



Statement of Farmworker Justice
on the Agricultural Guestworker Act by Rep. Goodlatte
October 3, 2017

Farmworker Justice opposes Rep. Goodlatte's Agricultural Guestworker Act. The bill contravenes fundamental concepts of democratic freedoms, equal economic opportunity, fair employment practices, and an equitable immigration system. This bill would reverse the modest, still-insufficient progress this nation has made during the past 240 years in the way it treats agricultural workers. The bill should be rejected as anachronistic, anti-worker, anti-immigrant and counterproductive to the needs of agriculture, rural communities and the food system.

The Agricultural Guestworker Act would create an extremely abusive new guestworker program that would transform the farm labor force into a system of non-immigrant guestworkers who hold temporary work permits and are subjected to low wages, poor working conditions and inadequate recourse for the inevitable abuses. In addition, this bill would extend the guestworker system beyond the seasonal jobs on farms and ranches that have been the focus of current and previous agricultural guestworker programs. The basis for allowing guestworkers in seasonal agriculture was the premise that it may be difficult to attract U.S. workers to such short-term jobs. Unlike the H-2A agricultural guestworker program, the bill's new H-2C program would be available to year-round dairies and to agriculture-related businesses that operate packing houses, processing plants, slaughterhouses and manufacturing facilities. It also could be used in aquaculture and forestry. This vast army of guestworkers would have no meaningful opportunity to become citizens of the nation they feed and support.

America's immigration system is broken and the agricultural labor system is in a state of crisis. A large percentage of farmworkers—at least one-half as reported by the Department of Labor—are undocumented immigrants. As undocumented immigrants, these farmworkers are contributing to our nation's economy and ensuring an abundant supply of safe, healthy food. Their unauthorized status, however, causes them to live in fear of detection and deportation. Most farmworkers have been living in the United States for many years and have children. The increased immigration enforcement and the publicity around it have instilled tremendous fear in many farmworkers and their children. In fact, many owners of farms and ranches are fearful that their farmworkers will be taken away or will leave as a result of immigration enforcement. Congress should be taking steps to stabilize the workforce and provide greater certainty to farm owners and workers by providing undocumented farmworkers with the opportunity to earn immigration status and citizenship. The Agricultural Worker Program Act of 2017 would provide that opportunity and is a sensible solution toward addressing the broken immigration system's harmful effects on our food and agriculture system.

Rep. Goodlatte's legislation fails to provide a reasonable or effective solution for our nation's current, productive workers, many of whom are undocumented immigrants. Instead of offering these valued workers a path to permanent residency and citizenship, under Rep. Goodlatte's bill, the exploitative H-2C program is the only real option provided to the vast majority of undocumented farmworkers. But, this path is only available to workers who are offered H-2C employment by an employer and requires them to separate from their families, as the bill explicitly prohibits family members from being given H-2C visas. Most farmworkers would reject such a harsh future and our nation's food system would suffer deeply with the loss of these skilled workers. While the legislation purports to offer immigrant visas for agricultural workers, the number of visas available is extremely limited and not nearly adequate to stabilize the current workforce. Moreover, for the very few immigration visas that would be available, a workers' ability to obtain an immigrant visa is dependent on the employer, setting up a scenario ripe for abuse. Finally, green cards would only be available to farmworkers able to demonstrate 4 years of past agricultural work and the capability to continue agricultural work at the time of application.

The Agricultural Guestworker Act would worsen the effects of the broken immigration system and harm farmworkers' well-being by stripping away protections against abuse that have evolved over decades of experience under guestworker programs. The bill would establish a system that would not only be far worse than the current H-2A temporary foreign agricultural worker program (and far broader in scope) but even worse than the notorious Bracero guestworker program. This proposal would implement a displace-and-exploit strategy. Many current, productive, hard-working farmworkers – including U.S. citizens and lawful permanent resident immigrants -- would be easily displaced by their employers with new guestworkers working under the substandard job terms this bill would allow. Those U.S. workers who remained in agriculture would be forced to accept the low wages and poor conditions this bill would permit employers to impose.

The bill would replace the H-2A guestworker program's wage protections aimed at preventing employers from undermining wages by hiring vulnerable guestworkers. The new requirement for wage rates would allow employers to pay at or slightly above the minimum wage even in the many situations where the average or prevailing wage for U.S. workers far exceeds the minimum. Wages under this bill would be cut anywhere from \$2 to \$10 an hour as compared to the average wages currently paid to workers. U.S. workers who demanded a higher, market-rate wage could be rejected and their position could be filled with a guestworker. And on top of this wage cut, 10% of a worker's wages would be withheld to ensure the worker stayed under control of their employer and returned to their home country. Workers would only be able to recoup their hard-earned wages if they meet multiple requirements, including the need to demonstrate to the satisfaction of the Secretary of Agriculture that they complied with the terms and conditions of the H-2C program.

Compounding these low wages is the fact that the proposal would remove any obligation for an employer to provide transportation and does not prohibit recruitment fees, leaving workers indebted from paying recruitment fees and transportation costs. Because employers would no longer be responsible for transportation costs, they might seek workers from farther locations, meaning the workers could be thousands of dollars in debt. Workers under the burden of debt would be even more vulnerable to exploitation and trafficking. The bill further removes the H-2A requirement to provide workers housing – a requirement that is necessary due to the lack of safe, affordable housing in rural communities. Workers would be shouldered with the responsibility of finding housing despite the barriers of language, lack of credit and income, and access to transportation. Many workers may become homeless, sleeping in the fields they are tending or crowded in unsafe conditions in substandard housing.

The bill would not only strip away longstanding protections that have evolved in guestworker programs to stem abuses, but would create new methods by which employers could take advantage of workers. For example, should an employer fail to pay the proper wages, employers could stop the worker from suing in court for backpay and could force mandatory arbitration with the worker having to pay half of the arbitration costs.

As workers in temporary nonimmigrant status, guestworkers are uniquely dependent on their employers for their ability to work and remain in the United States, making them vulnerable to abuse and exploitation. They often will work to the limits of human endurance without complaint. They have no path to immigration status or citizenship and therefore lack political power to counter the incessant demands on government made by their employers. This legislation makes a mockery of our immigration system's claim to fairness.

Farmworker Justice strongly opposes Chairman Goodlatte's Agricultural Guestworker Act as an unworkable, anti-immigrant and anti-worker approach. Our immigration policy must be worthy of our nation and must recognize the valuable contributions of immigrants to our families, communities, and economy. Any effort to address the immigration crisis in agriculture must focus on stabilizing the current agricultural workforce by offering an opportunity for undocumented farmworkers to earn immigration status and citizenship and by supporting progress in wages and working conditions for the people who perform the hard, dangerous work that helps to feed our nation's families.

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