

AGRICULTURAL LABOR ISSUES

August 2018

Update:

On July 18, Representatives Dan Newhouse (R-WA), Bob Goodlatte (R-VA), Collin Peterson (D-MN), Henry Cuellar (D-TX) and others introduced the Ag and Legal Workforce Act. The legislation marries an improved Ag Act (H-2C) with the Legal Workforce Act (mandatory E-Verify).

This new package reflects favorable changes to the legislation supported by USApple and secured by Congressman Newhouse and others who did not support earlier versions of the bill. The bill is being supported by the vast majority of House members from apple districts.

The bill's sponsors were pushing for a vote before the House adjourned for the August recess but that deadline has now passed. The leadership is still determining whether there will be enough votes to pass this new package. It is unlikely that more than a handful of Democrats will support it, and there are conservatives who may view the Ag Act as amnesty. There are other Republicans who do not have agriculture in their districts and may be uncomfortable with mandatory E-Verify absent broader reforms.

The debate will pick up when the House returns in September. USApple will be in close communication with Congressman Newhouse and our other champions as we advocate for agricultural labor reforms that will ensure a legal, stable and reliable workforce in both the short and long term.

Background:

Apple production and harvesting is highly labor-intensive. From pruning to picking, packing and processing, labor accounts for more than 50 percent of the cost of producing apples in the United States. Moreover, having a predictable and reliable source of labor for what is a highly perishable crop is critical for the industry. The U.S. apple industry is heavily dependent on migrant labor, H-2A, and H-2B workers to harvest, pack, and process apples and apple products.

Participation in the H-2A program continues to grow, with the total number of visas doubling over the past five years. Much of that growth is attributable to the apple industry. Most growers in the program report a positive experience with workers, but bureaucratic and administrative delays continue.

Legislation is needed to replace the antiquated H-2A program and provide legal status to the existing workforce.

Last October, the House Judiciary Committee passed the Agriculture Guestworker Act (Ag Act) and the Legal Workforce Act (mandating E-Verify). Both passed on a strict party line vote. The Ag Act replaces the antiquated H2A program with an improved, streamlined H-2C program. Unlike H2A, the H2C program does not include a housing requirement and replaces the AEWR with the higher of state minimum or federal minimum + 15%.

However, the legislation also included a cap, a health insurance requirement and did not provide any viable options for the current workforce. Therefore, USApple and the majority of agriculture groups adopted the position that the legislation would need to be improved before we could support it moving forward with mandatory E-Verify.

USApple and our coalition partners provided the Judiciary Committee staff with specific feedback and suggestions for improvements to the legislation. We discussed these same concerns with House members from apple districts.

In January, Chairman Goodlatte along with Republican House members Martha McSally (R-AZ), Raul Labrador (R-ID) and Michael McCaul (R-TX), introduced the Securing America's Future Act of 2018 (SAF Act). The legislation packaged the Ag Act, Legal Workforce Act, work authorization for DACA recipients and some additional border security measures. The text of the Ag Act was unchanged from October.

On June 21 the House voted on the SAF Act. It failed 193-231.

USApple Position: USApple opposes enforcement-only legislation, such as E-Verify, unless it contains viable agricultural labor provisions that address both the current and future workforce.

USApple urges Congress to pass legislation that provides meaningful agricultural labor reform and meets the following objectives:

1. Provides a stable, adequate, able, and predictable supply of agricultural labor capable of participating legally in the U.S. workforce.
2. Addresses the high level of guestworker wage rates, simplifies the program, and provides legal reform to remove unreasonable employer sanctions and regulatory burdens.
3. Provides the opportunity for current and experienced employees to continue working in agriculture.