

May 1, 2008

Seasonal Worker Slump

Immigrant labor is the backbone of the summer tourism industry, a remaining bright spot in a dire economy. But a federal crackdown could mean trouble.

By Lindsay Berrigan



Fewer people will be bustling in the kitchen and making beds in restaurants and hotels across Cape Cod this year. Like other US tourist destinations, the Cape is suffering from a seasonal worker shortage, due to a lack of H-2B visas, which allow temporary seasonal workers to fill unskilled, entry-level positions.

Wendy Northcross, CEO of the Cape Cod Chamber of Commerce, helps employers obtain H-2B visas and has seen their numbers drop in recent years. "Right after September 11th, Congress said, 'We're really going to enforce this cap for the [H-2B visa] program,'" she says. "And we went, 'There's a cap? Who knew?'" So we educated ourselves really quickly."

In 2005, small business owners nationwide lobbied Congress for the Save our Small and Seasonal Businesses (SOS) Act, which divided the 66,000 available visas in two, 33,000 for each half of the fiscal year. The SOS Act had a built-in provision for returning H-2B visa workers: It allowed returning temporary workers to, well, return, not counted as part of the 33,000. But the returning worker provision ran out in October 2007 and was never renewed for 2008, leaving just 33,000 temporary visas for the whole country in the second half of FY 2008, including the tourist-heavy summer months.

On January 2nd, United States Citizenship and Immigration Services announced that the H-2B program had reached the 33,000 cap for the second half of 2008.

Northcross says that historically, the Cape, Nantucket and Martha's Vineyard have received about 5,000 to 7,000 visa permits, filling even more jobs, as some temps work more than one gig.

Greg Stone, owner of the Lighthouse Inn in West Dennis, has employed 18 to 20 Jamaican workers on H-2B visas for the past 10 years. This year, he's short-staffed. He'll be able to fill a few slots with Jamaican workers from winter resorts, since the H-2B program does leave room for extension from one season to the next. It won't be enough, though. Stone is already considering cutbacks, like opening his dining room for only breakfast, rather than dinner as well, on Memorial Day weekend.

"There aren't too many people who want a summer seasonal job," Stone says. "It's too long for high school and college students and school teachers." Underage staff can't legally work the long, late hours required by restaurants and hotels.

Young people can fill some of the void, though. The Massachusetts Department of Labor has been building a website (capejobs.com) and working with employers to standardize an online application in hopes of updating the job search process. Those hiring are also trolling areas of high unemployment for summer employees. A job fair in Westport this month allowed candidates from Fall River and New Bedford, two low-income, high-unemployment communities, to interview with employers at a location closer to home.

The problem with hiring those from far-off communities is transportation and housing. "Some of the companies themselves offer shuttles and in some cases housing," says workforce development undersecretary Jennifer James Price, "but they're doing a lot less in terms of supported housing for workers than they did 10 to 15 years ago."

In an attempt to fix this, the labor department worked with Cape Cod Destinations, a private transportation company, to provide the CAPEX bus, a daily ride from the Providence airport to the Cape, picking up employees in Fall River and New Bedford on the way.

Cape Cod also has a small program for retirees returning to the workforce. All these programs will work together to fill the shortage, though some are still hopeful for a program extension before the high season.

Price says a federal solution would be welcome, since response to Massachusetts Labor Department programs has been "decent, but not overwhelming. I've talked to some employers that see the writing on the wall," she says. "I'm not that hopeful that Congress will resolve the situation anytime soon."

Members of the Provincetown and Cape Cod chambers of commerce, along with business owners (including Greg Stone of the Lighthouse Inn), have lobbied in Washington several times for last-ditch H-2B legislation. Though they've made headway with those close to the Cape, they claim the main force holding back the extension is the Hispanic National Caucus.

In an effort to push broader national immigration policy reforms, the Caucus lobbied hard not to extend the SOS Act last year and won. But the Caucus keeps the details of its reform ideas under wraps, and a spokesman for the organization would only say that they want the guest worker program to be part of a broader reform package.

Some, like Northcross, have vague notions of providing employees with new benefits to entice them. "If we could somehow couple transportation with a job, or healthcare with a job ... people are looking to see what kind of subsidies they can offer, childcare or housing stipends."

Stone says it seems unfair to expect immigrants to work without some kind of benefit, since they're already working undesirable jobs. "It's certainly not about taking jobs from Americans," says Stone. "These are jobs that American people don't want. We really don't find any young people who want to make beds and clean toilets. You laugh, but it's a very important part of the business, and that's the response we get from young people: They laugh."

Some immigrant rights activists are taking up this cause. Gabriel Camacho, Northeast coordinator for Project Voice, an immigrant rights division of the American Friends Services Committee, thinks all immigrant workers should have the same labor rights as citizens, and that employers should dip into America's unemployment pool before turning to temporary workers. "Industry, whether it's agriculture or seasonal resorts, have a need for a cheap labor force," says Camacho. "That's why they lobby for guest worker programs."

The H-2B program, as Camacho sees it, is an extension of Operation Endgame, the bedrock and brainchild of Immigration and Customs Enforcement (ICE), the largest investigative branch within the Department of Homeland Security. Formed in direct response to 9.11, ICE aims to remove all 12 million immigrants living and working without proper documentation in the US by 2012. "We must strive for 100 percent removal rate," the plan states.

"Integral to Operation Endgame is the guest worker program," says Camacho. "Part of this program is to be the enforcement mechanism of guest worker programs. They would be in charge of the channel that guest workers come in, and the way in which they get sent back."

Though Endgame doesn't mention H-2B visas specifically, its goals include "protecting America from customs and immigration violations not directly linked to terrorism" and mentions that "the INS estimated in 1998 that about two-fifths of the resident illegal alien population entered legally and then lost their legal status by overstaying their authorized visit and/or by illegally taking jobs."

ICE officials did not respond in time to repeated requests for comment.

The Office of Detention and Removal is the division of ICE responsible for the enforcement of national immigration laws, meaning that it's responsible for getting anyone deported who's not here legally. Activists worry that guest worker protection laws are not strong enough to fend off abuses.

"There's an essential imbalance of power in guest worker programs in the US" Camacho says. "A guest worker in the US is very tied to a particular employer, and the employer gets to decide whether they stay. Their visa is controlled by the employer. Therefore, if a guest worker tries to exert their rights they could be blacklisted or terminated."

Operation Endgame came to Massachusetts last March in New Bedford, when ICE agents arrested 361 undocumented workers at the Michael Bianco Inc. factory. Activists immediately decried the raid as a human rights disaster. Breast-

feeding women say they were forced to bare and squeeze their breasts to prove they had newborns at home, and detainees were shipped to Texas with no family notification.

More raids could, of course, mean further worker shortages for the summer, as well as further human rights abuses. Some organizations, like Jamaica Plain Rapid Response Network (JP-RRN) are already planning for the next raid. JP-RRN is a group of about 75 volunteers who in March launched a raid hotline to commemorate the New Bedford raid. Dorotea Manuela, a JP-RRN member, says that JP has several sites at risk for raids, but would not specify further.

In practice, the hotline will work as an emergency line for immigrants just arrested in a raid. Hotline volunteers can give advice or connect them with pro bono lawyers and family members.

JP-RRN also hands out small cards with the hotline number, along with immigrants' rights printed in both English and Spanish, to undocumented workers.

ICE raids and visa caps make it impossible to fill the Cape's labor demands, legally or illegally. But Northcross isn't worried about Cape businesses turning to illegal workers.

"We are pretty used to having enforcement agents around," says Northcross. "The irony is, these employers are going through these extreme measures. They're paying for transportation for people, doing so much paperwork, and they're doing all the right things. I hate to think that it's just going to encourage illegal behavior."

For all workers in the US, this Thursday, May 1, is a day of organization and protest. The Boston May Day Coalition, an immigrant rights organization, is planning a rally for 4pm on Boston Common.

For now, the H-2B extension bill lingers on the House floor, likely doomed, as Cape Cod employers scramble to fill positions.

"We don't want people to think they can't come to the Cape and enjoy their beaches and sunshine," says Stone. "We're still going to be serving margaritas and piña colodas out on the deck."

But the question remains, who will serve them?