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## Visa changes hurt seasonal firms

Many foreign workers who've had same Mich. job for years can't return.

Jennifer Youssef / The Detroit News

Seasonal [businesses](#) in Michigan that count on foreign workers to keep their operations running are bracing for a shortage of laborers this year because of a change in federal visa rules.

Businesses that in the past had rehired foreign seasonal employees from the year before -- in positions ranging from ski instructors and resort kitchen help to landscapers and roofers - are not getting them back this year. And few of those businesses are getting new workers to take their place.

"It's going to hurt all of us, especially smaller businesses. It's a terrible thing," said Dan Musser, president of Mackinac Island's Grand Hotel, which for decades has employed more than 300 workers with temporary H-2B visas as part of its 600-employee summer crew of housekeepers, groundskeepers and kitchen help. None of the H-2B employees were allowed to return this summer, even those who have been working at the hotel for more than 20 years.

The Grand Hotel is one of hundreds of Michigan businesses and thousands across the country caught off guard by the situation -- the result of the unexpected failure of Congress to renew a provision of the H-2B visa law that expired Sept. 30.

H-2B visas are granted to foreign workers who come to the United States temporarily to work in nonagricultural jobs considered seasonal or intermittent. The provision that wasn't renewed allowed workers who have returned for the past three years to be exempt from the law's annual nationwide cap of 66,000 H-2B visa-holders -- 33,000 for the winter season, 33,000 for the summer season.

Nationally, the exemption resulted in 38,000 more H-2B workers last year than the cap would allow, and hundreds of them came to Michigan for a few months each year. Tim O'Leary, a Washington, D.C.-based immigration attorney, typically



Orville Williams of Jamaica has worked at Yankee Rebel Tavern on Mackinac Island for nine years. Many workers won't be back this year. (Yankee Rebel Tavern)

helps more than 50 Michigan businesses bring in about 1,000 foreign workers each year. This year, only four of his clients won permission to hire H-2B workers in a random drawing by the Department of Homeland [Security](#).

"They're in an impossible situation," O'Leary said. "These businesses can't operate without these workers."

Great Lakes Labor also has seen a huge drop in business this year, president Tracy Drus said. The agent for businesses that need seasonal workers used to bring 1,000 people a year to the United States, many of them to Michigan. This year that's down to 100.

To get approval for H-2B visas, companies must show they advertised the jobs and verify they couldn't find American workers to fill them. They also must attest that the H-2B workers will be paid at least the prevailing wage for the job.

Despite Michigan's high unemployment rate, state residents are not applying for jobs that require 50 hours or more each week, involve heavy physical labor and pay minimum wage, Drus said. The companies she helps don't get much response from the newspaper advertisements they're required to place.

"(American) workers don't want to do this kind of work," she said.

### **Livelihood at stake**

The [extension](#) of the returning worker exemption -- a law that Rep. Bart Stupak, D-Menominee, helped pass three years ago -- was killed in the fall by the U.S. House of Representatives' Hispanic caucus, which insisted on comprehensive immigration reform rather than piecemeal legislation.

Stupak said he is "trying to keep the topic alive" in the House. Many businesses in Stupak's district -- the U.P. and the northern tip of the Lower Peninsula -- as well as other parts of Michigan and other states depend on H-2B workers.

"It's probably their livelihood" at stake, he said. "Whether you're in Nantucket or in Omaha, you're going to be affected."

If not being able to hire returning workers wasn't bad enough, most Michigan businesses also were shut out of getting any of the 66,000 new H-2B workers allowed under the law's annual cap.

That's because the cap was reached Jan. 2, long before Michigan's summer resorts and landscapers could even apply for the visas they needed. Businesses can't apply until 120 days before they need workers to start. Establishments in other states where the summer season starts later also were shut out.

Since Oct. 1, Michigan businesses have filed 210 applications for some 5,000 foreign workers, said Alesia Brown, manager of foreign labor certification at the U.S. Department of Labor, which is the first step in the long process to get the visas.

## **U.S. workers not interested**

At the Grand Hotel, finding American workers willing to move to the island for six months then return home at the end of the season has always been difficult, Musser said, which is why the temporary foreign helpers -- from the Philippines, Jamaica, Brazil and Austria -- are an integral part of the resort's work force. To make do this year, the 121-year-old Grand Hotel plans to borrow some H-2B workers from other hotels. It can do that by filling out paperwork to extend the stay of H-2B workers already in the country.

Boyne Mountain ski resort couldn't rehire the foreign ski instructors they counted on each winter, said Gretchen Crum, director of human resources.

The Yankee Rebel Tavern and Horn's Bar on Mackinac Island can't hire back its H-2B workers -- about 15 visa holders -- either. Proprietor Patti Ann Moskwa said it broke her heart to tell the workers, some of 10 years' standing, they could not return this summer.

"How do you tell someone, 'You did a good job and we love you but the " she said. government won't let us bring you back?'

Moskwa said she pays foreign and domestic workers the same rate, but notes hiring the foreign workers requires additional expense. Last year, the couple spent \$19,000 just to get the H-2B workers to the island, she said. That included the cost of transportation, housing, attorney's fees and other expenses.

"My God," Moskwa said, "if I could find American workers, I wouldn't have to go through this and I'd have \$19,000 more."

## **H-2B unfair to students?**

Critics of the H-2B program don't have much sympathy. They argue that it takes jobs away from Americans, and allows businesses to pay inferior wages.

"It's quite unfair to high school and college students getting out of school trying to find a job," said Elise Marciano, president of U.S. Citizens for Immigration Law Enforcement in West Redding, Conn. "Since when do we need to provide work for the world?"

Steve Kropper, co-chairman of Massachusetts Citizens for Immigration Reform, says it's not fair to let foreign workers compete with Americans for jobs. "We have no shortage of low-skilled, low-wage people in our country and they certainly should have the first opportunity," he said. "They should not have to compete with low-skilled, low-wage people from other countries."

H-2B supporters counter that the jobs are required to pay prevailing wage, yet still get limited interest from American workers, including students.

## **Season hard for companies**

Grand Rapids landscaper D.J. Vander Slick is prepared for a tough season this year since he learned he couldn't rehire the 30 H-2B workers who have worked at D.J.'s Lawn Service Inc. for the past four years. He needs the extra workers to help the 20 full-time, year-round employees.

"We're already past the crying about it," he said. "We're going to get out there and bust our butts."

The company will continue to advertise job openings and pay a higher wage to entice potential employees, but that is not a long-term solution, he said. If the workers don't have the right attitude and quit after a few days because the work is too hard -- as one employee did recently -- it doesn't matter how much he pays them.

"We don't have American workers who want to work 50 hours a week in the heat for \$7 or \$8 an hour," Vander Slick said.

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