

NumbersUSA

A Brief Overview of the 110th Congress' Iteration of AgJOBS Amnesty

Blue card status:

- Authorizes the granting of temporary “blue card” status to an alien who pays a \$100 fee, and who DHS has determined to:
 - have performed agricultural employment in the United States for at least 863 hours or 150 work days (one work day is defined as 5.75 hours, so this is the equivalent of 21.5 40-hour work weeks, or less than half of a standard 50-week work year), whichever is less, during the two-year period ending December 31, 2006;
 - have applied for blue card status during the 18-month application period beginning on the first day of the seventh month after enactment;
 - have not been convicted of any felony or a misdemeanor involving bodily injury, threat of serious bodily injury, or harm to property exceeding \$500; and
 - be otherwise admissible (with specified waivers available);
- Caps the number of aliens to be granted blue card status in the five years following enactment at 1.5 million;
- Requires each employer of a blue card alien to annually provide a written record of employment to that alien and to provide a copy of that record to DHS (lest the employer be fined up to \$1,000 per violation), but sunsets that obligation six years after enactment; and
- Requires DHS to provide each blue card alien with a secure, biometric identification document (e.g., encrypted identification strip, biometric identifiers).

Adjustment of status to lawful permanent residence and the path to citizenship:

- *Requires* DHS to adjust the status of a blue card alien to that of a lawful permanent resident if the alien pays a \$400 fee, applies for adjustment of status within seven years after enactment, and has performed at least:
 - 100 work days per year in each of the first five years following enactment;
 - 150 work days per year in each of the first three years following enactment; or
 - over the course of the first four years after enactment, 150 work days per year for three of those years and 100 work days for the other.
- Requires DHS to grant LPR status to the spouse and minor children of any such alien, provided they apply for it or the principal alien includes them in his/her application for amnesty;
- Provides that falsification or misrepresentation on an application for adjustment to LPR status (or for blue card status) is punishable by a fine, up to five years' imprisonment, or both, and states that an alien convicted of such a violation is inadmissible;
- Exempts aliens granted amnesty from all numerical caps on annual legal immigration;

- Provides that any blue card alien who fails to apply, or fails to qualify, for adjustment before the application period ends is subject to removal:
- Authorizes DHS to deny LPR status, and to terminate blue card status, if:
 - DHS finds, by a preponderance of the evidence, that such status resulted from fraud or willful misrepresentation; or
 - the alien commits an act making him/her inadmissible, is convicted of a felony or three misdemeanors committed in the United States, or is convicted of any felony or a misdemeanor involving bodily injury, threat of serious bodily injury, or harm to property exceeding \$500;
- Requires applications for amnesty to be filed with DHS if the applicant is represented by an attorney, or with a qualified entity (e.g., farm labor organization, association of employers, other “qualified designated entities,” as determined by DHS, if the applicant consents to the forwarding of the application to DHS; and
- Bars aliens granted LPR status from being eligible for most federally-funded cash welfare assistance for five years after LPR status is granted.

Administration of programs:

- Authorizes DHS to waive specified grounds of inadmissibility (e.g., public charge [if history of employment exists], humanitarian or family unity purposes);
- Requires all fees collected pursuant to the granting of blue card or LPR status to be used by DHS for processing related applications; and
- Requires DHS to broadly disseminate information regarding the benefits aliens may receive as a result of the blue card amnesty program.

User fees

- Requires DHS to establish and periodically adjust a schedule of fees – based on a specified methodology – for the employment of AgJOBS-amnestied aliens and H-2A aliens, as well as a collection process for those fees from employers participating in AgJOBS amnesty programs; and
- Requires all alien employment user fees to be used to reimburse DHS, the State Department, and the Department of Labor for the costs of implementing AgJOBS.

DHS report to Congress:

- Requires DHS to submit an annual report to Congress identifying, for the previous year: (1) the number of job opportunities approved for the employment of H-2A aliens and the number of such aliens actually admitted, by state and by occupation; (2) the number of H-2A aliens reported to have abandoned employment; (3) the number of H-2A aliens who departed the United States within the authorized period of stay; (4) the number of aliens who applied for blue card status under AgJOBS, and the number who were granted such status; and (5) the number of blue card aliens who applied for LPR status, and the number who were granted such status.