On January 10, 2007, the Agricultural Job Opportunities, Benefits, and Security Act of 2007 (AgJOBS) was introduced simultaneously in the Senate (S.237 sponsored by Feinstein, D-CA) and the House of Representatives (H.R.371 sponsored by Berman, D-CA) in a bi-partisan effort. A complete list of cosponsors and the full text of the proposed legislation is available by bill number at http://thomas.loc.gov. The AgJOBS compromise was originally reached in 2000 after negotiations among the United Farm Workers (UFW), several agricultural employer associations, and federal legislators.

If enacted, AgJOBS would create an opportunity for earned adjustment of status for up to 1.5 million undocumented farmworkers (temporary immigration status). It would provide them with a subsequent option to become permanent residents through continued agricultural work. AgJOBS would also revise the existing H-2A temporary foreign agricultural work program to improve its usability by agricultural employers.

**Temporary Resident Status**
Workers who can document having worked in U.S. agriculture for at least 150 days or 863 hours during the 24-month period ending December 31, 2006 may be eligible for the Temporary Resident Status Blue Card. Employment records from farmers or labor contractors will satisfy these requirements. In the absence of employment records, other forms of evidence may be accepted.

The 18-month application period would begin 7 months after the law is enacted. The maximum number of blue cards issued would be capped at 1.5 million over 5 years. While the immigration law provision of being in the country legally would be waived, other provisions could still negate a worker’s eligibility. These include having been convicted of any felony or a misdemeanor involving bodily injury, the threat of serious bodily injury, or harm to property in excess of $500. Eligible workers would have to pay an application fee (to be determined) and a $100 fine upon obtaining a blue card. The spouse and minor children of a blue card holder may be granted derivative status, if they reside in the U.S. Blue card holders would have up to 7 years after the enactment of AgJOBS to apply for permanent residency or they would lose their temporary status and be required to leave the country.

**Permanent Resident Status**
To obtain Permanent Residency Status and be issued a
Green Card temporary residents must fulfill and document one of the following requirements.

- Perform agricultural work for at least 100 work days per year for each of the 5 years after the date of enactment of AgJOBS.
- Perform agricultural work for 150 work days per year for 3 years and 100 work days for one of the years during the 4-year period after enactment of AgJOBS.
- Perform agricultural work for 150 work days per year for each of the 3 years after enactment of AgJOBS. Under AgJOBS, a work day would require at least 5.75 hours of work to be performed.

Application fees (to be determined) and a $400 fine need to be paid and workers would have to document payment of applicable federal tax liability. The spouse and minor children of eligible agricultural workers would also be granted immigration status if they meet other immigration law requirements. Conviction of a felony, three misdemeanors, or a single misdemeanor involving bodily injury, threat of serious bodily harm, or injury to property in excess of $500 would also end the temporary residency status.

**H-2A Agricultural Guestworker Program**

Currently, the agricultural guestworker program is limited to jobs not lasting longer than 10 months out of 12, and guestworkers have to leave the country for at least 2 months per year. However, the proposed AgJOBS bill would allow dairy workers and goat herders to join sheep herders in being eligible to participate in the H-2A program, even if they seek year-round employment. These workers would be eligible for up to 3 years of continuous employment, at which time they would become eligible to adjust status to permanent residency, if employment-based visas are available. Currently, the number of such visas is very limited. Other H-2A workers would not qualify to become permanent residents.

The following requirements of the H-2A program would remain unchanged.

- Agricultural employers must advertise to and hire qualified U.S. applicants before and during the first half of the period for which an H-2A offer was made or a H-2A worker was hired.
- Agricultural employers must pay an H-2A worker for at least 75% of the period for which the job was offered.
- Workers’ compensation coverage is required.
- H-2A workers must be reimbursed for their transportation costs from and to the place of residence (or equivalent arrangement).

Rather than requiring the current “labor certification,” the application process for H-2A would be streamlined to become a “labor attestation,” which would reduce paperwork, limit government oversight, and speed up the process. Currently, H-2A employers are required to provide free housing to the foreign workers, and also non-local U.S. workers. Under AgJOBS, employers could choose to provide a monetary housing allowance, if the state’s Governor has certified that sufficient housing for farmworkers is available in the area. Also, H-2A employers are required to pay at least the highest of the federal or state minimum wage ($6.95 in Michigan, scheduled to increase to $7.15 on July 1, 2007, and $7.40 on July 1, 2008); the local prevailing wage for the job; or the Adverse Effect Wage Rate (AEWR), which was $9.43 in Michigan for 2006. This provision is not limited to the foreign workers, but applies to each employee doing the same or a comparable job requiring similar qualifications. AgJOBS would reduce the AEWR to the 2002 levels and freeze them for 3 years. In Michigan, the 2002 AEWR was $8.57.

Finally, AgJOBS would give H-2A workers the right to file a federal lawsuit to enforce their wages, housing benefits, transportation cost reimbursement, minimum work guarantee, motor vehicle safety protections, and other terms of the H-2A job offer.

This is a summary of the proposed legislation. If you are interested in further details, consult [http://thomas.loc.gov](http://thomas.loc.gov) for the full text and status of the bill. As workers may approach past employers regarding work documentation, consult an experienced attorney if you need legal advice. Currently, any constructive knowledge of an employee’s status as illegal requires the termination of the employment relationship.

**Sources**


The AgJOBS bill is currently under consideration by U.S. lawmakers. Whether AgJOBS becomes law or not depends on the actions of the Senate and House of Representatives and the voices of their members’ constituents.

*S. 237*  
Sponsor: Diane Feinstein (D-CA)  
Last Action: 1/10/07, referred to committee

*H.R. 371*  
Sponsor: Howard Berman (D-CA)  
Last Action: 2/2/07, referred to subcommittee

The full texts of these bills are available at [http://thomas.loc.gov](http://thomas.loc.gov) and information is also available at [http://www.msu.edu/~bitsch](http://www.msu.edu/~bitsch)