

Assembly Bill 857

California Legal Rights Disclosure Act for H-2A Visa Farm Workers

Assembly Member Ash Kalra

SUMMARY

Assembly Bill (AB) 857 would require that H-2A visa employers provide a written notice of specified state employment rights in Spanish and, if requested, in English, to all H-2A farm workers on their first day of work or when they are transferred to another employer.

The California Labor Commissioner (LC) would be required to develop a template that would be used by H-2A employers to comply with these new notice requirements. The LC would combine this information with the notice currently required to be provided to most new hires.

The bill would specifically address the compensability of employer provided transportation to and from the worksite by restating in statute the general circumstances under current case law that trigger the obligation to compensate.

AB 857 would also require the notice to include information about farm worker rights during declared federal or state emergencies and disasters such as the COVID-19 pandemic and future wildfires.

BACKGROUND

The H-2A program provides a temporary federal visa to farm workers admitted into the United States for work in the agricultural industry. H-2A workers are largely recruited in Mexico, brought to California, and housed in employer provided housing. They have no cars and have no access to public transportation.

The program was designed to address temporary labor shortages in the agricultural industry, and California growers and farm labor contractors have increased their reliance on H-2A workers more than 10 fold since 2012.

H-2A workers are historically some of the most exploited workers in the agricultural industry. Because their visas are employer specific, they are completely dependent on their employer for basic necessities.

Many recent H-2A workers are entering the United States, and California, for the first time, and are unfamiliar with basic state workplace protections, such as overtime and meal and rest period guarantees.

SOLUTION

AB 857 will help advise H-2A workers of their rights under California law by ensuring adequate notice on their first day of work or when they are transferred to another employer. The notice shall include information on employment rights such as the right to meal and rest periods, overtime, rest period compensation for piece rate workers, compensable transportation time, prohibited deductions, worker health and safety protections, sexual harassment training, and timely payment of wages.

The written notice would also inform H-2A workers of their right to report a violation of California law, how to report violations, and their right to be free from retaliation. In doing so, AB 857 will create safer, more legally compliant workplaces and reduce any incentive unscrupulous H-2A employers may have to hire workers who they can underpay and mistreat because the workers are not aware of their rights or how to have them enforced.

SPONSOR

California Rural Legal Assistance Foundation

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