

GROWERTALKS

JZ on D.C.

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Farm Workforce Modernization Act Officially Introduced

Jennifer Zurko

On October 30, House lawmakers introduced a bipartisan, comprehensive and highly anticipated agricultural labor reform bill. Called the Farm Workforce Modernization Act, the bill's intention is to address labor challenges head-on, with solutions that stabilize the current agricultural and horticultural workforce, improve the legal channels for future seasonal and permanent workers in the farming sector, and advance integrity in the hiring process.

The core group of negotiators, led by Judiciary Subcommittee on Immigration and Citizenship chairwoman Zoe Lofgren (D-CA), also included Rep. Jimmy Panetta (D-CA) and Republicans Dan Newhouse (WA), Mike Simpson (ID), Mario Diaz-Balart (FL) and Doug LaMalfa (CA).

The bill features three titles:

- Title I focuses on stabilizing the current, but unauthorized, farm workforce—it provides three different options for workers to transition to legal status
- Title II modifies the current H-2A agricultural worker visa program
- Title III phases in a requirement for agricultural employers to use the electronic employment eligibility system known as E-Verify for new hires

"AmericanHort congratulates our House champions on today's introduction," Craig Regelbrugge, Senior VP of Government Relations & Research for AmericanHort, said in a statement. "This bipartisan compromise advances an important debate and provides a platform for serious consideration of urgently needed reforms addressing the agricultural sector and farm employees."

As is typically the case in a complex bipartisan legislative negotiation, both sides have had to make significant concessions. Most of the agricultural organizations involved in negotiations and in the Agricultural Workforce Coalition, including AmericanHort, are supporting the legislation in order to advance the legislative process in the House, which Democrats control. Craig and his team will seek targeted improvements, especially in Title II, as the legislative process moves forward. If the Republican-controlled Senate can be persuaded to take up legislation, Craig believes that bill provisions that fall short of our industry's goals can be improved further.

On September 24, AmericanHort filed official comments on the Administration's "notice of proposed rulemaking" (NPRM) that seeks to streamline and modernize the H-2A agricultural worker visa program. The comments describe in detail where the organization believes the proposed changes would improve the current

program and where the Administration misses the mark or could go further.

“What happens on the farm doesn’t stay on the farm; the work contributions of each farm worker create and sustain two to three job opportunities in the surrounding economy,” said Craig. “Rural areas across the country benefit from the jobs and economic opportunity that farm workers create, so long as we are growing and producing labor-intensive crops and commodities here in America. We urge both the House and Senate to move swiftly to advance and improve upon this important legislative foundation.”

(Contributing: Craig Regelbrugge)

Industry ADVOCATES: AmericanHort

AmericanHort Files Official Comments on Trucking Agricultural Commodity Definition/Hours of Service Changes

AmericanHort has filed extensive comments on the “agricultural commodity” definition in use by the Federal Motor Carrier Safety Administration (FMCSA). The comment period ended September 27, advancing by one step a potential regulatory change that’s much needed, as the current FMCSA definition of what’s an “agricultural commodity” remains a cause of major confusion.

Included in these comments were a white paper on the “Impacts of Postharvest Shipping Environments on Plant Quality” authored by AmericanHort science and research programs director Dr. Jill Calabro, as well as letters from horticulture scientists at Michigan State University, North Carolina State University and the University of Georgia attesting to the perishable nature of horticulture products.

Along with our official comments, AmericanHort members and grassroots partner associations made their voices heard and submitted over 75 public comments through our new advocacy platform, which allows grassroots action on regulatory matters. With little legislation moving in the current political environment, but much happening in the agencies, this capacity is critical to our advocacy effectiveness.

AmericanHort also submitted public comments on October 18 on the notice of proposed rulemaking (NPRM) regarding trucking hours-of-service (HOS) changes. The proposed measures, aimed to give added time flexibility to commercial drivers, have been a priority at the Federal Motor Carrier Safety Administration (FMCSA) as of late.

Flexibility with regard to HOS rules has also been a priority for AmericanHort, primarily since the electronic logging device mandate became live in early 2018. The proposed changes focus on five areas:

- 1) Increasing on-duty time from 12 to 14 hours and expanding the current 100 air-mile radius to 150 air-miles for the “short-haul” exemption
- 2) Extending the current 14-hour on-duty limitation by up to two hours when encountering adverse driving conditions
- 3) Revising the current mandatory 30-minute break
- 4) Reinstating the option for splitting up off-duty for trucks equipped with sleeper-berths
- 5) Adding a new option for one off-duty break (up to three hours) to be excluded from the 14-hour driving window

In line with previous positions, AmericanHort supports these five proposed changes.

H-2B and Appropriations

Fiscal year 2020 began on October 1. The federal government is currently operating under a temporary spending bill or “continuing resolution” (CR) that runs through November 21.

To date, little progress has been made in discussions among House and Senate leaders on final spending bills. Also, the Senate has yet to pass annual spending bills, including those that fund the Departments of Labor and Homeland Security. Senate leaders are currently negotiating a bipartisan package of appropriations bills to be brought up on the Senate floor during the week of October 21. They’re still discussing which bills may be included in that package.

The Senate Appropriations Committee version of the DOL funding bill continues the previous provisions of law that prevent DOL from enforcing the corresponding employment and three-fourths guarantee provisions of the 2015 regulations, allow for a 10-month season, and allow for the use of private wage surveys. It doesn’t include the proportional and quarterly cap allocation language that’s in the House-passed version of the bill. The Senate Committee’s version of the Homeland Security funding bill doesn’t currently contain any H-2B cap relief.

The House passed its version of the Fiscal 2020 Department of Labor (DOL) funding bill during the summer. The bill would allocate H-2B visas proportionally on a quarterly basis. The House Appropriations Committee passed the Fiscal 2020 Homeland Security (DHS) funding bill over the summer as well, but hasn’t brought the bill to the floor due to disagreements over border wall funding and other immigration issues. The bill includes language similar to last year’s language that allowed DHS to release some additional H-2B visas, but it takes away some of DHS’ discretion by changing the word “may” to “shall.”

As the House and Senate work to create a funding package beyond November 21, we continue to urge the lawmakers to include H-2B cap relief and extend the existing DOL regulatory provisions in any final spending measure for Fiscal 2020.

—Craig Regelbrugge

Senate Committee Backs Funding for FNRI, Floriculture Crops Report

The powerful Senate Appropriations Committee has signaled its support for two core issues backed by the Society of American Florists: increased funding—and an expanded reach—for the Floriculture Crops Report, and stable funding levels for the Floriculture and Nursery Research Initiative (FNRI).

The Floriculture Crops Report provides one of the most comprehensive overviews of the floral industry, giving professionals in all segments insights into production trends and allowing them to better plan for the future. FNRI supports research in crop protection, breeding, mechanization and other areas. SAF members have lobbied Congress for support on both issues.

The Senate Appropriations Committee approved the fiscal year 2020 Agriculture Appropriations Bill on September 19.

“The Senate bill contains language specific to the floral industry, including a recommended \$500,000 increase for USDA’s National Agricultural Statistics Service to complete the Floriculture Crops Report and to include Alaska in its overview—an addition this year that reflects SAF member input and one that will help ensure a more comprehensive final report,” said Drew Gruenburg, SAF’s COO.

The House Appropriations Committee approved their 2020 Agriculture Appropriations Bill earlier this year. That bill maintains funding for USDA’s National Agricultural Statistics Service and directs USDA to complete the Commercial Floriculture Crops Report. While the House committee bill doesn’t include additional funding for the Floriculture Crops Report, it does maintain funding for FNRI at the 2019 level.

This year, the path is more muddled, with impeachment proceedings of the president and ongoing budget negotiations occupying Congress.

—Mary Westbrook, Editor-in-Chief of SAF’s publication *Floral Management*