

FACT SHEET
Agricultural Job Opportunity, Benefits, and Security Act of 2005 (AgJOBS)
S. 359/H.R. 884

After three years of difficult negotiations between farmworkers and growers, an agreement was reached between the United Farm Workers of America, AFL-CIO (UFW) and a coalition of the nation's major agricultural employers. The Agricultural Job Opportunity, Benefits, and Security Act of 2005 (AgJOBS – S. 359/H.R. 884) was introduced by Senators Larry Craig (R-ID) and Edward Kennedy (D-MA) and Representatives Chris Cannon (R-UT) and Howard Berman (D-CA) after years of negotiations between farmworkers and growers.

This bipartisan legislation marks an important historical moment for U.S. farmworkers. It highlights the status of farmworkers in the U.S. and because it is the first major improvement in the status of farmworkers in nearly 20 years. It is the product of years of negotiations between growers and farmworkers and constitutes the best deal available for farmworkers given current political conditions. The majority of migrant and seasonal farmworkers in the U.S. are currently undocumented, and 70% of U.S. farmworkers are Latino; this number includes undocumented workers, foreign guestworkers, and U.S. citizens. Farmworkers have consistently been the most vulnerable and exploited workers in the country suffering from poor wages and poor working conditions. Farmwork is among the most dangerous professions in the U.S., and many farmworkers suffer job-related injuries or from the effects of poisonous pesticides. Because of their lack of immigration status, they are often not in a position to complain about poor or dangerous working conditions. The resulting situation is bad for all farmworkers including U.S. citizens.

The legislation has two parts: 1) a two-step legalization or “earned adjustment” program so that farmworkers can legalize their immigration status; and 2) significant revisions to the H-2A agricultural guestworker program. As is the case with any compromise, both parties made significant concessions during the negotiations. While the resulting bill is not “perfect,” it does mark a very important step forward for the nation's farmworkers and serves as a critical first step toward comprehensive reforms to fix problems in the current immigration system in all sectors of the U.S. economy.

This bill will allow 500,000 or more farmworkers to attain legal status.

- This is a two-step process that requires farmworkers to obtain temporary immigrant status by demonstrating they have already worked at least 100 days in agriculture during a 12-month period within the 18-month period ending August 31, 2003. To gain permanent residency (a green card) the temporary resident farmworker would need to fulfill a prospective agricultural work requirement by working at least 360 work days in agriculture during a six-year period, at least two-thirds of which must occur during the first three years after the law is enacted.
- The worker's spouse and minor children will be able to remain lawfully in the U.S. during the temporary resident status, but will not be eligible for work authorization. The spouse and minor children may adjust to permanent residency once the farmworker adjusts to permanent resident status.
- While legal status alone does not automatically confer higher wages or better working conditions, it does allow workers fuller access to their rights, the freedom to work for

improved conditions, and the ability to leave farm labor someday and find work in other industries.

This bill also makes significant changes to the H-2A foreign guestworker program.

- It streamlines the paperwork and speeds up the process for employers to hire guestworkers. The bill puts important H-2A worker protections into the statute (currently they are in regulations). Under this bill, the employer must provide housing at no cost (to nonlocal workers), or an employer may choose to provide a monetary housing allowance instead of housing in cases where the governor of a state has certified that there is sufficient housing available.
- Employers will be required to pay at least the highest of: the state or federal minimum wage, the local “prevailing wage” for the particular job, or an adverse effect wage rate (AEWR). Currently, state AEWRs are significantly higher than minimum wage. This bill freezes the AEWR for three years and requires a study be commissioned to research changes to the AEWR formula. If Congress fails to enact an AEWR formula within three years, the AEWR will be adjusted in late 2006 and, at the beginning of each year thereafter, will change with the consumer price index, with a maximum increase of 4% per year.
- For the first time, H-2A guestworkers will have the right to go to federal court to enforce their rights under the H-2A program – an improvement over current H-2A law.

This legislation is an important first step toward comprehensive immigration reform.

- When enacted, the concept of “earned legalization” will become law for the first time, marking an important step toward earned legalization for other immigrant workers.
- This bill only applies to the agricultural industry, an industry that has always operated by an entirely different set of rules than the rest of the U.S. economy.
- This bill is an important first step toward comprehensive immigration reform that is needed to address the failures of our current immigration laws, to address the needs of the U.S. economy, and to protect U.S. and immigrant workers in all industries.
- We expect comprehensive legislation addressing other sectors of the U.S. economy to be introduced soon.

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More information on farmworkers in the U.S. and the AgJOBS legislation is available from the Farmworker Justice Fund at www.fwjjustice.org or from the United Farm Workers of America at www.ufw.org.