



FARMWORKER JUSTICE

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Legislation Would Add Year-Round Dairy Jobs to the H-2A Program, Subjecting Dairy Workers to Perpetual Guestworker Status

On April 12, 2017, Rep. Sean Duffy (R-WI), introduced the “Defending the Agricultural Industry’s Requirements Year-round Act of 2017” (DAIRY Act), H.R. 2087. This House bill would significantly expand the H-2A temporary foreign agricultural worker program by including year-round dairy farm jobs. The bill would allow employers to obtain H-2A workers on 18-month temporary work visas which employers could renew endlessly.

Rep. Duffy’s bill would broaden the focus of the H-2A program to a large number of year-round jobs. The H-2A program focuses on temporary or seasonal jobs lasting less than a year (with some limited exceptions). H-2A workers must leave the country at the end of their job and lack the right to switch employers. If they wish to return in a following season, they are dependent on an employer to request a visa from the U.S. government. The need for the H-2A program is often justified by the alleged lack of people who want seasonal jobs due to the preference for year-round work and year-round income.

The Duffy bill does not address the status of the many undocumented workers currently employed on U.S. dairy farms. There are an estimated 150,000 workers milking, moving, and feeding cows and performing other, often dangerous, tasks on the nation’s dairy farms. Immigrants now fill many dairy farm jobs. While 50% to 70% of farmworkers are undocumented immigrants, it is unknown how many dairy workers are undocumented.

The Duffy bill would not provide an opportunity for the H-2A dairy workers to convert to immigration status or citizenship. Nor would the Duffy bill provide visas for spouses and children of the dairy workers who would receive year-round H-2A visas. Yet such H-2A workers could be employed in the U.S. for many years.

Rep. Duffy’s proposed legislation is the third House bill this year to address dairy farms and the H-2A program. The dairy farmers are pressing hard for legislation. Unlike the other two House bills, his does not seek to eliminate labor protections or lower wages under the H-2A program.

Farmworker Justice opposes this bill.

- Congress should not expand the scope of the H-2A program to year-round dairy jobs. The H-2A program is primarily intended to help address labor shortages for temporary or

seasonal work based largely on the claim that it is less desirable than year-round work and therefore difficult to find sufficient U.S. workers. Employers at year-round jobs – whether in agriculture or other sectors -- should be improving wages and working conditions to attract and retain workers.

- This bill ignores the plight and contributions of the current experienced dairy workers who lack authorized immigration status and are threatened with deportation. If the H-2A program is expanded to include dairy, some employers will displace current workers with H-2A workers. However, many employers' businesses would suffer by losing skilled workers on their dairy farms. Undocumented dairy workers should be offered immigration status.
- The conversion of the dairy workforce into a system of guestworkers would deprive dairy workers of economic power. Under the H-2A program, workers – both U.S. and foreign -- who demand more than the minimum required wage are deemed “unavailable” for work and can be rejected in favor of a guestworker who will accept the terms. Because H-2A workers are dependent on their employer for the visa, they usually will not challenge unfair or illegal job terms. Thus, many employers prefer guestworkers, displacing U.S. workers.
- The Duffy bill is anti-democratic. The H-2A dairy workers would be perpetually in a “non-immigrant” status, never gaining immigration status or citizenship, which means that they could never gain political representation.
- The Duffy proposal is anti-family. Foreign citizens could hold long-term employment under a series of renewed guestworker visas and be separated from their families. Workers in the U.S. should not be forced to choose between their job and their family.

Conclusion: The solution to the dairy industry's reliance on immigrant workers is to respect the contributions and humanity of those workers by providing immigration reform with a path to immigration status and citizenship for undocumented farmworkers. If additional workers are truly needed in the future, foreign citizens should be offered an immigration status with economic freedom and the opportunity for family unity. Rep. Duffy's bill lacks the solution that is needed and would inflict great harm on current and future workers on America's dairy farms.

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