

112TH CONGRESS  
1ST SESSION

# H. R. 1720

To improve the H-2A agricultural worker program for use by dairy workers, shepherders, and goat herders, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2011

Mr. OWENS (for himself and Mr. WELCH) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To improve the H-2A agricultural worker program for use by dairy workers, shepherders, and goat herders, 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 “H-2A Improvement  
5 Act”.

6 **SEC. 2. NONIMMIGRANT STATUS FOR DAIRY WORKERS,**  
7 **SHEPHERDERS, AND GOAT HERDERS.**

8 Section 101(a)(15)(H)(ii)(a) of the Immigration and  
9 Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is  
10 amended by inserting “who is coming temporarily to the

1 United States to perform agricultural labor or services as  
2 a dairy worker, sheepherder, or goat herder, or” after  
3 “abandoning”.

4 **SEC. 3. SPECIAL RULES FOR ALIENS EMPLOYED AS DAIRY**  
5 **WORKERS, SHEEPHERDERS, OR GOAT HERD-**  
6 **ERS.**

7 Section 218 of the Immigration and Nationality Act  
8 (8 U.S.C. 1188) is amended—

9 (1) by redesignating subsections (h) and (i) as  
10 subsections (i) and (j), respectively; and

11 (2) by inserting after subsection (g) the fol-  
12 lowing:

13 “(h) SPECIAL RULES FOR ALIENS EMPLOYED AS  
14 DAIRY WORKERS, SHEEPHERDERS, OR GOAT HERD-  
15 ERS.—

16 “(1) IN GENERAL.—Notwithstanding any other  
17 provision of this Act, an alien admitted as a non-  
18 immigrant under section 101(a)(15)(H)(ii)(a) for  
19 employment as a dairy worker, sheepherder, or goat  
20 herder—

21 “(A) may be admitted for an initial period  
22 of 3 years; and

23 “(B) subject to paragraph (3)(E), may  
24 have such initial period of admission extended  
25 for an additional period of up to 3 years.

1           “(2) EXEMPTION FROM TEMPORARY OR SEA-  
2           SONAL REQUIREMENT.—Not withstanding section  
3           101(a)(15)(H)(ii)(a), an employer filing a petition to  
4           employ H–2A workers in positions as dairy workers,  
5           sheepherders, or goat herders shall not be required  
6           to show that such positions are of a seasonal or tem-  
7           porary nature.

8           “(3) ADJUSTMENT TO LAWFUL PERMANENT  
9           RESIDENT STATUS.—

10           “(A) ELIGIBLE ALIEN.—In this paragraph,  
11           the term ‘eligible alien’ means an alien who—

12                   “(i) has H–2A worker status based on  
13                   employment as a dairy worker, sheep-  
14                   herder, or goat herder;

15                   “(ii) has maintained such status in  
16                   the United States for not fewer than 33 of  
17                   the preceding 36 months; and

18                   “(iii) is seeking to receive an immi-  
19                   grant visa under section 203(b)(3)(A)(iii).

20           “(B) CLASSIFICATION PETITION.—A peti-  
21           tion under section 204 for classification of an  
22           eligible alien under section 203(b)(3)(A)(iii)  
23           may be filed by—

24                   “(i) the alien’s employer on behalf of  
25                   the eligible alien; or

1 “(ii) the eligible alien.

2 “(C) NO LABOR CERTIFICATION RE-  
3 QUIRED.—Notwithstanding section  
4 203(b)(3)(C), no determination under section  
5 212(a)(5)(A) is required with respect to an im-  
6 migrant visa under section 203(b)(3)(A)(iii) for  
7 an eligible alien.

8 “(D) EFFECT OF PETITION.—The filing of  
9 a petition described in subparagraph (B) or an  
10 application for adjustment of status based on a  
11 petition described in subparagraph (B) shall not  
12 be a basis for denying—

13 “(i) another petition to employ H–2A  
14 workers;

15 “(ii) an extension of nonimmigrant  
16 status for a H–2A worker;

17 “(iii) admission of an alien as an H–  
18 2A worker;

19 “(iv) a request for a visa for an H–  
20 2A worker;

21 “(v) a request from an alien to modify  
22 the alien’s immigration status to or from  
23 status as an H–2A worker; or

1           “(vi) a request made for an H-2A  
2           worker to extend such worker’s stay in the  
3           United States.

4           “(E) EXTENSION OF STAY.—The Sec-  
5           retary of Homeland Security shall extend the  
6           stay of an eligible alien having a pending or ap-  
7           proved petition described in subparagraph (B)  
8           in 1-year increments until a final determination  
9           is made on the alien’s eligibility for adjustment  
10          of status to that of an alien lawfully admitted  
11          for permanent residence.

12          “(F) CONSTRUCTION.—Nothing in this  
13          paragraph may be construed to prevent an eligi-  
14          ble alien from seeking adjustment of status in  
15          accordance with any other provision of law.”.

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