



Solution: Returning Worker Exemption Act of 2021

The bi-partisan Returning Worker Exemption Act of 2021 introduced by Rep. Cuellar (D-TX), Rep. Joyce (R-OH) and Rep. Keating (D-MA) reinstates the returning worker exemption which was enacted from 2005-2007 and again in 2017 and also puts in place provisions to modernize the application process, create additional worker protection measures and strengthen integrity measures by increasing fines and possible disbarment for wanton and willful misconduct by H-2B employers.

The returning worker exemption is a tried and true smart policy. For H-2B returning workers, the program provides well-paying seasonal jobs that allow foreign H-2B workers to provide for their families and still maintain their homes in their native countries. Many H-2B workers choose to return to the same employer year after year because of the positive experience and being treated as integral members of the organization. For H-2B employers the returning worker exemption provides a degree of certainty and a reliability that they will not face a workforce shortage. They also appreciate the option to hire previous workers who have been trained and understand their business, while also providing much-needed cap relief. The returning workers exemption also assists in mitigating against the possibility of H-2B workers absconding or H-2B employers mistreating their workers. It is a smart policy that rewards those that are using the program the way it was intended to be used, as a supplement to their American workforce during peak seasons if domestic temporary workers are not available.

Requested Actions

SUPPORT The Bipartisan Returning Worker Exception Act of 2021

- Sign-on as a co-sponsor
- Signal to leadership your support
- Include this legislation in Immigration Reform or other germane legislative vehicles

Support a Returning Worker Exception Provision in FY 22 Appropriations



What is in the Returning Worker Exemption Act of 2021?

The H-2B RWE Act of 2021 makes several permanent changes to the H-2B Program. Here is a brief summary of the legislation:

- Will provide permanent H-2B cap relief through a returning worker exception while providing integrity measures that protect U.S. workers and foreign seasonal H-2B workers while in the United States.
- Re-enacts the provision that would exempt returning workers from counting against the 66,000-visa cap if the H-2B worker is a returning worker in any of the previous three fiscal years.
- Improves efficiencies with the application process by requiring a single digital platform while also requiring the Department of Labor (DOL) to maintain a publicly accessible online job registry.
- Strengthens program integrity measures and anti-fraud provisions to increase DOL investigations, fines, and even permanent disqualification from the H-2B program for willful violations.
- Addresses misconduct by foreign recruiters and strengthens workers safety standards for H-2B employees while in the United States.

Why is the returning worker exemption necessary?

Labor is the #1 issue in the US, particularly in Colorado, where we've seen our recovery hampered by lack of workers. Labor needs are more critical than ever coming out of the pandemic. Labor shortages have a direct impact on our economy and are the top driver of inflation. They account for 70% of the cost of goods.

The labor shortage is compounded by the fact that there has been a 90% drop in immigrant workers in the US, a market that the landscape and hospitality industries have heavily depended upon to fill their workforce needs.