116TH CONGRESS
1ST SESSION

H. R. ______

To provide temporary resident status and employment authorization for certain non-seasonal agricultural workers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. COLLINS of New York introduced the following bill; which was referred to the Committee on _____________________

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A BILL

To provide temporary resident status and employment authorization for certain non-seasonal agricultural 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 “Helping Labor Personnel on Farms Act” or the “HELP Farms Act”.

(Original Signature of Member)
SEC. 2. TEMPORARY RESIDENT STATUS AND EMPLOYMENT

AUTHORIZATION FOR CERTAIN NON-SEASONAL AGRICULTURAL WORKERS.

(a) In General.—

(1) Treatment of Principal Aliens.—In the case of an alien described in subsection (b) who satisfies the requirements of subsection (c) and is not ineligible under subsection (e), the Secretary of Homeland Security, in consultation with the Secretary of Labor and the Secretary of State, shall—

(A) adjust the status of the alien to that of an alien lawfully admitted for temporary residence for a two-year period not subject to renewal, and issue documentary evidence of such temporary resident status;

(B) grant the alien authorization to engage in employment in the United States during such two-year period in an agricultural labor or services occupation not of a seasonal nature; and

(C) provide the alien an “employment authorized” endorsement or other appropriate work permit valid during such two-year period.

(2) Treatment of Spouses and Children.—A spouse or unmarried child under 21 years of age of a principal alien who is included in an ap-
application under subsection (c)(1) and is not ineligible under subsection (e) shall be eligible for the same temporary resident status (and documentation of such status) as is granted to the principal alien.

(b) Aliens Described.—

(1) In General.—An alien is described in this subsection if the alien—

(A) during the preceding calendar year, was considered a United States resident for purposes of the Internal Revenue Code of 1986;

(B) does not qualify for status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(a)); and

(C) is, and during the 2-year period preceding the date of the filing of the application under subsection (c) has been, employed by the sponsoring employer described in subsection(c)(2) in an agricultural labor or services occupation not of a seasonal nature.

(2) Definition.—For purposes of this section, the term “agricultural labor or services” includes—

(A) agricultural labor as defined in section 3121(g) of the Internal Revenue Code of 1986;
(B) agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f));

(C) all activities required for the preparation, processing or manufacturing of a product of agriculture (as such term is defined in such section 3(f)), or fish or shellfish, for further distribution;

(D) the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state;

(E) dairy cattle and milk production;

(F) range production of livestock;

(G) sheep herding or goat herding;

(H) commercial beekeeping and pollination;

(I) animal shearing;

(J) the killing of animals for meat or poultry processing and the breakdown of their carcasses; and

(K) activities related to the management and training of equines.

(c) APPLICATION REQUIREMENTS.—
(1) IN GENERAL.—An alien shall apply for adjustment of status and work authorization under this section during the 6-month period beginning on the date of the enactment of this Act. The application shall collect such information as the Secretary of Homeland Security determines necessary and appropriate. The Secretary shall establish a process through which an alien may submit a single application under this section on behalf of the alien and the alien’s eligible spouse and children.

(2) SPONSORING EMPLOYER.—

(A) IN GENERAL.—An application under paragraph (1) shall be accompanied by an attestation from the alien’s employer that the alien continuously has been employed by the employer in an agricultural labor or services occupation not of a seasonal nature during the 2-year period preceding the date of the filing of the application.

(B) EMPLOYER PROTECTIONS.—

(i) USE OF EMPLOYMENT RECORDS.— Copies of employment records or other evidence of employment provided by an alien or by an alien’s employer in support of an alien’s application under paragraph (1)
may not be used in a civil or criminal pros-
secution or investigation of that employer
under section 274A of the Immigration
and Nationality Act (8 U.S.C. 1324a) or
under the Internal Revenue Code of 1986
for the prior unlawful employment of that
alien regardless of the adjudication of such
application or reconsideration by the Sec-
retary of Homeland Security of such
alien's prima facie eligibility determination.
Employers that provide unauthorized
aliens with copies of employment records
or other evidence of employment pursuant
to an application under paragraph (1) shall
not be subject to civil and criminal liability
pursuant to such section 274A for employ-
ing such unauthorized aliens.

(ii) Limit on Applicability.—The
 protections for employers and aliens under
clause (i) shall not apply if the aliens or
employers submit employment records that
are determined to be fraudulent.

(d) Special Rules for Applicants.—

(1) Documentation.—Upon the filing of an
application under subsection (c)(1), the Secretary of
Homeland Security shall furnish the applicant or applicants with documentation of status as an applicant under this section.

(2) Aliens apprehended before or during the application period.—If an alien who is apprehended during the period beginning on the date of the enactment of this Act and ending on the last day of the application period described in subsection (e)(1) appears prima facie eligible for temporary resident status under this section, the Secretary of Homeland Security—

(A) shall provide the alien with a reasonable opportunity to submit an application for such status under this section during such period; and

(B) if such an application is submitted, may not remove the individual until a final administrative determination is made on such application.

(3) Aliens in removal proceedings.—Notwithstanding any other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) if an alien is in removal, deportation, or exclusion proceedings during the period beginning on the date of the enactment of this Act and ending on the last day
of the application period described in subsection (e)(1) and is prima facie eligible for temporary resident status under this section, upon motion by the Secretary of Homeland Security and with the consent of the alien or upon motion by the alien, the Executive Office for Immigration Review shall—

(A) terminate such proceedings without prejudice to future proceedings; and

(B) permit the alien a reasonable opportunity to apply for such status.

(4) PERIOD PENDING ADJUDICATION OF APPLICATION.—During the period beginning on the date on which an alien applies for temporary resident status under this section and ending on the date on which the Secretary of Homeland Security makes a final decision regarding such application, the alien—

(A) is eligible to apply for advance parole;

(B) may not be detained by the Secretary or Homeland Security or removed from the United States unless the Secretary makes a prima facie determination that such alien is, or has become, ineligible for temporary resident status;

(C) shall not be considered unlawfully present under section 212(a)(9)(B) of the Im-
migration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(D) shall not be considered an unauthorized alien (as defined in section 274A(h)(3) of such Act (8 U.S.C. 1324a(h)(3))).

(e) INELIGIBLE ALIENS.—

(1) IN GENERAL.—An alien shall be ineligible for adjustment of status and work authorization under this section if the Secretary of Homeland Security determines that—

(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) the alien has been convicted in the United States by a final judgment of a particularly serious crime (as defined in paragraph (2));

(C) there are serious reasons for believing that the alien has committed a serious non-political crime outside the United States prior to the arrival of the alien in the United States;
(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

(E) the alien is described in subclause (I), (II), (III), (IV), or (VI) of section 212(a)(3)(B)(i) or section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) (relating to terrorist activity), unless, in the case only of an alien inadmissible under subclause (IV) of section 212(a)(3)(B)(i) of such Act, the Secretary of Homeland Security determines, in the Secretary’s discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

(F) the alien has not satisfied all Federal, State, and local tax liabilities.

(2) DEFINITION.—For purposes of paragraph (1)(B), an alien who has been convicted of the following shall be considered to have been convicted of a particularly serious crime:

(A) A felony for which the alien was sentenced to a term of imprisonment of not less than 60 months.
(B) Murder, rape, kidnapping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of title 18, United States Code.

(C) 3 or more felonies of any kind.

(3) TERMINATION OF BENEFITS.—Temporary resident status and work authorization granted under this section shall be terminated if the Secretary of Homeland determines that the alien—

(A) meets a condition described in paragraph (1); or

(B) is not employed in an agricultural labor or services occupation not of a seasonal nature.

(f) DOCUMENTATION FEATURES.—Documentary evidence of temporary resident status provided under this section shall—

(1) be machine-readable and tamper-resistant;

(2) contain a digitized photograph;

(3) during the alien’s authorized period of admission, serve as a valid travel and entry document for the purpose of applying for admission to the United States; and
(4) include such other features and information as the Secretary of Homeland Security may prescribe.

(g) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except for purposes of carrying out paragraph (2), and consistent with subsection (c)(2)(B), the Secretary of Homeland Security, the Attorney General, or any other official or employee of the Department of Justice or the Department of Homeland Security shall not—

(A) use the information furnished by the applicant, or the sponsoring employer described in subsection (c)(2)(A), pursuant to an application filed under this section for any purpose other than to make a determination on the application;

(B) make any publication whereby the information furnished by any particular applicant or sponsoring employer can be identified; or

(C) permit anyone other than the sworn officers and employees of the Department of Homeland Security to examine individual applications.

(2) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—Whoever files an application under
this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be subject to section 1001 of title 18, United States Code.

SEC. 3. MODIFICATION OF H-2A REGULATIONS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Labor shall modify the Secretary’s regulations governing the program under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) so as to ensure that aliens desiring to come temporarily to the United States to work in an agricultural labor or services occupation not of a seasonal nature are eligible to be granted authorization for employment in the United States on an annual, rather than a seasonal, basis under such program.