GENERAL.—The alien shall be admitted
5 for the period of employment in the application, cer-
6 tified by the Secretary pursuant to section
7 218(e)(2)(B), not to exceed 10 months, supple-
8 mented by a period of up to 1 week before the begin-
9 ning of the period of employment (to be granted for
10 the purpose of travel to the work site) and a period
11 of 14 days following the period of employment (to be
12 granted for the purpose of departure or extension
13 based on a subsequent offer of employment), except
14 that—

15 “(A) the alien is not authorized to be em-
16 ployed during such 14-day period except in the
17 employment for which the alien was previously
18 authorized; and

19 “(B) the total period of employment, in-
20 cluding such 14-day period, may not exceed 10
21 months.

22 “(2) CONSTRUCTION.—Nothing in this sub-
23 section shall limit the Attorney General’s authority
24 to extend the stay of the alien under any other pro-
25 vision of this Act.

1 “(e) ABANDONMENT OF EMPLOYMENT.—

2 “(1) IN GENERAL.—An alien admitted or pro-
3 vided status under section 101(a)(15)(H)(ii)(a) who
4 abandons the employment which was the basis for
5 such admission or status shall be considered to have
6 failed to maintain nonimmigrant status as an H-2A
7 worker and shall depart the United States or be sub-
8 ject to removal under section 237(a)(1)(C)(i).

9 “(2) REPORT BY EMPLOYER.—The employer
10 (or association acting as agent for the employer)
11 shall notify the Attorney General within 7 days of an
12 H-2A worker’s having prematurely abandoned em-
13 ployment.

14 “(3) REMOVAL BY THE ATTORNEY GENERAL.—
15 The Attorney General shall promptly remove from
16 the United States any H-2A worker who violates
17 any term or condition of the worker’s nonimmigrant
18 status.

19 “(4) VOLUNTARY TERMINATION.—Notwith-
20 standing paragraph (1), an alien may voluntarily
21 terminate his or her employment if the alien prompt-
22 ly departs the United States upon termination of
23 such employment.

24 “(f) REPLACEMENT OF ALIEN.—

1 “(1) IN GENERAL.—Upon presentation of the
2 notice to the Attorney General required by sub-
3 section (e)(2), the Secretary of State shall promptly
4 issue a visa to, and the Attorney General shall admit
5 into the United States, an eligible alien designated
6 by the employer to replace an H-2A worker—

7 “(A) who abandons or prematurely termi-
8 nates employment; or

9 “(B) whose employment is terminated
10 after a United States worker is employed pur-
11 suant to section 218(b)(2)(H)(iii), if the United
12 States worker voluntarily departs before the
13 end of the period of intended employment or if
14 the employment termination is for a lawful job-
15 related reason.

16 “(2) CONSTRUCTION.—Nothing in this sub-
17 section is intended to limit any preference required
18 to be accorded United States workers under any
19 other provision of this Act.

20 “(g) IDENTIFICATION DOCUMENT.—

21 “(1) IN GENERAL.—Each alien authorized to be
22 admitted under section 101(a)(15)(H)(ii)(a) shall,
23 upon receipt of a visa, be given an identification and
24 employment eligibility document to verify eligibility

1 for employment in the United States and verify such
2 person's proper identity.

3 “(2) REQUIREMENTS.—No identification and
4 employment eligibility document may be issued
5 which does not meet the following requirements:

6 “(A) The document shall be capable of re-
7 liably determining whether—

8 “(i) the individual with the identifica-
9 tion and employment eligibility document
10 whose eligibility is being verified is in fact
11 eligible for employment;

12 “(ii) the individual whose eligibility is
13 being verified is claiming the identity of
14 another person; and

15 “(iii) the individual whose eligibility is
16 being verified is authorized to be admitted
17 into, and employed in, the United States
18 as an H-2A worker.

19 “(B) The document shall be in a form that
20 is resistant to counterfeiting and to tampering.

21 “(C) The document shall—

22 “(i) be compatible with other data-
23 bases of the Attorney General for the pur-
24 pose of excluding aliens from benefits for
25 which they are not eligible and determining

1 whether the alien is unlawfully present in
2 the United States; and

3 “(ii) be compatible with law enforce-
4 ment databases to determine if the alien
5 has been convicted of criminal offenses.

6 “(h) EXTENSION OF STAY OF H-2A ALIENS IN THE
7 UNITED STATES.—

8 “(1) EXTENSION OF STAY.—If an employer
9 seeks approval to employ an H-2A alien who is law-
10 fully present in the United States, the petition filed
11 by the employer or an association pursuant to sub-
12 section (a), shall request an extension of the alien’s
13 stay and a change in the alien’s employment.

14 “(2) LIMITATION ON FILING A PETITION FOR
15 EXTENSION OF STAY.—A petition may not be filed
16 for an extension of an alien’s stay—

17 “(A) for a period of more than 10 months;
18 or

19 “(B) to a date that is more than 3 years
20 after the date of the alien’s last admission to
21 the United States under this section.

22 “(3) WORK AUTHORIZATION UPON FILING A
23 PETITION FOR EXTENSION OF STAY.—In the case of
24 an alien who is lawfully present in the United
25 States, the alien is authorized to commence the em-

1 employment described in a petition under paragraph
2 (1) on the date on which the petition is filed. For
3 purposes of the preceding sentence, the term ‘file’
4 means sending the petition by certified mail via the
5 United States Postal Service, return receipt re-
6 quested, or delivered by guaranteed commercial de-
7 livery which will provide the employer with a docu-
8 mented acknowledgment of the date of sending the
9 receipt of the petition. The employer shall provide a
10 copy of the employer’s petition to the alien, who
11 shall keep the petition with the alien’s identification
12 and employment eligibility document as evidence
13 that the petition has been filed and that the alien is
14 authorized to work in the United States. Upon ap-
15 proval of a petition for an extension of stay or
16 change in the alien’s authorized employment, the At-
17 torney General shall provide a new or updated em-
18 ployment eligibility document to the alien indicating
19 the new validity date, after which the alien is not re-
20 quired to retain a copy of the petition.

21 “(4) LIMITATION ON EMPLOYMENT AUTHORIZA-
22 TION OF ALIENS WITHOUT VALID IDENTIFICATION
23 AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An ex-
24 pired identification and employment eligibility docu-
25 ment, together with a copy of an petition for exten-

1 sion of stay or change in the alien’s authorized em-
2 ployment that complies with the requirements of
3 paragraph (1), shall constitute a valid work author-
4 ization document for a period of not more than 60
5 days beginning on the date on which such petition
6 is filed, after which time only a currently valid iden-
7 tification and employment eligibility document shall
8 be acceptable.

9 “(5) LIMITATION ON AN INDIVIDUAL’S STAY IN
10 STATUS.—

11 “(A) MAXIMUM PERIOD.—The maximum
12 continuous period of authorized status as an
13 H–2A worker (including any extensions) is 3
14 years.

15 “(B) REQUIREMENT TO REMAIN OUTSIDE
16 UNITED STATES.—

17 “(i) IN GENERAL.—Subject to clause
18 (ii), in the case of an alien outside the
19 United States whose period of authorized
20 status as an H–2A worker (including any
21 extensions) has expired, the alien may not
22 again apply for admission to the United
23 States as an H–2A worker unless the alien
24 has remained outside the United States for
25 a continuous period equal to at least $\frac{1}{5}$

1 the duration of the alien’s previous period
2 of authorized status as an H-2A worker
3 (including any extensions).

4 “(ii) EXCEPTION.—Clause (i) shall
5 not apply in the case of an alien if the
6 alien’s period of authorized status as an
7 H-2A worker (including any extensions)
8 was for a period of not more than 10
9 months and such alien has been outside
10 the United States for at least 2 months
11 during the 12 months preceding the date
12 the alien again is applying for admission to
13 the United States as an H-2A worker.

14 “(i) SPECIAL RULES FOR ALIENS EMPLOYED AS
15 SHEEPHERDERS.—Notwithstanding any other provision
16 of this section, aliens admitted under section
17 101(a)(15)(H)(ii)(a) for employment as shepherders—

18 “(1) may be admitted for a period of 12
19 months;

20 “(2) may be extended for a continuous period
21 of up to 3 years; and

22 “(3) shall not be subject to the requirements of
23 subsection (h)(5) relating to periods of absence from
24 the United States.

1 “WORKER PROTECTIONS AND LABOR STANDARDS
2 ENFORCEMENT

3 “SEC. 218C. (a) ENFORCEMENT AUTHORITY.—

4 “(1) INVESTIGATION OF COMPLAINTS.—

5 “(A) AGGRIEVED PERSON OR THIRD-PARTY
6 COMPLAINTS.—The Secretary shall establish a
7 process for the receipt, investigation, and dis-
8 position of complaints respecting a petitioner’s
9 failure to meet a condition specified in section
10 218(b), or an employer’s misrepresentation of
11 material facts in an application under section
12 218(a). Complaints may be filed by any ag-
13 grievied person or organization (including bar-
14 gaining representatives). No investigation or
15 hearing shall be conducted on a complaint con-
16 cerning such a failure or misrepresentation un-
17 less the complaint was filed not later than 12
18 months after the date of the failure, or mis-
19 representation, respectively. The Secretary shall
20 conduct an investigation under this subpara-
21 graph if there is reasonable cause to believe
22 that such a failure or misrepresentation has oc-
23 curred.

24 “(B) DETERMINATION ON COMPLAINT.—

25 Under such process, the Secretary shall provide,

1 within 30 days after the date such a complaint
2 is filed, for a determination as to whether or
3 not a reasonable basis exists to make a finding
4 described in subparagraph (C), (D), (E), or
5 (F). If the Secretary determines that such a
6 reasonable basis exists, the Secretary shall pro-
7 vide for notice of such determination to the in-
8 terested parties and an opportunity for a hear-
9 ing on the complaint, in accordance with section
10 556 of title 5, United States Code, within 60
11 days after the date of the determination. If
12 such a hearing is requested, the Secretary shall
13 make a finding concerning the matter not later
14 than 60 days after the date of the hearing. In
15 the case of similar complaints respecting the
16 same applicant, the Secretary may consolidate
17 the hearings under this subparagraph on such
18 complaints.

19 “(C) FAILURES TO MEET CONDITIONS.—If
20 the Secretary finds, after notice and oppor-
21 tunity for a hearing, a failure to meet a condi-
22 tion of paragraph (1)(A), (1)(B), (1)(D),
23 (1)(F), (2)(A), (2)(B), or (2)(G) of section
24 218(b), a substantial failure to meet a condition
25 of paragraph (1)(C) or (E), or paragraph

1 (2)(C), (2)(D), (2)(E), or (2)(H) of section
2 218(b), or a material misrepresentation of fact
3 in an application under section 218(a)—

4 “(i) the Secretary shall notify the At-
5 torney General of such finding and may, in
6 addition, impose such other administrative
7 remedies (including civil money penalties in
8 an amount not to exceed \$1,000 per viola-
9 tion) as the Secretary determines to be ap-
10 propriate; and

11 “(ii) the Attorney General may dis-
12 qualify the employer from the employment
13 of aliens described in section
14 101(A)(15)(H)(ii)(a) for a period of 1
15 year.

16 “(D) WILLFUL FAILURES AND WILLFUL
17 MISREPRESENTATIONS.—If the Secretary finds,
18 after notice and opportunity for hearing, a will-
19 ful failure to meet a condition of section 218(b),
20 a willful misrepresentation of a material fact in
21 an application under section 218(a), or a viola-
22 tion of subsection (b)—

23 “(i) the Secretary shall notify the At-
24 torney General of such finding and may, in
25 addition, impose such other administrative

1 remedies (including civil money penalties in
2 an amount not to exceed \$5,000 per viola-
3 tion) as the Secretary determines to be ap-
4 propriate; and

5 “(ii) the Attorney General may dis-
6 qualify the employer from the employment
7 of H-2A workers for a period of 2 years.

8 “(E) DISPLACEMENT OF UNITED STATES
9 WORKERS.—If the Secretary finds, after notice
10 and opportunity for hearing, a willful failure to
11 meet a condition of section 218(b) or a willful
12 misrepresentation of a material fact in an appli-
13 cation under section 218(a), in the course of
14 which failure or misrepresentation the employer
15 displaced a United States worker employed by
16 the employer during the period of employment
17 on the employer’s application under section
18 218(a) or during the period of 30 days pre-
19 ceding such period of employment—

20 “(i) the Secretary shall notify the At-
21 torney General of such finding and may, in
22 addition, impose such other administrative
23 remedies (including civil money penalties in
24 an amount not to exceed \$15,000 per vio-

1 lation) as the Secretary determines to be
2 appropriate; and

3 “(ii) the Attorney General may dis-
4 qualify the employer from the employment
5 of H-2A workers for a period of 3 years.

6 “(F) LIMITATIONS ON CIVIL MONEY PEN-
7 ALTIES.—The Secretary shall not impose total
8 civil money penalties with respect to an applica-
9 tion under section 218(a) in excess of \$90,000.

10 “(G) FAILURES TO PAY WAGES OR RE-
11 QUIRED BENEFITS.—If the Secretary finds,
12 after notice and opportunity for a hearing, that
13 the employer has failed to pay the wages, or
14 provide the housing allowance, transportation,
15 subsistence reimbursement, or guarantee of em-
16 ployment, required under section 218A(b), the
17 Secretary shall assess payment of back wages,
18 or other required benefits, due any United
19 States worker or H-2A worker employed by the
20 employer in the specific employment in ques-
21 tion. The back wages or other required benefits
22 under section 218A(b) shall be equal to the dif-
23 ference between the amount that should have
24 been paid and the amount that actually was
25 paid to such worker.

1 “(2) STATUTORY CONSTRUCTION.—Nothing in
2 this section shall be construed as limiting the au-
3 thority of the Secretary to conduct any compliance
4 investigation under any other labor law, including
5 any law affecting migrant and seasonal agricultural
6 workers, or, in the absence of a complaint under this
7 section, under section 218 or 218A.

8 “(b) DISCRIMINATION PROHIBITED.—It is a violation
9 of this subsection for an employer who has filed an appli-
10 cation under section 218(a), to intimidate, threaten, re-
11 strain, coerce, blacklist, discharge, or in any other manner
12 discriminate against an employee (which term, for pur-
13 poses of this subsection, includes a former employee and
14 an applicant for employment) because the employee has
15 disclosed information to the employer, or to any other per-
16 son, that the employee reasonably believes evidences a vio-
17 lation of section 218 or 218A or any rule or regulation
18 pertaining to section 218 or 218A, or because the em-
19 ployee cooperates or seeks to cooperate in an investigation
20 or other proceeding concerning the employer’s compliance
21 with the requirements of section 218 or 218A or any rule
22 or regulation pertaining to either of such sections.

23 “(c) AUTHORIZATION TO SEEK OTHER APPRO-
24 PRIATE EMPLOYMENT.—The Secretary and the Attorney
25 General shall establish a process under which an H-2A

1 worker who files a complaint regarding a violation of sub-
2 section (b) and is otherwise eligible to remain and work
3 in the United States may be allowed to seek other appro-
4 priate employment in the United States for a period not
5 to exceed the maximum period of stay authorized for such
6 nonimmigrant classification.

7 “(d) ROLE OF ASSOCIATIONS.—

8 “(1) VIOLATION BY A MEMBER OF AN ASSOCIA-
9 TION.—An employer on whose behalf an application
10 is filed by an association acting as its agent is fully
11 responsible for such application, and for complying
12 with the terms and conditions of sections 218 and
13 218A, as though the employer had filed the applica-
14 tion itself. If such an employer is determined, under
15 this section, to have committed a violation, the pen-
16 alty for such violation shall apply only to that mem-
17 ber of the association unless the Secretary deter-
18 mines that the association or other member partici-
19 pated in, had knowledge, or reason to know, of the
20 violation, in which case the penalty shall be invoked
21 against the association or other association member
22 as well.

23 “(2) VIOLATIONS BY AN ASSOCIATION ACTING
24 AS AN EMPLOYER.—If an association filing an appli-
25 cation as a sole or joint employer is determined to

1 have committed a violation under this section, the
2 penalty for such violation shall apply only to the as-
3 sociation unless the Secretary determines that an as-
4 sociation member or members participated in or had
5 knowledge, or reason to know, of the violation, in
6 which case the penalty shall be invoked against the
7 association member or members as well.

8 “DEFINITIONS

9 “SEC. 218D. For purposes of sections 218 through
10 218C:

11 “(1) ADVERSE AFFECT WAGE RATE.—The term
12 ‘adverse effect wage rate’ means the annual weight-
13 ed average hourly wage rate of earnings for field and
14 livestock workers (combined) for the State (or region
15 that includes the State) as published annually by the
16 Department of Agriculture based on the Depart-
17 ment’s quarterly wage survey.

18 “(2) AGRICULTURAL EMPLOYMENT.—The term
19 ‘agricultural employment’ means any service or ac-
20 tivity that is considered to be agricultural under sec-
21 tion 3(f) of the Fair Labor Standards Act of 1938
22 (29 U.S.C. 203(f)) or agricultural labor under sec-
23 tion 3121(g) of the Internal Revenue Code of 1986
24 (26 U.S.C. 3121(g)). For purposes of this para-
25 graph, agricultural employment includes employment
26 under section 101(a)(15)(H)(ii)(a).

1 “(3) BONA FIDE UNION.—The term ‘bona fide
2 union’ means any organization in which employees
3 participate and which exists for the purpose of deal-
4 ing with employers concerning grievances, labor dis-
5 putes, wages, rates of pay, hours of employment, or
6 other terms and conditions of work for agricultural
7 employees. Such term does not include an organiza-
8 tion formed, created, administered, supported, domi-
9 nated, financed, or controlled by an employer or em-
10 ployer association or its agents or representatives.

11 “(4) DISPLACE.—In the case of an application
12 with respect to one or more H-2A workers by an
13 employer, the employer is considered to ‘displace’ a
14 United States worker from a job if the employer lays
15 off the worker from a job for which the H-2A work-
16 er or workers is or are sought.

17 “(5) ELIGIBLE.—The term ‘eligible’, when used
18 with respect to an individual, means an individual
19 who is not an unauthorized alien (as defined in sec-
20 tion 274A(h)(3)).

21 “(6) EMPLOYER.—The term ‘employer’ means
22 any person or entity, including any farm labor con-
23 tractor and any agricultural association, that em-
24 ploys workers in agricultural employment.

1 “(7) H-2A EMPLOYER.—The term ‘H-2A em-
2 ployer’ means an employer who seeks to hire one or
3 more nonimmigrant aliens described in section
4 101(a)(15)(H)(ii)(a).

5 “(8) H-2A WORKER.—The term ‘H-2A worker’
6 means a nonimmigrant described in section
7 101(a)(15)(H)(ii)(a).

8 “(9) JOB OPPORTUNITY.—The term ‘job oppor-
9 tunity’ means a job opening for temporary full-time
10 employment at a place in the United States to which
11 United States workers can be referred.

12 “(10) LAYS OFF.—

13 “(A) IN GENERAL.—The term ‘lays off’,
14 with respect to a worker—

15 “(i) means to cause the worker’s loss
16 of employment, other than through a dis-
17 charge for inadequate performance, viola-
18 tion of workplace rules, cause, voluntary
19 departure, voluntary retirement, contract
20 impossibility (as described in section
21 218A(b)(4)(D)), or temporary layoffs due
22 to weather, markets, or other temporary
23 conditions; but

24 “(ii) does not include any situation in
25 which the worker is offered, as an alter-

1 native to such loss of employment, a simi-
2 lar employment opportunity with the same
3 employer (or, in the case of a placement of
4 a worker with another employer under sec-
5 tion 218(b)(2)(E), with either employer de-
6 scribed in such section) at equivalent or
7 higher compensation and benefits than the
8 position from which the employee was dis-
9 charged, regardless of whether or not the
10 employee accepts the offer.

11 “(B) STATUTORY CONSTRUCTION.—Noth-
12 ing in this paragraph is intended to limit an
13 employee’s rights under a collective bargaining
14 agreement or other employment contract.

15 “(11) PREVAILING WAGE.—The term ‘pre-
16 vailing wage’ means, with respect to an agricultural
17 occupation in an area of intended employment, the
18 rate of wages that includes the 51st percentile of
19 employees in that agricultural activity in the area of
20 intended employment, expressed in terms of the pre-
21 vailing method of pay for the agricultural activity in
22 the area of intended employment.

23 “(12) REGULATORY DROUGHT.—The term ‘reg-
24 ulatory drought’ means a decision subsequent to the
25 filing of the application under section 218 by an en-

1 tity not under the control of the employer making
2 such filing which restricts the employer's access to
3 water for irrigation purposes and reduces or limits
4 the employer's ability to product an agricultural
5 commodity, thereby reducing the need for labor.

6 “(13) SEASONAL.—Labor is performed on a
7 ‘seasonal’ basis if—

8 (A) ordinarily, it pertains to or is of the
9 kind exclusively performed at certain seasons or
10 periods of the year; and

11 (B) from its nature, it may not be contin-
12 uous or carried on throughout the year.

13 “(14) SECRETARY.—The term ‘Secretary’
14 means the Secretary of Labor.

15 “(15) TEMPORARY.—A worker is employed on a
16 ‘temporary’ basis where the employment is intended
17 not to exceed 10 months.

18 “(16) UNITED STATES WORKER.—The term
19 ‘United States worker’ means any worker, whether
20 a United States citizen or national, a lawfully admit-
21 ted permanent resident alien, or any other alien,
22 who is authorized to work in the job opportunity
23 within the United States, except an alien admitted
24 or otherwise provided status under section
25 101(a)(15)(H)(ii)(a).”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 the Immigration and Nationality Act (8 U.S.C. 1101 et
 3 seq.) is amended by striking the item relating to section
 4 218 and inserting the following:

“Sec. 218. H-2A employer applications.

“Sec. 218A. H-2A employment requirements.

“Sec. 218B. Procedure for admission and extension of stay of H-2A workers.

“Sec. 218C. Worker protections and labor standards enforcement.

“Sec. 218D. Definitions.”.

5 **TITLE III—MISCELLANEOUS**
 6 **PROVISIONS**

7 **SEC. 301. COVERAGE OF H-2A AGRICULTURAL WORKERS**
 8 **UNDER THE MIGRANT AND SEASONAL AGRI-**
 9 **CULTURAL WORKER PROTECTION ACT.**

10 (a) DEFINITIONS.—Section 3 of the Migrant and
 11 Seasonal Agricultural Worker Protection Act (29 U.S.C.
 12 1802) is amended—

13 (1) in paragraph (8)(B)—

14 (A) by striking “does not” and all that fol-
 15 lows through “(i) any” and inserting “does not
 16 include any”;

17 (B) by striking “; or” and inserting a pe-
 18 riod; and

19 (C) by striking clause (ii); and

20 (2) in paragraph (10)(B)—

21 (A) by striking “; or” at the end of clause
 22 (ii) and inserting a period; and

23 (B) by striking clause (iii).

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to the employment, recruitment,
3 referral, or utilization of the services of an individual oc-
4 ccurring on or after the date that is 1 year after the date
5 of the enactment of this Act.

6 **SEC. 302. RIGHT TO ORGANIZE.**

7 (a) IN GENERAL.—Title IV of the Migrant and Sea-
8 sonal Agricultural Worker Protection Act (29 U.S.C. 1841
9 et seq.) is amended by adding at the end the following
10 new section:

11 **“SEC. 405. RIGHT TO ORGANIZE.**

12 “(a) IN GENERAL.—Migrant and seasonal agricul-
13 tural workers shall have the right to self-organization, to
14 form, join, or assist labor organizations, to bargain collec-
15 tively through representatives of their own choosing, and
16 to engage in other concerted activities for the purpose of
17 collective bargaining or other mutual aid or protection.

18 “(b) PROHIBITION.—No person shall interfere with,
19 restrain, or coerce any migrant or seasonal agricultural
20 worker in the exercise of the rights guaranteed in sub-
21 section (a).”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall become effective on the date that is
24 1 year after the date of the enactment of this Act.

1 **SEC. 303. TAX EQUITY AND WORKFORCE IMPROVEMENT**
2 **FUND.**

3 (a) **ESTABLISHMENT OF ACCOUNT.**—There is estab-
4 lished in the general fund of the Treasury a separate ac-
5 count, which shall be known as the “Agricultural Worker
6 Account” for the purpose of improving labor management
7 practices in agriculture. Notwithstanding any other provi-
8 sion of law, there shall be deposited as offsetting receipts
9 into the account all fees collected under subsection (b)(1).

10 (b) **PAYMENTS INTO ACCOUNT.**—

11 (1) **IN GENERAL.**—Except as provided in para-
12 graph (2), the Secretary shall collect a fee from an
13 employer of an H-2A worker in an amount equiva-
14 lent to 13.85 percent of total wages paid to the H-
15 2A worker during the period of employment. Fees
16 collected under this paragraph shall be deposited in
17 the Treasury in accordance with subsection (a).

18 (2) **EXCEPTION.**—Paragraph (1) does not apply
19 to an employer in a case where the job opportunity
20 is covered by a union contract that was negotiated
21 at arm’s-length between a bona fide union and the
22 employer.

23 (c) **DISTRIBUTION OF FUNDS.**—The amounts paid
24 into the Agricultural Worker Account shall be used as fol-
25 lows:

1 (1) LABOR MANAGEMENT COMMITTEES.—40
2 percent of the amounts deposited into the Agricultural
3 Worker Account shall remain available to the
4 Federal Mediation and Conciliation Service until ex-
5 pended for assistance to labor management commit-
6 tees described in subsection (d).

7 (2) DEMONSTRATION PROGRAMS AND
8 PROJECTS.—40 percent of the amounts deposited in
9 the Agricultural Worker Account shall remain avail-
10 able to the Secretary of Labor until expended for
11 demonstration programs and projects described in
12 subsection (e).

13 (3) ADMINISTRATIVE EXPENSES.—20 percent
14 of the amounts deposited into the Agricultural
15 Worker Account shall remain available to the Attor-
16 ney General, the Secretary of Labor, and the Sec-
17 retary of State until expended in amounts equivalent
18 to the expenses incurred by such officials in the ad-
19 ministration of the H-2A program.

20 (d) ASSISTANCE TO LABOR MANAGEMENT COMMIT-
21 TEES.—

22 (1) ESTABLISHMENT OF FARM, AREA, OR IN-
23 DUSTRYWIDE COMMITTEES.—

24 (A) The Federal Mediation and Concilia-
25 tion Service shall provide assistance in the es-

1 tablishment and operation of farm, area, and
2 industrywide labor management committees
3 that—

4 (i) have been organized jointly by em-
5 ployers and labor organizations rep-
6 resenting employees in that farm, area, or
7 industry; and

8 (ii) are established for the purpose of
9 improving labor management relationships,
10 job security, organizational effectiveness,
11 enhancing economic development and pro-
12 ductivity, or involving workers in decisions
13 affecting their jobs, including improving
14 communication with respect to subjects of
15 mutual concern.

16 (B) The Federal Mediation and Concilia-
17 tion Service shall enter into contracts and make
18 grants, where necessary or appropriate, to fulfill
19 its responsibilities under this section.

20 (2) RESTRICTIONS ON GRANTS, CONTRACTS, OR
21 OTHER ASSISTANCE.—

22 (A) REPRESENTATION BY LABOR ORGANI-
23 ZATIONS; COLLECTIVE BARGAINING AGREE-
24 MENTS.—No grant may be made, no contract
25 may be entered into, and no other assistance

1 may be provided under the provisions of this
2 section to a farm or ranch labor management
3 committee unless the employees at that farm or
4 ranch are represented by a labor organization
5 and there is in effect at that farm or ranch a
6 collective bargaining agreement.

7 (B) PARTICIPATION IN LABOR MANAGE-
8 MENT COMMITTEES.—No grant may be made,
9 no contract may be entered into, and no other
10 assistance may be provided under the provisions
11 of this section to an area or industrywide labor
12 management committee unless its participants
13 include any labor organizations certified or rec-
14 ognized as the representative of the employees
15 of an employer participating in such committee.
16 Nothing shall prohibit participation in an area
17 or industrywide committee by an employer not
18 represented by a labor organization.

19 (C) RIGHT TO ORGANIZE AND COLLECTIVE
20 BARGAINING.—No grant may be made under
21 the provisions of this section to any labor man-
22 agement committee which the Secretary finds to
23 have as one of its purposes the discouragement
24 of the exercise of the right to organize or the

1 interference with collective bargaining at any
2 ranch or farm.

3 (e) DEMONSTRATION PROGRAMS AND PROJECTS.—

4 (1) IN GENERAL.—The Secretary of Labor shall
5 use funds available under section 303(c)(2) to estab-
6 lish demonstration projects to improve labor man-
7 agement practices in agriculture and use the existing
8 farm labor force more efficiently. These projects may
9 include, but are not limited to—

10 (A) projects to enhance the recruitment of
11 workers and demonstrate the feasibility of es-
12 tablishing migrant itineraries through the provi-
13 sion of worker transportation and support serv-
14 ices;

15 (B) local job referral and labor-sharing
16 networks;

17 (C) workplace literacy programs for mi-
18 grant and seasonal farmworkers, including
19 workers who reside part of the year in Mexico;

20 (D) bilingual workers' rights hotlines;

21 (E) occupational safety and health pro-
22 grams;

23 (F) development and implementation of
24 labor-saving and other workplace technologies;

1 (G) establishment of agricultural sector-
2 based cross-training and development consor-
3 tiums;

4 (H) customized training for individual em-
5 ployers; and

6 (I) agricultural career-laddering training,
7 and development.

8 (2) GRANTS.—

9 (A) ELIGIBILITY.—To carry out the pro-
10 grams and projects described in paragraph
11 (1)(A), the Secretary of Labor shall award
12 grants to farmworker unions and other farm-
13 worker community-based organizations, and
14 higher education institutions.

15 (B) COLLABORATIVE EFFORTS.—Consider-
16 ation in the awarding of grants should be given
17 to any proposal demonstrating collaboration be-
18 tween a union or other farmworker organization
19 and an employer or employer organization.

20 (C) ALLOCATION OF GRANTS.—In making
21 grants under this paragraph, the Secretary
22 shall make every effort to fairly distribute the
23 grants across different geographic areas of the
24 country but give priority to those areas of the

1 country employing substantial numbers of H-
2 2A workers.

3 (3) REQUIREMENTS FOR GRANT APPLICA-
4 TION.—Applications for grants shall include an
5 agreement that the program or project shall be sub-
6 ject to evaluation by the Secretary of Labor to meas-
7 ure its effectiveness.

8 **SEC. 304. REGULATIONS.**

9 (a) REGULATIONS OF THE ATTORNEY GENERAL.—
10 The Attorney General shall consult with the Secretary of
11 Labor and the Secretary of Agriculture on all regulations
12 to implement the duties of the Attorney General under
13 this Act.

14 (b) REGULATIONS OF THE SECRETARY OF STATE.—
15 The Secretary of State shall consult with the Attorney
16 General, the Secretary of Labor, and the Secretary of Ag-
17 riculture on all regulations to implement the duties of the
18 Secretary of State under this Act.

19 (c) REGULATIONS OF THE SECRETARY OF LABOR.—
20 The Secretary of Labor shall consult with the Secretary
21 of Agriculture and the Attorney General on all regulations
22 to implement the duties of the Secretary of Labor under
23 this Act.

24 (d) DEADLINE FOR ISSUANCE OF REGULATIONS.—
25 All regulations to implement the duties of the Attorney

1 General, the Secretary of State, and the Secretary of
2 Labor under this title and the amendments made by sec-
3 tions 201 and 301 shall take effect on the effective date
4 of such title and amendments and shall be issued not later
5 than 1 year after the date of the enactment of this Act.

6 **SEC. 305. EFFECTIVE DATE.**

7 (a) IN GENERAL.—Except as otherwise provided, this
8 title and the amendments made by sections 201 and 301
9 shall take effect on the date that is 1 year after the date
10 of the enactment of this Act.

11 (b) REPORT.—Not later than 180 days after the date
12 of the enactment of this Act, the Secretary shall prepare
13 and submit to the appropriate committees of the Congress
14 a report that describes the measures being taken and the
15 progress made in implementing this Act.

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