

## S. 352

### **Save Our Small and Seasonal Business Act of 2005**

Introduced by Sen. Mikulski (D-MD) on February 10, 2005

17 Original Cosponsors

**Section 1** – Names this act the “Save Our Small and Seasonal Business Act of 2005.”

**Section 2** – Exempts from the annual cap aliens granted an H-2B visa that counted against the cap during any of the three years prior to approval of the alien’s H-2B petition, thus potentially tripling the number of H-2B workers in the United States at any one time; makes the provisions above effective as if enacted on October 1, 2004, until October 1, 2006, and requires DHS to begin accepting and processing additional H-2B petitions no later than the date of enactment.

**Section 3** – Requires employers filing petitions for H-2B workers on or after October 1, 2005, to pay a fee of \$150, which is to be used to:

1. Increase State Department diplomatic security personnel assigned to preventing fraud by visa applicants and in increasing efficiency in completing security clearances connected to visa applications;
2. Improve DHS fraud prevention and detection activities with respect to nonimmigrant worker visa petitions; and
3. Increase the enforcement activities of the Labor Department.

**Section 4** – Authorizes DHS to impose such administrative remedies (in addition to any remedies authorized by law) as are determined to be appropriate, including civil fines of up to \$10,000 per violation, and to impose a one- to five-year ban on filing H-2B petitions on employers found on or after October 1, 2005, to have substantially failed to meet any of the conditions of or to have willfully misrepresented a material fact in the H-2B petition; permits DHS to delegate to the Labor Department authority to impose administrative remedies; reserves the harshest of the available administrative penalties for willful failures to meet the conditions of a petition where the failure involves harm to U.S. workers; defines a “substantial failure” as a willful failure to comply that constitutes a significant deviation from the terms of the petition.

**Section 5** – Apportions the annual H-2B cap of 66,000 visas so that no more than 33,000 H-2B workers may enter the United States during the first six months of each fiscal year.

**Section 6** – Requires DHS to report to Congress:

1. Quarterly, beginning no later than March 1, 2006, on the number of aliens issued H-2B visas and the number whose visas expired or were revoked or otherwise terminated during the preceding year;

2. Annually, beginning in 2007, on the countries of origin and occupations of, and the compensation paid to H-2B workers during the previous year, the number whose visas expired or were revoked or terminated each month during the previous year, and the total number of aliens granted H-2B visas during the previous two years.
  - Requires the State Department to provide DHS any information it has that is needed to complete these reports above.