

117TH CONGRESS
1ST SESSION

H. R. 206

To streamline the application process for H–2A employers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2021

Mr. KELLY of Mississippi introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To streamline the application process for H–2A employers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Paperwork Reduction
5 for Farmers and H–2A Modernization Act”.

6 **SEC. 2. H–2A PROGRAM UPDATES.**

7 (a) IN GENERAL.—Section 101(a)(15)(H) of the Im-
8 migration and Nationality Act (8 U.S.C. 1101(a)(15)(H))
9 is amended—

1 (1) by striking “an alien (i)(b) subject to” and
2 inserting the following: “an alien—

3 “(i)(b) subject to”;

4 (2) by striking “or (ii)(a)” and all that follows
5 through “seasonal nature,” and inserting the fol-
6 lowing:

7 “(ii)(a) who has a residence in a foreign
8 country that the alien has no intention of aban-
9 doning and is coming temporarily to the United
10 States to perform agricultural labor or services
11 (as defined by the Secretary of Labor, by regu-
12 lation), of a temporary or seasonal nature, in-
13 cluding agricultural labor (as defined in section
14 3121(g) of the Internal Revenue Act of 1986),
15 agriculture (as defined in section 3(f) of the
16 Fair Labor Standards Act of 1938 (29 U.S.C.
17 203(f))), the pressing of apples for cider on a
18 farm, fish cutting and trimming, including
19 labor or services relating to landscaping and
20 groundskeeping, forestry- and conservation-re-
21 lated services, services relating primarily to the
22 cultivation, installation, and establishment of
23 horticultural commodities (without regard to
24 commodity source or location), labor as a year-
25 round equine worker, labor as a year-round live-

1 stock worker (including as a dairy, cattle, or
2 poultry worker), labor in aquaculture, and the
3 processing of wild seafood, and all other labor
4 that falls within Standard Occupational Classi-
5 fication Code 37–3000 (Grounds Maintenance
6 Workers), 45–0000 (Farming, Fishing, and
7 Forestry Occupations), or 45–4000 (Forest,
8 Conservation, and Logging Workers);” and

9 (3) by striking “(iii) having a residence in a
10 foreign country which he has no intention of aban-
11 doning who” and inserting the following:

12 “(iii) who has a residence in a foreign
13 country that the alien has no intention of aban-
14 doning and”.

15 (b) JOINT APPLICATION; DEFICIENCY REMEDY.—
16 Section 214(c)(1) of the Immigration and Nationality Act
17 (8 U.S.C. 1184(c)(1)) is amended—

18 (1) by inserting “(A)” after “(1)”; and

19 (2) by adding at the end the following:

20 “(B) Multiple employers may submit a joint petition
21 under subparagraph (A) to import aliens as non-
22 immigrants described in section 101(a)(15)(H)(ii)(a).
23 Upon the approval of such petition, each joint employer
24 shall be subject to the provisions under section 218 with
25 respect to each alien listed in such petition. If any indi-

1 vidual party to such a joint contract violates any condition
2 for approval with respect to the application or provisions
3 under section 218 with respect to each alien listed in such
4 petition, after notice and opportunity for a hearing, the
5 contract may be modified to remove the party in violation
6 from the contract at no penalty to the remaining parties.

7 “(C) If a petition to import aliens as nonimmigrants
8 described in section 101(a)(15)(H)(ii)(a) is denied or if
9 the issuance of visas requested through such petition is
10 delayed due to a problem with the petition, the Director
11 of U.S. Citizenship and Immigration Services shall
12 promptly notify the petitioner of the reasons for such de-
13 nial or delay and provide the petitioner with reasonable
14 time to remedy the problem.”.

15 (c) LABOR CERTIFICATION; STAGGERED EMPLOY-
16 MENT DATES.—Section 218(h) of the Immigration and
17 Nationality Act (8 U.S.C. 1188(h)), as amended by sec-
18 tion 3(b), is further amended by adding at the end the
19 following:

20 “(4) An employer that is seeking to rehire aliens as
21 H–2A workers who previously worked for the employer as
22 H–2A workers may submit a simplified petition, to be de-
23 veloped by the Director of U.S. Citizenship and Immigra-
24 tion Services, in consultation with the Secretary of Labor,
25 which shall include a certification that the employer main-

1 tains compliance with all applicable requirements with re-
2 spect to the employment of such aliens. Such petitions
3 shall be approved upon completion of applicable security
4 screenings.

5 “(5) An employer that is seeking to hire aliens as
6 H–2A workers during different time periods in a given fis-
7 cal year may submit a single petition to U.S. Citizenship
8 and Immigration Services that details the time period dur-
9 ing which each such alien is expected to be employed.

10 “(6) Upon receiving notification from an employer
11 that the employer’s H–2A worker has prematurely aban-
12 doned employment or has failed to appear for employment
13 and such employer wishes to replace such worker—

14 “(A) the Secretary of State shall promptly issue
15 a visa under section 101(a)(15)(H)(ii)(a) to an eligi-
16 ble alien designated by the employer to replace that
17 worker; and

18 “(B) the Secretary of Homeland Security shall
19 promptly admit such alien into the United States
20 upon completion of applicable security screenings.”.

21 **SEC. 3. ELECTRONIC FILING AND APPEALS SYSTEM FOR H-**
22 **2A PETITIONS.**

23 (a) IN GENERAL.—Not later than 1 year after the
24 date of the enactment of this Act, the Secretary of Labor
25 shall establish a process for filing petitions for non-

1 immigrant visas under section 101(a)(15)(H)(ii)(a) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1101(a)(15)(H)(ii)(a)) that ensures that—

4 (1) petitioners may file such petitions through
5 the Department of Labor’s website;

6 (2) any software developed to process such peti-
7 tions indicates to the petitioner any technical defi-
8 ciency in the application before submission; and

9 (3) any petitioner may file such petition in a
10 paper format if such petitioner prefers such format.

11 (b) REQUEST FOR EVIDENCE.—Section 218(h) of the
12 Immigration and Nationality Act (8 U.S.C. 1188(h)) is
13 amended by adding at the end the following:

14 “(3) If U.S. Citizenship and Immigration Services
15 issues a Request for Evidence to an employer—

16 “(A) the employer may request such Request
17 for Evidence to be delivered in an online format; and

18 “(B) if the employer makes the request de-
19 scribed in subparagraph (A)—

20 “(i) the Request for Evidence shall be pro-
21 vided to the employer in an online format; and

22 “(ii) not later than 10 business days after
23 the employer submits the requested evidence
24 online, U.S. Citizenship and Immigration Serv-

1 ices shall provide an online response to the em-
2 ployer—

3 “(I) indicating that the submitted evi-
4 dence is sufficient; or

5 “(II) explaining the reasons that such
6 evidence is not sufficient and providing the
7 employer with an opportunity to address
8 any such deficiency.”.

9 **SEC. 4. SAFE HARBOR FROM PENALTIES FOR DOCUMENT**
10 **FRAUD.**

11 Section 274C of the Immigration and Nationality Act
12 (8 U.S.C. 1324c) is amended—

13 (1) by redesignating subsection (c) as sub-
14 section (g) and moving such subsection so that it ap-
15 pears immediately following subsection (f); and

16 (2) by inserting after subsection (b) the fol-
17 lowing:

18 “(c) **SAFE HARBOR.**—Any employer who uses a
19 third-party preparer to file an application for non-
20 immigrant visas for workers the employer intends to hire
21 shall not be subject to civil or criminal penalties under
22 this section for errors or omissions on such application if
23 the employer reasonably believed that the application was

- 1 accurate and in compliance with all applicable statutory
- 2 requirements.”.

