

AgJOBS Amnesty 2008

Feinstein Amendment to the Senate Appropriation Committee's 2008 Iraq Supplemental Spending Bill

The Feinstein amnesty, titled "Emergency Agriculture Relief," is 101 pages long. It was submitted to Members of the Senate Appropriations Committee on May 15, 2008—the same day it was passed by the Committee by a vote of 17 to 12.

The amendment would require the Department of Homeland Security to grant "emergency agricultural worker status" (i.e., amnesty) for up to five years to as many as 1.35 million illegal aliens, plus their spouses and children, if the illegal alien:

- Could show by "a preponderance of the evidence" that he worked 863 hours or 150 work days (defined as 5.75 hours of work per "work day"), or earned at least \$7,000 in agricultural employment between January 1, 2004, and December 31, 2007;
 - *In other words, the illegal alien would have to show that he was illegally employed in agriculture for a grand total of less than 22 weeks during a four-year period! And he can prove his employment history "by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference."*
- Filed an amnesty application with a "qualified designated entity," or with DHS directly if he is represented by an attorney or a nonprofit organization, during an 18-month application period that would begin six months after enactment of the amnesty;
 - *No illegal alien is permitted to file an application for the amnesty without assistance from an attorney or an advocacy group—a "qualified designated entity" is defined as a labor or employer association or "any such other person" with "substantial experience" in filing adjustment of status applications.*
- Was not a known terrorist or convicted criminal; and
 - *Criminals would only be barred if they had been convicted of one or more felonies or three or more misdemeanors, so a couple of convictions for domestic violence or drunk and disorderly are fine, since those are generally misdemeanor offenses. And, of course, terrorists-in-waiting—those who have not yet committed a terrorist act or been caught with other known terrorists so they could be added to the watch list—likely would have no trouble qualifying for this amnesty,*

just as Mahmud Abouhalima, an illegal-alien cab driver in New York, qualified for the 1986 agricultural amnesty before going on to drive a bomb into the World Trade Center in 1993.

- Paid a “fine” of \$250.

Once an illegal alien met these minimal qualifications, he would be entitled to:

- Bring his spouse and children here to join him, or legalize their status, if they are already here illegally;
- Official U.S. government identification documents, including a valid social security number—with which he would be able to apply for a driver’s license—and a work permit (spouses would be allowed to apply for work permits, as well); and
- Immunity from prosecution for committing social security fraud if he had been working illegally with a false or stolen social security number.

In order to keep “emergency agricultural worker status,” formerly illegal aliens would have to agree to part-time indentured servitude.

- They would have to complete 100 “work days” of agricultural work each year in order to keep their status for up to five years, at which point their status would terminate. That would still leave them 265 days a year to compete with working-class Americans for better paying jobs, which they (and their spouses) would be able to do legally with their newly obtained work permits. (Of course, the Secretary of Homeland Security would be authorized to waive this work requirement due to pregnancy, injury, disease, special needs for a minor child, severe weather conditions, or employment termination without just cause.)
- They would also have to pay applicable Federal income taxes, but only for their legal employment. They would not be required to pay any back taxes owed for work they did while in the United States illegally.

Enactment of this “emergency” amnesty would bring virtually all immigration enforcement to a grinding halt:

- Beginning on the day of enactment, no illegal alien able to make “nonfrivolous” claim that he would qualify for amnesty could be deported until 30 days after the beginning of the application period or until his application for amnesty was adjudicated, whichever is later.
- An illegal alien apprehended after the application period began would have to be given 30 days to file an application, if he could make a “nonfrivolous” claim, and could not be deported until the application was adjudicated.