

AgJOBS: A SUMMARY

What is AgJOBS?

AgJOBS (HR 371 – Berman 2007 & SB 340 – Feinstein, Kennedy, & Craig 2007), the Agricultural Job Opportunities, Benefits and Security Act of 2007, is a proposed immigration law. AgJOBS is a compromise that was reached after years of conflict and tough negotiations between the United Farm Workers (UFW), major agricultural employers, and key federal legislators.

If AgJOBS becomes law, hundreds of thousands of farmworkers could come out of the shadows to earn temporary resident status followed by permanent resident status. With permanent legal status, farmworkers will be better able to demand improvements in their wages and working conditions. There are two main parts to the proposed law:

- First- it would create an “earned adjustment” program, allowing many farmworkers to obtain temporary immigration status with the possibility of earning permanent residents, and later citizens, of the U.S., and
- Second- it would make changes to the existing agricultural guestworker program, known as the “H-2A temporary foreign agricultural worker program.”

Earned Adjustment for Farmworkers

AgJOBS only applies to workers in the agricultural industry, mainly employees of farms and ranches. Undocumented farmworkers and recent H-2A guestworkers who want to become permanent U.S. residents would have to complete a two-step process.

Step One: *Apply for Temporary “Blue Card” Status.*

A farmworker could apply for temporary residency through a government-approved organization, a recognized immigration practitioner, or a licensed attorney. Eligible workers are those who can prove that they:

- worked in U.S. agriculture at least 863 hours or 150 days during the 24-month period ending December 31, 2006 and meet other immigration-law and homeland-security requirements (including that they have not been convicted (found guilty) of a serious crime (known as a felony) or 3 minor crimes (called misdemeanors)).
- paid an application fee and a \$100 fine upon obtaining a blue card.

The temporary status could last up to 7 years from the date of the law. Although temporary residents would need to work a certain amount of time in agriculture to earn their lawful permanent residency, they also could work in any other job. Temporary workers could travel freely in and out of the U.S.



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Earned Adjustment for Farmworkers, continued

Step Two: Earn Legal Permanent Resident Status.

After earning a “blue card,” the worker could earn his/her legal permanent resident status (sometimes called a “green card”) by meeting the following requirements:

- working in agriculture for at least
 - 100 days per year or 575 hours per year (but not less than 575 hours) for each of five years during the first five years of the law; OR
 - 150 days per year or 863 hours per year (but not less than 863 hours) for each of 3 years during the first five years of the law;
- paying a \$400 fine; and
- showing payment of income taxes or an agreement with the government to pay taxes owed.

A worker who does not meet these requirements, who files a false application, or who doesn't apply by the 7th year would lose legal status and be deported. Conviction of a felony, three misdemeanors, or a single crime that involves bodily injury, threat of serious bodily injury or injury to property in excess of \$500 also would end “blue card” status.

Immediate Family of Farmworkers

If a worker obtains the temporary resident “blue card” status, his/her spouse and minor children would not be removed from the US—they could remain in the U.S. and the spouse could obtain a work permit. The spouse and minor children could also travel outside the U.S. and return. Once the worker receives permanent resident status, his/her spouse and minor children could also become permanent residents. (Minor children who become adults during the process would be covered too.)

Changes to the H-2A Agricultural Guestworker Program

AgJOBS also would make changes in the H-2A agricultural guestworker program. The H-2A program allows agricultural employers to hire farmworkers from other countries to fill jobs that last ten months or less. The changes would include the following:

- H-2A guest workers would have the right to file a lawsuit in federal court to enforce their wages and working conditions. Currently, H-2A workers only have the right to file lawsuits for employment contract violations in state courts.
- AgJOBS would reduce the federal government's role in monitoring recruitment and hiring of farmworkers for H-2A jobs to make it easier for employers to hire foreign workers.
- Currently, H-2A employers must provide free housing to foreign workers and non-local U.S. workers, but under AgJOBS, in some cases, they would be able to give workers an allowance for local housing instead.
- A special wage rate that most H-2A employers pay would be frozen at the 2002 levels for three years. During that time, the federal government would study and recommend to Congress a method to determine those wage rates in the future. If Congress does not act within three years, the wage rates would increase annually by the cost of living.
- Workers employed as goat herders or dairy workers would join sheepherders in being eligible to participate in the H-2A program even when they are year-round workers. These workers would be able to work up to three years in a row and could then be able to apply to become lawful permanent residents if there were employment-based visas available. Other H-2A workers would only have temporary work permits with no chance to become permanent residents through the H-2A program.

