

118TH CONGRESS
1ST SESSION

H. R. 3516

To permit interview waivers for returning H-2A workers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2023

Ms. MACE (for herself, Ms. HOULAHAN, and Mr. ROSE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To permit interview waivers for returning H-2A workers,
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 “Farmworker Access
5 and Waiver Act” or “FAWA”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that the H-2A program provides a
8 critical source of labor for American farmers, especially
9 during the busy planting and harvesting seasons. How-
10 ever, the administrative burdens associated with the H-

1 2A program can be cumbersome and time consuming,
2 leading to delays in the arrival of essential workers. Con-
3 gress also finds that the interview waiver for returning H-
4 2A workers implemented during the COVID-19 pandemic
5 has proven successful in reducing administrative burdens
6 and allowing farmers to access the workers they need more
7 quickly.

8 **SEC. 3. INTERVIEW WAIVER FOR RETURNING H-2A WORK-**
9 **ERS.**

10 (a) IN GENERAL.—The Secretary of Homeland Secu-
11 rity shall waive the interview requirement under section
12 222(h)(1) of the Immigration and Nationality Act (8
13 U.S.C. 1202(h)(1)) for returning H-2A workers who—

14 (1) were previously issued an H-2A visa and
15 seek to reenter the United States to resume employ-
16 ment with the same employer as the previous year;
17 and

18 (2) are not inadmissible.

19 (b) DURATION OF WAIVER.—The waiver described in
20 subsection (a) shall be valid for a period of up to 3 years
21 from the date of issuance.

22 (c) NOTICE.—The Secretary of Homeland Security
23 shall provide notice to H-2A workers and employers of
24 the availability of the waiver described in subsection (a),

1 including the eligibility requirements and application pro-
2 cess.

3 (d) REPORTING REQUIREMENTS.—Not later than 1
4 year after the date of enactment of this Act, and annually
5 thereafter for 5 years, the Secretary of Homeland Security
6 shall submit a report to Congress annually, detailing the
7 number of waivers granted under this Act and any issues
8 that arose during the application process.

9 (e) EFFECTIVE DATE.—This Act shall take effect 90
10 days after the date of enactment of this Act.

11 (f) SUNSET.—This Act shall cease to be in effect 6
12 years after the date of enactment of this Act, unless Con-
13 gress takes further action to extend it.

14 (g) SEVERABILITY.—If any provision of this Act, or
15 the application of such provision to any person or cir-
16 cumstance, is held to be unconstitutional, the remainder
17 of this Act, or the application of the provision to persons
18 or circumstances other than those as to which it is held
19 unconstitutional, shall not be affected thereby.

20 (h) H-2A VISA DEFINED.—For the purposes of this
21 Act, the term “H-2A visa” means a nonimmigrant visa
22 issued pursuant to section 101(a)(15)(H)(ii)(a) of the Im-
23 migration and Nationality Act (8 U.S.C.

1 1101(a)(15)(H)(ii)(a) for temporary agricultural work-
2 ers.

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