

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 297

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO LABOR; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW
2 CHAPTER 28, TITLE 44, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DECLARE
3 A POLICY, TO PROVIDE FOR AN EFFECTIVE DATE AND APPLICABILITY, TO DEFINE
4 TERMS, TO PROVIDE FOR THE IDAHO GUEST WORKER PROGRAM AND DEPARTMENT OF
5 LABOR ADMINISTRATION, TO PROVIDE ELIGIBILITY AND APPLICATION REQUIRE-
6 MENTS, TO PROVIDE GUEST WORKER REQUIREMENTS, TO PROVIDE FOR A PERMIT-
7 TING AND RENEWAL PROCESS, TO PROVIDE FOR EMPLOYER RESPONSIBILITIES, TO
8 PROVIDE FOR CERTAIN CRIMINAL BACKGROUND CHECKS, TO PROVIDE FOR CERTAIN
9 TAX PAYMENTS, AND TO PROVIDE FOR LIMITATIONS; AND PROVIDING AN EFFEC-
10 TIVE DATE.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Title 44, Idaho Code, be, and the same is hereby amended
14 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
15 ter 28, Title 44, Idaho Code, and to read as follows:

16 CHAPTER 28

17 IDAHO GUEST WORKER PROGRAM ACT

18 44-2801. SHORT TITLE. This chapter shall be known and may be cited as
19 the "Idaho Guest Worker Program Act."

20 44-2802. DECLARATION OF POLICY. It is the intent of the legislature to
21 address the potential for a critical labor shortage in Idaho resulting from
22 the lack of a year-round, agricultural guest worker program under federal
23 law. The current federal H-2A temporary agricultural worker program does
24 not allow for sufficient year-round agricultural guest workers who are crit-
25 ical to Idaho agricultural sectors such as the dairy industry. The limited
26 state-administered guest worker program established in this chapter is in-
27 tended to prevent agricultural labor shortages in Idaho by allowing certain
28 year-round agricultural employers to hire willing year-round guest workers
29 who qualify for the guest worker program established in this chapter.

30 44-2803. EFFECTIVE DATE AND APPLICABILITY. (1) The provisions of this
31 chapter shall be effective on and after January 1, 2026.

32 (2) The provisions of this chapter shall apply notwithstanding any
33 other provision of Idaho Code to the contrary.

34 44-2804. DEFINITIONS. As used in this chapter:

35 (1) "Agricultural employer" means an employer with operations that in-
36 volve farming, ranching, the raising of livestock or other agricultural an-
37 imals, dairy operations, the growing of crops, or the processing of agricul-
38 tural animals, milk, or crops, for commercial purposes.

1 (2) "Commission" means the Idaho state tax commission.

2 (3) "Department" means the Idaho department of labor.

3 (4) "Guest worker" means an undocumented individual who receives an
4 Idaho guest worker permit to provide labor for a year-round agricultural em-
5 ployer through participation in the Idaho guest worker program established
6 in this chapter. "Guest worker" does not include an individual who performs
7 casual domestic labor in or around a person's personal abode or an individual
8 hired to perform temporary or seasonal labor.

9 (5) "Idaho guest worker permit" means an authorization for a guest
10 worker to participate in the Idaho guest worker program established pursuant
11 to this chapter.

12 (6) "Permitted employer" means a year-round agricultural employer that
13 is permitted to employ guest workers pursuant to the provisions of this chap-
14 ter.

15 (7) "Undocumented individual" means a person who lives in the United
16 States without legal immigration status.

17 (8) "Year-round agricultural employer" means an agricultural employer
18 with a need for workers that does not fluctuate over the course of a year due
19 to seasonal changes such as a growing or harvesting season.

20 44-2805. IDAHO GUEST WORKER PROGRAM -- DEPARTMENT OF LABOR TO ADMINIS-
21 TER. (1) Pursuant to the provisions of this chapter, the department shall ad-
22 minister the Idaho guest worker program for undocumented individuals to be-
23 come permitted guest workers who may work for a permitted employer.

24 (2) The department shall collaborate with other state agencies to ac-
25 complish the objectives provided for in this chapter.

26 (3) The department is authorized to take actions consistent with the
27 provisions of this chapter to administer the Idaho guest worker program.

28 (4) The department shall, consistent with the provisions of this chap-
29 ter:

30 (a) Establish an application process and accompanying fee for a
31 year-round agricultural employer to become a permitted employer under
32 the Idaho guest worker program and to employ guest workers through the
33 program. The application fee shall be designed to cover the costs of the
34 program. In addition, the department is authorized to charge an annual
35 fee per guest worker hired through the Idaho guest worker program;

36 (b) Establish a process for an undocumented individual to apply for an
37 Idaho guest worker permit pursuant to the Idaho guest worker program
38 and, if admitted into the program, to receive an Idaho guest worker per-
39 mit; and

40 (c) Revoke the participation of permitted employers and guest workers
41 from the Idaho guest worker program immediately after determining that
42 there has been a violation of any of the provisions of this chapter.

43 (5) The department shall establish an electronic filing method for em-
44 ployers to file application documents, notices of abandonment, intent to re-
45 hire documents, and any other documents required to be filed pursuant to this
46 chapter.

1 44-2806. IDAHO GUEST WORKER ELIGIBILITY AND APPLICATION REQUIRE-
2 MENTS. To be eligible for an Idaho guest worker permit, an undocumented
3 individual shall:

4 (1) Seek employment with an agricultural employer or a year-round agri-
5 cultural employer that desires to hire such individual and is willing to ap-
6 ply to the department to hire such individual pursuant to the provisions of
7 this chapter;

8 (2) Be eighteen (18) years of age or older;

9 (3) Reside in the state of Idaho;

10 (4) Never have been refused admission into or deported from the United
11 States;

12 (5) Provide information and fingerprints necessary to obtain criminal
13 conviction history information pursuant to section 44-2810, Idaho Code;

14 (6) Never have been convicted of or plead guilty to a felony;

15 (7) Provide evidence satisfactory to the department that the person is
16 not inadmissible on public health grounds pursuant to the provisions of 8
17 U.S.C. 1182; and

18 (8) Not furnish false or forged information or documentation to the de-
19 partment or to an employer in support of the employer's application or par-
20 ticipation in the Idaho guest worker program.

21 44-2807. IDAHO GUEST WORKER REQUIREMENTS. (1) To maintain an Idaho
22 guest worker permit for continued participation in the program provided for
23 in this chapter, an undocumented individual shall:

24 (a) Maintain employment with a permitted employer or, upon loss of such
25 employment, obtain an intent to hire or intent to rehire form from a
26 permitted employer or obtain new employment with another permitted em-
27 ployer within thirty (30) days;

28 (b) Maintain residence in the state of Idaho;

29 (c) Not be convicted of or plead guilty to a felony;

30 (d) Not drive a motor vehicle on any public road or highway in the state
31 of Idaho;

32 (e) Pay state and federal income taxes relating to such individual's
33 employment as a guest worker; and

34 (f) Satisfy any other requirements of the department relating to the
35 Idaho guest worker program.

36 (2) A guest worker whose employer ensures the payment of state and fed-
37 eral payroll taxes shall be deemed to satisfy the provisions of subsection
38 (1) (e) of this section.

39 (3) A guest worker who fails to satisfy each of the eligibility require-
40 ments provided for in this section shall be disqualified from participation
41 in the program. Disqualification shall be immediate upon the occurrence of
42 any disqualifying event.

43 (4) A guest worker eligible under this chapter who subsequently ob-
44 tains citizenship in the United States or a visa status that would allow
45 such worker to obtain lawful employment in the United States shall, upon the
46 happening of either such occurrence, lose eligibility for the Idaho guest
47 worker program provided for in this chapter.

1 44-2808. IDAHO GUEST WORKER PERMITTING AND PERMIT RENEWAL
2 PROCESS. (1) A guest worker shall be authorized to participate in the guest
3 worker program for a period of one (1) year from the date such guest worker
4 is hired by a permitted employer. Such authorization may be renewed for
5 additional one (1) year periods, provided that:

6 (a) The guest worker remains eligible pursuant to the requirements of
7 sections 44-2806 and 44-2807, Idaho Code;

8 (b) A permitted employer agrees to continue the employment of such
9 guest worker under the terms and conditions set forth in this chapter,
10 including renewal of the guest worker's permit on an annual basis; and

11 (c) A permitted employer agrees to pay the fee established by the de-
12 partment to offset the costs of the guest worker program.

13 (2) Application for renewal of an Idaho guest worker permit shall be
14 filed not more than sixty (60) days and not less than thirty (30) days prior
15 to the expiration of a permit. Provided that such application is timely
16 filed, such guest worker may continue to be employed under the guest worker's
17 existing permit until such time as the department rules on the application.

18 (3) The department shall provide each Idaho guest worker with an iden-
19 tification card bearing a photograph of the guest worker along with the guest
20 worker's name, address, date of birth, and other identifying information as
21 the department may deem necessary. The card shall prominently display the
22 expiration date of such permit. The guest worker shall carry the identifi-
23 cation card at all times and shall display it upon request to representatives
24 of the department and to law enforcement officers.

25 (4) The department is authorized to reject an applicant or to revoke a
26 permit in its discretion in order to protect the health, safety, and welfare
27 of the citizens of the state of Idaho.

28 44-2809. PERMITTED EMPLOYER RESPONSIBILITIES. (1) To participate in
29 the Idaho guest worker program established in this chapter, an employer
30 shall:

31 (a) Register with the department to become a permitted employer and pay
32 a fee to offset the costs of administering the guest worker program;

33 (b) Provide for the timely application and renewal of a guest worker
34 permit issued pursuant to section 44-2808, Idaho Code, including the
35 payment of any associated fees;

36 (c) Pay or ensure the payment of all payroll taxes for such guest worker
37 assessed by the federal government or the state of Idaho for guest work-
38 ers; and

39 (d) Inform the department of the termination of a guest worker's em-
40 ployment or the abandonment of employment by a guest worker within five
41 (5) business days of any such termination or abandonment.

42 (2) If a permitted employer does not have sufficient available work
43 to maintain the employment of a guest worker, the employer may furlough the
44 guest worker while maintaining such guest worker's participation in the
45 Idaho guest worker program by filing an intent to rehire the guest worker
46 with the department. An intent to rehire shall be filed within five (5) busi-
47 ness days after the guest worker ceases to provide labor for the employer. An
48 intent to rehire shall be valid until the date provided for by the permitted
49 employer.

1 (3) A permitted employer shall notify the department within five (5)
2 business days:

3 (a) After rehiring a guest worker for whom the employer had filed an in-
4 tent to rehire; or

5 (b) The termination of the furloughed guest worker in lieu of rehire.

6 (4) Except as may be separately provided for under federal law, an Idaho
7 agricultural employer shall not employ an undocumented individual except
8 through the Idaho guest worker program provided for in this chapter. An em-
9 ployer who is found to employ undocumented individuals in violation of the
10 provisions of this subsection shall not be eligible for participation in the
11 Idaho guest worker program.

12 44-2810. IDAHO GUEST WORKER CRIMINAL BACKGROUND CHECKS. (1) To deter-
13 mine the suitability of applicants for the Idaho guest worker program, the
14 department shall require each guest worker applicant to provide information
15 and fingerprints necessary to obtain criminal conviction history informa-
16 tion from the Idaho state police and the federal bureau of investigation.
17 Pursuant to section 67-3008, Idaho Code, and P.L. 92-544, the department
18 shall obtain fingerprints from the applicant, which shall be submitted to
19 the Idaho state police, bureau of criminal identification, for a criminal
20 records check of state and national databases. The applicant shall submit
21 a fingerprint card for processing and pay, or have paid for him, the associ-
22 ated fees. Fingerprints and information required by this section shall be
23 submitted in a manner as prescribed by the Idaho state police.

24 (2) The department is authorized to receive criminal history informa-
25 tion from the Idaho state police and from the federal bureau of investigation
26 for the purpose of evaluating the fitness of applicants for the Idaho guest
27 worker program. As provided by state and federal law, further dissemination
28 or other use of the criminal history information is prohibited. Criminal
29 background reports received from the Idaho state police and the federal bu-
30 reau of investigation shall be handled and disposed of in a manner consistent
31 with requirements imposed by the Idaho state police and the federal bureau of
32 investigation.

33 (3) The department shall review the information received from the crim-
34 inal history and background check and determine whether the applicant for
35 the Idaho guest worker program has a criminal record that disqualifies the
36 individual from participation pursuant to section 44-2806 or 44-2807, Idaho
37 Code.

38 44-2811. IDAHO GUEST WORKER TAX PAYMENTS. (1) The commission shall
39 establish a method for a person who receives services from an Idaho guest
40 worker to withhold from compensation paid to such guest worker an amount to
41 be determined by commission rule that, as closely as possible, equals the
42 income taxes that would be imposed by state law if the permit holder were an
43 employee with a social security number.

44 (2) To the extent feasible, the commission shall work with the applica-
45 ble federal government agencies to ensure that the withholding provided for
46 under this section is compatible with a federal process to allow for employ-
47 ment tax collection under federal law as if a permit holder were an employee
48 with a social security number.

1 44-2812. LIMITATIONS. The provisions of this chapter shall not enti-
2 tle a guest worker to:

3 (1) United states citizenship or lawful status in the United States;

4 (2) United state citizenship or lawful status for the guest worker's
5 family members;

6 (3) Protection from federal enforcement of federal immigration laws;

7 (4) Protection from federal immigration enforcement actions pursuant
8 to federal law;

9 (5) Driving privileges in the state of Idaho;

10 (6) Voting privileges in the state of Idaho;

11 (7) Unemployment compensation;

12 (8) The ability to work in any state other than Idaho; or

13 (9) The ability to work in Idaho other than pursuant to the Idaho guest
14 worker program provided for in this chapter.

15 SECTION 2. This act shall be in full force and effect on and after Jan-
16 uary 1, 2026.