

House Sponsor-Representative Looper and Rose
Senate Sponsor-Senator Tapia
HB 08-1325
Colorado NonImmigrant Season Worker Pilot Program



To: House Members
From: Rep. Looper & Rep. Rose
Date: April 8, 2008
Re: HB1325-Colorado Non-Immigrant Seasonal Worker Pilot Program

Thank you for taking the time to consider HB1325, the Colorado Non-Immigrant Seasonal Worker Pilot Program. After researching Canada's seasonal worker program and other successful working models we believe that this pilot program with its inherent accountability will reduce the time of hiring seasonal workers in half and provide the necessary oversight that the citizens of Colorado expect from its government.

HISTORY & BACKGROUND:

Colorado Agriculture generates over \$16 billion dollars of economic activity annually, and Agritourism generates over \$2 billion dollars annually to the state. These industries are currently in peril due to consistent labor shortages and may be forced to leave if we do not try to resolve these labor shortages. HB1325 provides one possible solution to the labor shortage by allowing the Colorado Department of Labor & Employment to contract with agents to expedite the application, screening and recruiting processes for the Federal H-2A Visa.

According to the Colorado Department of Agriculture it may take up to 168 days to process the H-2A applications. By the time many of these applications are processed many crops throughout the state have rotted in the fields! **The intent of this pilot program is to reduce the processing time of the H-2A Application from 168 days to 60 days!** The H-2A Visa requires approval from; Colorado Department of Labor(CDL), U.S. Department of Labor(USDOL), U.S. Customs & Immigration Service(USCIS), State Department, Homeland Security and U.S. Customs & Border Protection(USCBP). If there is not a facilitator for these applications they sit unattended in USDOL, USCIS, State Department and Homeland Security.

PURPOSE:

The intent of HB1325 is to allow CDL to contract to local qualified agents skilled in facilitating these applications through CDL, USDOL, USCIS and Homeland Security. In addition the qualified agent's counterpart in Mexico will facilitate the recruitment of workers in Mexico and provide a pool of qualified seasonal workers to the State Department in Mexico for Homeland Security background checks. Once the workers are approved the agent in Mexico will coordinate travel and entrance into and from the United States with U.S. Customs & Border Protection. Passing the costs onto the farmers ensures there is no state expenditure! The fines, penalties and enforcement provisions are consistent with other provisions in Colorado and Federal law immigration law.

SPECIFIC PROVISIONS OF THE BILL: (Please refer to the Committee Report)

The Pilot program is limited to 1,000 seasonal workers the 1st year, 2,000 workers the 2nd year, 3,000 workers the 3rd year, up to 4,000 workers the 4th year and up to 5,000 seasonal workers the 5th year.

Establishes an advisory council to make recommendations for the adoption of rules and shall assist in the preparation of the report to the general assembly of the progress of the pilot program.

The Department shall work with employers and agents in expediting the H-2A Visa application, approval and recruitment process so the seasonal agriculture needs of the employer are met in a timely manner.

The Department is authorized to charge employers a fee necessary to cover the cost of the program!

The Director of the Department of Labor may retain agents to assist identified workers making applications for the H-2A Visa through the United States Embassy or consulate, to coordinate medical screening of workers prior to departure and to coordinate travel to and from Colorado.

The Director of the Department is directed to establish a fund that will consist of the fees and fines associated with this pilot program.

NO UNITED STATES WORKER WILL BE REJECTED FOR OR TERMINATED FROM EMPLOYMENT OTHER THAN FOR LAWFUL JOB RELATED REASONS. A FAMILY MEMBER MAY PARTICIPATE IN THE PROGRAM ONLY IF THE FAMILY MEMBER QUALIFIES FOR AND IS ISSUED A **CURRENT H-2A VISA**.

EMPLOYER SHALL:

PROVIDE UNITED STATES WORKERS AND EMPLOYEES THE SAME BENEFITS, WAGES AND WORKING CONDITIONS;

Reimburse the employee for the costs of transportation and subsistence from the site of recruitment to place of employment;

Provide free transportation to the employee between employee's local housing and worksite;

Provide free housing for each employee;

Pay employee wages that are in compliance with Federal Requirements;

Provide worker's compensation insurance;

Provide employees three low cost-meals per day or provide free cooking and kitchen facilities;

Guarantee the employee be paid twice per month;

Will in a timely manner, pay the fees associated with the program;

Notify the Department within 48 hours if an employee cannot be located and has not reported For work as scheduled;

If employer fails to notify the Department as required the Department may deny the employer Future participation in the program;

Impose a fine on the employer for each violation not to exceed \$200 per day, per violation;

Notify the USCIS of any known violations;

Shall not intimidate, threaten, restrain, coerce, blacklist, discharge or discriminate any person.

EMPLOYEE SHALL:

Within 2 weeks after arrival apply for a Colorado Identification card;

Notify employer if unable to perform necessary work duties within 24 hours of working day.

Comply with provision of H-2A Visa requirements and Colorado Nonimmigrant Seasonal Worker Pilot Program Provisions.

PENALTIES:

Any person who violates any provisions of this article shall be guilty of a fine of not more than five thousand dollars;

Any person who violates any provisions of this article are prohibited from participating in the Pilot Program in the future;

Supporters: Farm Bureau, Rocky Mtn. Farmers Union, Colorado Dairy Farmers, CO. Nursery & Greenhouses Association, NFIB, Colorado Cattlemen's Association, Northern Colorado Legislative Alliance, Colorado Corn Growers Association and Quarter Horse Association.