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## The Legal Workforce Act: Where Would Nationwide E-Verify Leave the Agricultural Industry? (/full-blog/2011/09/legal-workforce-act-where-would.html)



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By: Jessica Durden, Staff Member

H.R. 2164, the Legal Workforce Act, mandates a nationwide “E-Verify” system. This law would require employers to approve new hires through the E-Verify database, which reports on immigration status. In the wake of Supreme Court decisions green-lighting state mandate schemes, the business community has moved toward backing E-Verify.[1]

([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_edn1](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_edn1)) Arizona’s hardline opposition to illegal immigration found support from the Supreme Court earlier this year, paving the way for bills like H.R. 2164.[2] (<http://www.blogger.com/post-create.g?>

blogID=8202935745006855383#\_edn2) However, the agriculture lobby has engineered a powerful push-back, alleging that an E-Verify system would cripple farmers nationwide and lead to mass foreign outsourcing to supply the American public with food.[3] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_edn3](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_edn3))

Farm groups have brought a legitimate grievance to the attention of Congress and in doing so have conceded the agriculture industry's reliance on foreign workers. Labor research has shown that American-born workers either shy away from agricultural work or quit after a short stint; therefore, the farm groups' complaints do look legitimate.[4] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_edn4](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_edn4)) The bill does make allowances to assist the farm groups in adjusting to the bill after its passage. For example, the bill proposes a three-year phase-in period for agriculture, returning seasonal workers would not have to undergo E-Verify scrutiny each year, and only *new* employees have to undergo screening. Taken together, these allowances lift what would otherwise be a very heavy burden off of farm employers.[5] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_edn5](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_edn5))

Unfortunately, the plight of the American farmer would likely worsen in the three year grace period. After Georgia and Alabama passed state mandates akin to Arizona's, undocumented workers fled the state and left harvesting farmers in the lurch.[6] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_edn6](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_edn6)) Republican Representatives have started to yield slightly toward the view that agriculture demands allowances to bend the rules regarding immigration. Quashing the flow of undocumented workers doing the manual labor on America's farms could feasibly lead to outsourcing or toward further disobedience of such laws. The law cannot play favorites, but it also cannot ignore the troubling reality that American farms are stocked with undocumented workers and will lose functionality with stricter laws precluding such employment.

A complete collapse of the American agricultural industry is unlikely even if the bill does pass. However, if lawmakers provide farm-friendly loopholes, beyond those already built in to the bill, then other industries that employ illegals, e.g. hotels, restaurants, and construction, will beg for relief as well. The engineered softening of the bill for agriculture, at least up front, looks like a smart move, but it may also result in a real-life illustration of the slippery slope argument. Farm groups are rightfully concerned by the bill, but lawmakers should carefully consider whether opening Pandora's Box for an entire industry to skirt the law is advisable. At this juncture, perhaps it is time for both lawmakers and employers to step back and reconsider tactics that recognize reality but also demonstrate a commitment toward reaching a solution to the illegal immigration issue instead of putting a finger in the dam temporarily.

[1] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_ednref1](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_ednref1)) Mark Krikorian, *This Year's Most Important Jobs Bill*, National Review Online (June 16, 2011, 4:00 AM), <http://www.nationalreview.com/articles/269662/years-most-important-jobs-bill-mark-krikorian> (<http://www.nationalreview.com/articles/269662/years-most-important-jobs-bill-mark-krikorian>).

[2] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_ednref2](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_ednref2)) *Supreme Court Approves E-Verify Mandate*, The Shapiro Law Group (June 6, 2011) <http://business-immigration-lawyer.com/2011/06/06/supreme-court-approves-e-verify-mandate/> (<http://business-immigration-lawyer.com/2011/06/06/supreme-court-approves-e-verify-mandate/>).

[3] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_ednref3](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_ednref3)) Miriam Jordan, *Farmers Press GOP on Hiring*, The Wall Street Journal Online (Sept. 7, 2011), [http://online.wsj.com/article/SB10001424053111903648204576554830735887802.html?mod=WSJ\\_hp\\_LEFTTopStories](http://online.wsj.com/article/SB10001424053111903648204576554830735887802.html?mod=WSJ_hp_LEFTTopStories) ([http://online.wsj.com/article/SB10001424053111903648204576554830735887802.html?mod=WSJ\\_hp\\_LEFTTopStories](http://online.wsj.com/article/SB10001424053111903648204576554830735887802.html?mod=WSJ_hp_LEFTTopStories)).

[4] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_ednref4](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_ednref4)) *Id.*

[5] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_ednref5](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_ednref5)) Kirkorian, *supra* note 1.

[6] ([http://www.blogger.com/post-create.g?blogID=8202935745006855383#\\_ednref6](http://www.blogger.com/post-create.g?blogID=8202935745006855383#_ednref6)) Jordan, *supra* note 3.

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