



## **SUMMARY OF THE PROVISIONS OF THE “AGRICULTURAL JOB OPPORTUNITY, BENEFITS, AND SECURITY ACT OF 2007” (AgJOBS)**

*AgJobs* restructures and reforms the current H-2A temporary agricultural worker program. This is accomplished by (1) substantially streamlining the program’s administrative procedures, including eliminating the labor certification process, (2) reforming the requirements for H-2A employers, including an immediate reduction and gradual elimination of the Adverse Effect Wage Rate, (3) streamlining the process for admission of H-2A aliens, and (4) allowing aliens not currently in the program to acquire H-2A status.

### **Summary of the key H-2A Reforms. *AgJobs* --**

- eliminates the labor certification process and replaces it with an expedited labor condition application
- streamlines and reduces advertising and other domestic recruitment costs
- preserves the role of grower associations in the H-2A program
- eliminates the open-ended “adverse affect” criteria
- freezes and gradually eliminates the Adverse Effect Wage Rate
- provides the option of a housing allowance, in lieu of housing, under certain circumstances
- clarifies and restricts the right to sue for a limited number of H-2A violations to federal court with a mandatory mediation trigger prior to pursuit of litigation and preempts State contract claims
- mandates expedited processing of H-2A petitions
- allows H-2A aliens employed as shepherders, goat herders or dairy workers to work on an extended 3-year non-immigrant visa without departing the U.S.
- provides immediate work authorization upon filing petitions for extension of stay
- mandates removal of aliens who abscond or otherwise violate their visas
- provides a mechanism for replacing alien workers who abscond or are terminated for cause
- provides a secure identity and work authorization document for H-2A aliens

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## **Summary of the Earned Adjustment of Status of Agricultural Worker Provisions**

*AgJobs* also creates a means for aliens who have made a substantial commitment to agricultural work in the United States, but do not have valid documentation, to earn adjustment to legal status by meeting specific pre- and post-enactment agricultural work requirements. The adjustment provision will provide an opportunity for agricultural employers to retain an experienced workforce while they anticipate and prepare for future participation in a reformed H-2A program. The key provisions are as follows:

- To qualify for temporary resident status (called blue card status), a worker must prove performance of agricultural employment in the U.S. for 150 work days or 863 hours during the 24-month period ending on December 31, 2006
- Blue card visas must contain an electronic identification strip unique to the alien, contain biometric identifiers and be tamper-proof
- To adjust to permanent residency, blue card holders must prove that they have performed at least 5 years of agricultural employment in the U.S. for at least 100 work days each year during the 5-year period beginning on the date of enactment or, alternatively, 3 years of agricultural employment in the U.S. for at least 150 work days each year. A work day can be no less than 5.75 hours.
- Workers failing to meet the prospective work requirement or who fail to pay taxes during the adjustment of status period are removable
- Adjusting workers must pay fines prior to obtaining blue card and permanent resident visas
- Workers convicted of specified felony or misdemeanor crimes cannot participate in the program
- Workers and employers who participate in and comply with the requirements of the earned adjustment program are not subject to legal liability
- Spouses and minor children of blue card visa holders under the program may remain legally in the U.S. while the qualifying alien maintains such status

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