



*A federation of winegrape grower organizations representing the American production of grapes for wine.*

ANNUAL NEWSLETTER

SUMMER 2006

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## Senate Immigration Reform Bill Includes AgJOBS

On May 25<sup>th</sup>, the U.S. Senate passed comprehensive immigration reform legislation that addresses issues of border enforcement, interior enforcement, unauthorized workers and worksite enforcement, non-agricultural guest workers and earned adjustment for undocumented non-agricultural workers, among other provisions. The bill includes numerous provisions intended to stem the flow of undocumented aliens entering the U.S., including a 375-mile fence on the U.S.-Mexico border, expansion of the use of high-tech alien detection devices along the border, additional checkpoints on roadways, use of National Guard, and an increase in the number of customs and border protection. It is not known when a Conference Committee will begin the work of reconciling the comprehensive Senate legislation and the enforcement-only measure (H.R. 4437) passed by the House in December, 2005.

The following information is a summary provided by the Agricultural Coalition for Immigration Reform (A.C.I.R.). American agriculture fared well with the inclusion of AgJOBS:

- Agriculture is the only industry that received its own comprehensive program;
- AgJOBS provided the model for the earned adjustment program included for all other industries;
- AgJOBS significantly reforms the H-2A guest worker program by streamlining the application process, reforming the adverse effect wage rate and limiting litigation.
- AgJOBS is the only non-immigrant guest worker

### H-2A Reforms:

The current labor certification process that often results in delays and arbitrary denial of applications by the Department of Labor (DOL) would be replaced with a simplified labor condition application that must be accepted by DOL within 7 days of its filing if it is complete and there are no obvious inaccuracies. Applicants must abide by the labor standards applicable to the H-2A program. While most current labor standards are retained, the option of providing a housing allowance is available. Litigation reform is also contained in AgJOBS.

The current adverse affect wage rate (AEWR) is defined in statute to be the 2002 AEWR, frozen for 3 years after enactment. If, after congressionally-mandated studies, Congress does not replace the frozen AEWR, it remains frozen at the 2002 level permanently, subject to annual consumer price index increases, capped at no higher than 4% annually.

### Earned Adjustment of Status:

The earned adjustment program is termed the "blue card" program. Blue card workers are in temporary resident status until they qualify for permanent resident status. The agricultural work experience requirement to adjust to blue card status is the lesser of 863 hours or 150 work days during the 24-month period prior to December 31, 2005. Blue card applicants must pay a \$100 fine as a condition of obtaining such status

The future agricultural work obligation is 575 hours per year in each of 5 years beginning on the date of enactment, or 150 work days, but no less than 863 hours per year in 3 years, during the 5-year period following enactment. Workers can travel back and forth from their country of origin and, as long as they satisfy their annual agricultural work obligation, they can work outside of agriculture. Workers who fail to meet their future agricultural work obligations are deportable. Blue card visas would be capped at 1.5 million during the 5-year period beginning on the date of enactment.

Prior to adjusting to permanent resident status, blue card holders must pay a \$400 fine and establish that they have paid all federal income taxes during the period they were employed in blue card status. The bill makes provisions for spouses and minor children to adjust to permanent resident status.

#### Unlawful Employment of Aliens:

As currently required, the Senate bill would require employers and those who recruit and refer workers for a fee to determine that they are authorized to work in the U.S. This is now done through visual examination of identity and documents provided by an applicant. Employers must accept them as genuine if they appear so on their face and the required document information is recorded on the I-9 form.

Under the Senate and House bills, employers, recruiters and referrers would have to verify the status of all hires and workers through an electronic verification process that eliminates a visual document authenticity determination. It is possible that one worker could be verified three times in the process. Under the Senate bill, both the grower and the farm labor contractor (FLC) must electronically verify

workers whether the worker is legally the FLC's employee or the grower's.

FLCs will be required to furnish to employers who use their contract workers the employer identification number assigned to the contractor upon verifying the work authorization of the worker supplied to the employer. The employer in turn must submit the employer identification number given by the contractor to the employer to the verification system and keep records of the information given by the contractor and of the results of the employer's independent verification.

The Department of Homeland Security (DHS) and the Social Security Administration will cooperate in developing an electronic system for determining whether the identity of individuals being verified is compatible with the database. Employers, recruiters and referrers will be required to use the system 18 months after \$400 million has been appropriated to implement it.

The required data from identity and employment authorization documents would have to be placed into the electronic system not later than 3 days after the date of hiring, recruiting or referring of the individual. DHS must send a response confirming or non-confirming an individual's identity and work authorization information. If a confirmation is received, the employer receives a code from DHS that it must record on the required I-9 like form. If a non-confirmation is received, the individual must contest it within 10 days after its receipt. A final decision is due within 30 days of an appeal.

Under the Senate bill, the Social Security Administration, at the request of DHS, must turn over the identity of all employers who have filed Social Security tax statements during years 2006-2008 which

contain more than 100 names and taxpayer identifying numbers of employees that did not match the records of Social Security, or which contained more than 10 names of employees with the same taxpayer identifying number.

The Senate bill lengthens the record retention requirement for I-9 type forms to the later of 5 years after hire, recruitment or referral or 1 year after the worker terminates employment. It also requires that employers retain copies of all documents provided by individuals to establish work authorization, as well as all other documents and correspondence relating to an individual's work eligibility.

Employers who fail to comply with employment verification procedures of the Senate bill face escalating penalties that are elevated over current law. This contrasts with very large increases in the House legislation.

#### H-2C Guest Worker Program:

The Senate bill (S. 2611) contains guest worker provisions called the H-2C program that allow non-immigrants to come to the U.S. to work on a temporary visa in jobs that require few or no skills. H-2C would exclude workers whose work would qualify as temporary and seasonal ag work under the H-2A program but there are some ag occupations that are neither temporary or seasonal that might qualify under the H-2C program. An annual cap of 200,000 visas is placed on the H-2C program.

## **Update on Tax Issues and Appropriations**

Two tax issues supported by Winegrape Growers of America and WineAmerica during the 2006 National Grape & Wine Policy Conference may be addressed this month when Congress returns from its Memorial Day recess.

The possibility of permanent repeal of the **estate tax** has been termed challenging due to the significant federal budget deficit. However, the Senate has announced it will address the issue in June. One compromise version of estate tax reform is by Senator Kyl (R-AZ). His proposal involves a \$5 million per decedent exemption amount and a new 15 percent tax rate. In addition to offering permanency, the compromise would be attractive for its lower overall rate and retention of step-up in basis.

A separate proposal by Senator Baucus (D-MT), would create a \$3.5 million per-spouse exemption and tax amounts over that at 15 percent, up to \$5 million. Assets above \$5 million would be subject to a 25 percent tax rate, while assets over \$10 million would be taxed at a maximum rate of 35 percent.

Thirty-nine Member of the Congressional Wine Caucus have sent a letter expressing their strong support for a provision included in the Senate-passed version of the Tax Reconciliation bill, to expand the **deductions available to landowners who donate a conservation easement**. The provision was not included in a tax package completed last month, but the Wine Caucus is hopeful it will be included in the second tax package currently being negotiated.

Prior to its Memorial Day recess, the House passed H.R. 5384, the **2007 Agricultural Appropriations** bill which has a number of provisions important to the American wine community.

- \$250,000 - National Grape & Wine Initiative—This funding will allow the Agricultural Research Service to investigate nutritional benefits from grapes and

grape products at the ARS Human Nutrition Research Center in Davis.

- \$2.1 million - Viticulture Consortium
- \$658,000 - Vitis Gene Discovery (MO)
- \$443,000 - Small Fruit Research (OR, WA, ID)
- \$322,000 - Winegrape Foundation Block (Prosser)
- Enough Funds to Complete - ARS Center for Grape Genetics (Geneva)
- \$2.2 million - Pierce's disease research.
- \$24.2 million - Pierce's disease/GWSS containment program.
- At least \$150,000 - Vine Mealybug Biocontrol program.
- \$15.6 million - Specialty Crop Block Grants.

The Senate appropriations process is expected to begin in early June.

## 2006 Grape & Wine Policy Conference

WGA again joined forces with WineAmerica to sponsor the National Grape & Wine Policy Conference,

held March 26-29<sup>th</sup> at the Washington Court Hotel in Washington, D.C. Timing of the trip coincided with action by the Senate Judiciary Committee on immigration reform and the AgJOBS bill. The joint briefing on March 27<sup>th</sup> included an energetic presentation by Craig Reglebrugge, co-chair of the Agricultural Coalition for Immigration Reform (ACIR) and Sharon Hughes with the National Council of Agricultural Employers (NCAE). Other topics addressed by delegates in Capitol Hill visits included tax issues and appropriations requests.

The Policymaker Luncheon on Monday, March 27<sup>th</sup> featured comments from Senator Richard Burr from North Carolina. On March 28<sup>th</sup>, Congressman George Radanovich (D-CA), co-chair of the Congressional Wine Caucus, addressed the group. Following him, former New York Representative Susan Molinari, now Chairman and CEO of The Washington Group, Inc., gave lively and motivational remarks about the importance of grassroots involvement on public policy issues.

Fowler West of The Washington



National Grape & Wine Conference delegates met with USDA Secretary Mike Johanns (at the podium) on March 27<sup>th</sup>.

Group, WGA's government affairs consultant, once again organized an afternoon schedule at USDA that included a number of informative visits with various branches. Most impressive was the opportunity to meet with USDA Secretary Mike Johanns for half an hour! Secretary Johanns stressed his hope for a balanced Farm Bill that addresses the needs of all agriculture and noted the importance of specialty crops, like grapes, to the national economy. The group then divided into teams to call on the Risk Management Agency; Rural Development; and, the Natural Resources Conservation Service.

The highlight of the Conference is the chance to show off the wines of America at the annual Congressional wine reception which was held in the beautiful House Agriculture Committee hearing room. It was a perfect night to renew acquaintances with Members of Congress and their staffs. Almost 300 people stopped by and admired the wines and the awesome view of the Capitol from the balcony.

### Annual Business Meeting

At its annual meeting, held March 26<sup>th</sup> in conjunction with the National Grape & Wine Policy Conference, WGA delegates re-elected officers as follows:

Chairman: Jim Bedient, New York State Winegrape Growers

Vice Chairman: Bruce Fry, California Association of Winegrape Growers

Secretary-Treasurer: Ron Bitner, Idaho Grape Growers & Wine Producers Commission



WGA Chairman Jim Bedient.

Delegates approved amendments to the bylaws. The bylaws are posted at [www.cawg.org/wga](http://www.cawg.org/wga). Also discussed were ideas to expand the participation of growers in the annual meeting. One suggestion is to reach out to various states each year that have not participated in WGA and offer to pay the registration fee of a representative to attend the annual Conference. It was agreed that there is great value to having the grower voice on grape growing issues present on Capitol Hill. WGA has worked closely with WineAmerica over the years to generate research funding, among other things. The effort to expand viticulture research will help us grow better grapes and that will help us grow our industry across the Nation.

Information was provided to the group about the status of the National Grape & Wine Initiative (NGWI). Twenty-three states have been represented in the development of a strategic research and extension plan that addresses the needs of all grape sectors: wine, juice, table and raisin. By clearly identifying priority industry needs, the goal is to significantly increase funding for research and extension and shift existing resources at the Agricultural Research Service to grape priorities.

On Tuesday morning, March 28<sup>th</sup>, a WGA meeting was convened for purposes of meeting with the Agricultural Counselor to the EPA Administrator. Jon Scholl discussed with the group the development by EPA of a national agricultural partnership strategy that will focus on incentives and rewards to growers for the environmental services they provide. It is being built with the understanding that farmers and ranchers produce important environmental benefits on working landscapes and that it is appropriate for the public to share in the costs.

Attendees to the 2006 Annual Business Meeting were:

- |             |                    |
|-------------|--------------------|
| Idaho:      | Ron Bitner         |
| Maryland:   | George Grillon     |
| New York:   | Jim Bedient        |
|             | John & Ann Martini |
|             | Don Tones          |
| Washington: | Vicky Scharlau     |
| California: | Andy Beckstoffer   |
|             | Bill Berryhill     |
|             | Tom Berryhill      |
|             | Kim Ledbetter      |
|             | Bronson            |
|             | Bill & Carol       |
|             | Chandler           |
|             | Joe & Sherry Cotta |
|             | Bruce Fry          |
|             | Andy & Nancy       |
|             | Hoxsey             |
|             | Karen Ross         |
|             | Richard Samra      |
|             | Steve Schafer      |
|             | Rodney Schatz      |
|             | Ken Wilson         |