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Associated General Contractors of America
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Crawfish Processors Alliance
Essential Worker Immigration Coalition
Federation of Employers and Workers of America
Forest Resources Association
Golf Course Superintendents Association of America
Gulf Seafood Institute
ImmigrationWorks USA
Interlocking Concrete Pavement Institute
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International Association of Fairs and Expositions
International Franchise Association
National Alliance of Forest Owners
National Association of Home Builders
National Association of Realtors
National Club Association
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National Electrical Contractors Association
National Federation of Independent Business
National Fisheries Institute
National Hispanic Landscape Alliance
National Restaurant Association
National Roofing Contractors Association
National Ski Areas Association
National Thoroughbred Racing Association
Outdoor Power Equipment Institute
Small & Seasonal Business Legal Center
Snow and Ice Management Association
Society of American Florists
Tree Care Industry Association
U.S. Apple Association
U.S. Chamber of Commerce
Utility Sprayer Alliance

The H-2B Program Myths Vs. Facts

Do H-2B workers take jobs away from Americans?

No, H-2B workers actually support American jobs and the U.S. economy. The H-2B program provides an opportunity for seasonal businesses to operate at a greater capacity, retain their full-time workers and contribute to their local economies. Seasonal workers help support many upstream and downstream jobs. Every H-2B worker is estimated to create and sustain 4.64 American jobs, according to an American Enterprise Institute study, [Immigration and American Jobs](#). If the H-2B program did not exist, many seasonal businesses would go out of business. Those that could survive would operate at a lower capacity. These companies would also purchase fewer vehicles, computers, office supplies, seed, fertilizer, machinery and other items. Sadly, this economic reality has been realized time and time again by numerous businesses who were unable to find American workers to take seasonal jobs and who were unable to hire H-2B workers due to the limiting 66,000 annual cap on the number of H-2B workers admitted into the United States.

Why can't employers hire American workers to fill these positions?

The vast majority of American workers are not interested in temporary seasonal jobs that are often manually intensive. In other cases, access to American labor may be limited by geography. For example, many resort communities may not have a local labor pool. In many cases, an industry's peak season may not allow for traditional sources of temporary labor. For example, college students are often not available in the spring or fall. These seasonal jobs may not be appropriate for high school students due to the hours or labor laws that prohibit the use of heavy machinery by minors.

Why can't these employers just pay American workers more money to do these jobs?

Employers who use the H-2B program are required to pay their H-2B workers and similarly employed American workers a premium wage dictated by the Department of Labor. As mentioned above, the challenges associated with the nature of the seasonal jobs and geography are the limiting factor in finding American workers, not wages. Further, in many cases, employers who use the program are competing against employers who choose to hire improperly documented workers and pay those workers considerably less. If wages were raised even higher, seasonal employers who use the program would not be able to sustain their businesses or their American workers.

Does the H-2B program repress wages for American workers by providing a cheaper labor source?

Hiring H-2B workers is not a cheap option. Employers are required to pay H-2B workers and similarly employed American workers a premium wage that is often well above the federal minimum wage. In fact, an economic study found a correlation between H-2B workers and rising wage rates.¹ If employers could hire American workers to fill seasonal positions, they would gladly do so. The H-2B program is extremely costly, complicated and wrought with uncertainty due to an overly restrictive cap and a constantly changing regulatory environment. Employers turn to the H-2B program as a last resort, after extensive efforts to recruit American workers.

Are H-2B workers eligible for any government benefits (welfare, food stamps, Medicaid, SSI, etc.)?

H-2B workers actually contribute to the American economy by paying taxes. Like American workers, Medicare fees are withheld from their paychecks. Unlike American workers, however, these workers cannot collect these benefits. H-2B workers help fund these programs.

What laws and safeguards are in place to protect H-2B workers from workplace abuse and employers who commit labor violations?

H-2B workers are protected by the same labor laws as American workers. H-2B employers must comply with all federal state and local labor, health and safety laws. Further, H-2B workers are issued a workers rights card in English and Spanish upon admission to the United States that outlines all of their rights and provides a toll – free number to report abuses. Employers must guarantee H-2B workers full time employment and their wage rates. They are also prohibited from collecting any type of recruitment fee from H-2B workers. Employers who violate the law are subject to civil and criminal enforcement. The fact that most H-2B workers chose to return to the same employer year after year illustrates the significant opportunities that H-2B workers enjoy.

What happens to lingering H-2B workers who overstay their visas, which exacerbates illegal immigration in America?

The program provides H-2B workers with well-paying seasonal jobs that allow them to provide for their families and still maintain their homes in their native countries. When approving H-2B visas, the U.S. Consulate confirms workers' ties to their home countries. Workers who overstay their visas are barred from using the program in the future, a risk these workers are not willing to take since they generally return to the same employer year after year. Further, the U.S. Department of Homeland Security requires employers to promptly report any H-2B workers who do not report for work or who complete their work earlier in the season than anticipated.

¹ *Economic Impact of H-2B Workers*, U.S. Chamber of Commerce and Immigration Works, Dec. 1, 2010, page 3.

Why is an H-2B Returning Worker Exemption Necessary?

The H-2B program's annual 66,000 cap (33,000 for each half of the fiscal year) is not adequate to meet the demands of a growing economy. The cap for the first half of the 2015 fiscal year was reached on January 26. The second-half cap was reached on March 26, leaving many seasonal employers shut out of the program with no access to legal seasonal laborers. Without this relief, many companies are looking at closing their businesses, laying off American workers or turning away customers. This provision is essential to the survival of small and seasonal businesses across the country. An H-2B returning worker exemption is a narrow solution to a seasonal workforce shortage that focuses on workers who are valuable to their seasonal employers and who have never violate the terms of their past visas or other U.S. laws. These workers do not pose a security risk and they are not taking away jobs from Americans. The H-2B returning worker exemption in the omnibus appropriations bills simply provides that if an H2B worker has been counted against the cap in one of the three prior years, that worker can return to work in the H2B program in the current year without being counted against this year's cap. The Congressional Budget Office estimates that this provision will allow an additional 8,000 H-2B workers to be admitted into the U.S. during the remainder of fiscal 2016.

Is the H-2B Program a Way for Large Corporations to Avoid Hiring Americans?

Most companies that use the H-2B program are small businesses, which is why the U.S. Small Business Administration's Office of Advocacy has repeatedly opposed burdensome new H-2B regulations. Small businesses that use the program are landscape contractors, independent hotels and resorts, family owned carnivals, forest tree planters, seafood and sugarcane processors and others. They use the program despite the considerable costs associated with hiring H-2B workers, such as the higher wages dictated by the Department of Labor, the requirement to pay H-2B workers' transportation costs to and from the United States, the program user fees and the costs and time spent on program paperwork that must be filed with four government agencies. Small businesses that use the program would gladly avoid all the costs and hassles associated with the program if they could find enough American workers. In fact, the H-2B program requires employers to hire any able and willing American workers to fill open positions.

