

GROWERTALKS

SAF in the Lobby

12/1/2017

STARS Act Reintroduced

Society of American Florists

Legislation initiated by SAF and designed to clarify the definition of “seasonal” was reintroduced in the House of Representatives this week.

The “Simplifying Technical Aspects Regarding Seasonality (STARS) Act” would define “seasonal” as an employee who works six months or less for purposes of determining company size and whether they’re required to be offered health care insurance under the Affordable Care Act (ACA).

Since 2014, SAF has been leading a coalition of organizations representing a variety of industries to provide relief for seasonal employers who have been struggling to understand and comply with the ACA.

Under the ACA, different definitions of “seasonal” are used when determining whether a business is a small or large employer under the law and when identifying which employees must be offered health insurance. As a result, small businesses with seasonal employees may have unintentionally violated rules of the ACA.

The STARS Act would make the definition of “seasonal employee” consistent throughout the ACA, allowing small businesses to easily understand the law and their responsibilities.

Currently, the law includes the following definitions of “seasonal” as:

- When determining whether an employer is treated as a small business or a large business (applicable large employer [ALE]) under the ACA, “seasonal worker” is defined as “a worker who performs labor or services on a seasonal basis as defined by the Secretary of Labor.” According to Treasury Department regulations, employers may use a reasonable good faith interpretation to determine which employees are “seasonal workers.”
- The term “seasonal worker exception” is used for the purpose of determining ALE size. Final Treasury regulations permit employers, after calculating their initial ALE size by including all hours of service performed by all employees (including seasonal workers), to examine the calculation to determine if seasonal workers put the employer over the 50-employee threshold for 120 days (four calendar months) or less. This determination is made on an annual calendar year basis.
- Once an employer is determined to be an ALE for the calendar year, the employer must determine to whom coverage must be offered or pay a potential penalty. The employer can use a Monthly Measurement Method or an optional Look-back Measurement Method. Under Treasury regulations, the term “seasonal employee,” for the purposes of determining an employee’s full-time status under the optional Look-back Measurement Method, is defined as “an employee who is hired into a position for which the customary annual employment is six months or less.”

Under current law, someone on a company's payroll can be a seasonal worker, but not a seasonal employee.

The STARS Act, H.R. 3956, was reintroduced October 4 by Reps. Jim Renacci (R-OH), Kurt Schrader (D-OR), Lynn Jenkins (R-KS), Jim Costa (D-CA) and David Joyce (R-OH). A similar bill will be introduced in the Senate in the near future.

Congressional Staffers Hear Value of Specialty Crops

More than 50 congressional aides and staffers learned about the importance of specialty crops, including flowers and plants, in a special briefing in late October on Capitol Hill.

Hosted by the House Specialty Crops Caucus, congressional staffers heard about how programs in pest and disease mitigation, production research and international marketing support the long-term health of the specialty crop industry. In addition, congressional staffers heard about the challenges the industry faces due to labor shortages.

The briefing was kicked off by the agricultural legislative assistants from the offices of the caucus co-chairmen Rep. Chris Collins (R-NY) and Jim Costa (D-CA).

Specialty crops are defined by USDA's Agricultural Marketing Service (AMS) as fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops, including floriculture.

Along with 120 other organizations, SAF is a member of the Specialty Crop Farm Bill Alliance, which works to secure programs and policies in the Farm Bill that are critical to the specialty crop industry.

SAF's 38th Annual Congressional Action Days Slated For March 2018

SAF will hold its 38th annual legislative conference known as Congressional Action Days on March 12 and 13, 2018, in Washington, D.C. The two-day event includes one day of education and networking and a second day of grassroots lobbying on Capitol Hill on issues important to the industry.

All segments of the industry are invited and the event has a track record of success in not only informing members of Congress about issues important to the industry, but in generating lasting legislative and regulatory accomplishments.

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House Takes Step Toward E-Verify, New Agricultural Labor Program

In late October, the House Judiciary Committee voted to pass H.R. 3711, the Legal Workforce Act, and H.R. 4092, the Agricultural Guestworker Act (Ag Act), and approved sending them to the full House to consider.

The Legal Workforce Act would mandate that employers use E-Verify in hiring employees. SAF members who attended Congressional Action Days in March met with their members of Congress and noted the problems that enacting a stand-alone E-Verify bill would cause for the floral industry.

Because federal law prohibits employers from checking the authenticity of identification presented by new hires, by some estimates, most of agriculture's current 1.8 million workers are unauthorized. If E-Verify is enacted, some say that 70% of the agricultural workforce would be lost, crippling American agriculture and undermining the economy.

The Ag Act would eliminate the current H-2A visa program, which is administered by the Labor Department and replace it by a new H-2C visa program overseen by the departments of Homeland Security and Agriculture.

The H-2C program would streamline the agricultural labor process and allow a reduction in required wages. However, it would also impose a cap of 450,000 visas annually, where the current H-2A program has no limitation.

Neither bill has been scheduled for consideration by the full House. SAF will continue to oppose stand-alone mandatory E-Verify and to press for a stable, reliable agricultural workforce. **GT**