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Businesses Face Cut in Immigrant Work Force



Ryan Conati for The New York Times

William Zammer Jr., owner of restaurants on Cape Cod, will be forced to open for summer tourists a little later than usual.

By [KATIE ZEZIMA](#)

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HYANNIS, Mass. — For years, William Zammer Jr. has relied on 100 seasonal foreign employees to turn down beds, boil lobsters and serve cocktails at the restaurants, golf course and inn he owns on Cape Cod and in nearby Plymouth.

This summer, however, the foreign workers will not be returning, and Mr. Zammer, like other seasonal employers across the nation, is scrambling to find replacements.

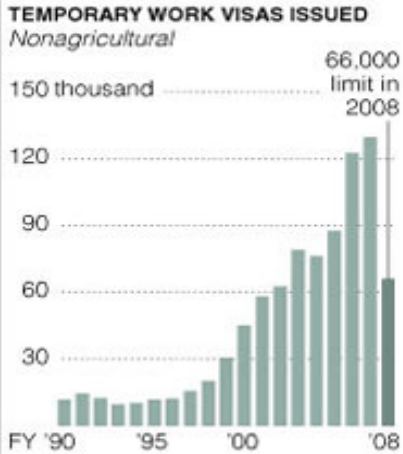
“It’s a major crisis,” he said. “We’re very short on work force. We’ll be looking at opening a little later, closing a little earlier, looking at how we do our menus.”

Mr. Zammer is caught up in a Congressional standoff over [immigration](#) overhaul that is punishing employers who play by the rules and that, advocates of change say, could cost small companies billions in lost business.

In an effort to win support for a comprehensive immigration overhaul, the Congressional Hispanic Caucus and its allies have blocked voting on legislation that would allow employers to rehire foreign seasonal nonagricultural workers independent of a 1991 quota.

Limiting Foreign Workers

The number of temporary visas issued to nonagricultural foreign workers will be limited to 66,000 in the 2008 fiscal year, about half the number issued last year.



WHERE THE WORKERS WERE FROM Countries with more than 1,000 workers in fiscal year 2007

Mexico	85,206
Jamaica	14,682
Guatemala	4,546
Philippines	2,652
Romania	2,640
South Africa	1,902
Britain	1,549
Australia	1,209
Costa Rica	1,179
Dominican Republic	1,146
Bulgaria	1,136

Sources: U.S. Department of State;
Department of Homeland Security

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As a result, the government is limited to issuing the 66,000 seasonal work visas set when the visa program, known as H-2B, became law — 33,000 for winter workers and 33,000 for summer workers. Last year, more than 120,000 foreign workers entered the country on H-2B visas.

For Cape Cod, the impact has been devastating. Employers will receive only 15 of the 5,000 visas they had requested, according to the Cape Cod Chamber of Commerce.

“It’s just ruthless for the Hispanic caucus to do this, use it as a bargaining chip,” said Mr. Zammer, whose foreign workers — mostly from Jamaica and Eastern Europe — normally make up 25 percent of his staff. “We’re working at finding new people. We have to. But it’s extremely difficult, because you end up stealing from other people who are also trying to get help.”

Returning workers became exempt from the cap in 2005, when Congress passed the Save our Small and Seasonal Businesses Act, and President Bush signed it into law. The act expired in 2007, and Congress passed a one-year extension that was attached to the National Defense Authorization Act. The extension expired on Sept. 30, 2007, the end of the 2007 fiscal year.

Employers say that unless Congress acts soon, they will have to scale back operations, because the labor pool in many resort areas is not deep enough to provide new workers, and many people do not want seasonal jobs.

Patti Ann Moskwa, owner of the Yankee Rebel Tavern on Mackinac Island, Mich., plans to cut back dinner hours because she will be understaffed this summer. She said the 15 foreign workers who cooked and cleared tables at her restaurant were more than employees.

“They’re like our family,” Ms. Moskwa said. “You don’t want to be the person to call these people and tell them the government won’t let them back. It’s a sad situation for us and the workers.”

Republicans in Congress have resisted immigration overhaul, insisting that the focus be first on enforcing current laws. The Hispanic Caucus contends that a broad overhaul is needed and that legislation exempting returning foreign workers from the cap on visas should be part of it.

“I recognize that H-2B visa fixes are an important part of the immigration crisis,” said Representative Joe Baca, Democrat of California and chairman of the Hispanic Caucus. “But that should be just another check mark in the column as to why this Congress must take real action on immigration reform.”

A bipartisan coalition of 182 members of Congress has co-sponsored measures sponsored by Representative Bart Stupak, Democrat of Michigan, and Senator [Barbara A. Mikulski](#), Democrat of Maryland, that would allow returning workers back.

“The H-2B visa program is being held hostage,” said Representative Bill Delahunt, a Democrat who represents Cape Cod. “We’re talking about a [stimulus package](#), and yet we’re putting at risk regional economies from the East Coast to the West Coast and many sections of the country in between.”

Representative Charles Boustany Jr., Republican of Louisiana, has introduced a measure that calls for immediate consideration of Mr. Stupak’s bill. Congressional aides involved in the negotiations over the measure said Democratic leaders were discussing a compromise measure with the Hispanic Caucus and others.

Some advocates for business owners argue that employers who go to the trouble of hiring legal employees are being unfairly punished.

“It’s kind of sad that those who have followed the law, paid an inordinate amount of money to follow the law by paying attorneys’ fees, prevailing wage and following the rules, are those who are getting hurt,” said Don Mooers, an immigration lawyer working with Save Small Businesses, a group of small business owners lobbying for the cap to be lifted.

“I get that question every day, ‘Why are we following the law when the guy down the street isn’t, and I’m the one who may face going out of business,’ ” Mr. Mooers said

Here on Cape Cod, the need for imported seasonal labor is especially acute, as 25 percent of residents are over 65 and high real estate prices have driven many blue-collar workers elsewhere.

“We have a very old population, twice the national average of people on [Medicare](#) and we’re losing population to other parts of the country because of our affordable housing problem,” said Wendy Northcross, chief executive of the Cape Cod Chamber of Commerce. “We’re losing the population that could potentially take some of our seasonal jobs.”

D. J. Vander Silk, owner of D. J.'s Lawn Service in Grand Rapids, Mich., said he had planned to hire 30 workers from Mexico on temporary seasonal visas, but will not get any. "I feel like we're right on the edge," he said. "There's a robber outside the house and we're about to get hit in the head."

Now Mr. Vander Silk and his 20 remaining employees are not accepting new clients and are trying to recruit workers from Florida and the local community. The homes he bought a few years ago to shelter the temporary workers will remain empty for the near future.

"We're in uncharted waters," he said.

Sandy Munley, executive director of the Ohio Landscape Association, said the industry employed about 3,000 H-2B workers in Ohio last year, and did not know how many would return. Many contractors are giving away jobs to businesses with adequate staffing, Ms. Munley said.

"This industry tends to be very supportive of each other," she said, "but I don't think anything's ever come to this degree, where people are giving away work. Typically, contractors tend to get it done, but they all definitely say this is historic in a sad way."

Jim Royal, who operates Kelly Miller Circuses, said he could not find employees to assemble big tops for his traveling circus. He usually relies on 25 H-2B workers from Mexico.

"It's affecting virtually every circus in America," Mr. Royal said. "We're still on hold. We've applied and haven't gotten anything. We're trying desperately to recruit, but the artists will probably have to help out."