

## Stringent visas hit seasonal businesses

By Kara Rowland  
December 5, 2007

Each spring, High Sierra Pools has trouble finding local workers to clean and staff the 300 pools it manages in the Washington area. High school students finish too late in the summer, and college students start too early. Adults want full-time jobs, not six-month commitments.

So owner Steve Lavery has widened his search — to South America and Eastern Europe.

"They have to swim and speak English well," Mr. Lavery said of his foreign recruits. About 150 of his 700 seasonal employees come from as far away as Chile, Peru, the Czech Republic, Poland and Bulgaria. He brings them over each year on H-2B visas, which authorize foreign workers to perform temporary, nonagricultural jobs.

But this year, Mr. Lavery said his Arlington company will suffer major losses because there are not enough H-2B visas to go around and Congress hasn't approved a past exemption that would allow returning workers to come back without counting toward the program's annual 66,000-person cap.

"To tell you the truth, I shudder to think what will happen," said Mr. Lavery, who relies on H-2B workers for lifeguarding duties in addition to pool maintenance.

A group of seasonal businesses comprising seafood companies, hotels, ski resorts and landscaping firms is lobbying Congress to extend the H-2B visa exemption, which expired Sept. 30. The coalition, calling itself Save Small Business, is holding an "emergency fly-in" today to meet with lawmakers and their staffs.

The group's efforts are being blocked by opponents who say allowing Congress to address specific immigration problems would lessen the chances for comprehensive immigration reform.

Sen. Barbara A. Mikulski, Maryland Democrat, last month attached an H-2B exemption to a Senate appropriations bill now in conference being reconciled with the House version.

An aide to the Congressional Hispanic Caucus, which opposes the measure, said the provision was stripped from the conference report.

"The caucus members don't want to see any immigration bills move through in a piecemeal fashion," the aide said.

"There are all these different needs that all affect immigration, so it should all be part of a package that addresses not just one of these things."

A spokeswoman for Ms. Mikulski, an outspoken proponent of the H-2B program, said the senator would "look at other vehicles" if her exemption is defeated.

"This is one of her key legislative priorities that affects almost all our crabbers on the Eastern Shore," Melissa Schwartz said.

Businesses are not allowed to apply for the visas more than 120 days before they are needed. Because the calendar year for visa applications runs from Oct. 1 to Sept. 30, H-2B workers in the seafood industry — whose season begins in the winter — are "disproportionately affected," Ms. Schwartz said.

One of Ms. Mikulski's constituents, Jack Brooks, brought the issue up at last week's CNN-sponsored Republican presidential debate in a question via YouTube.

"Hammered by competition with imports, our family-owned business struggles each year to find seasonal workers," said Mr. Brooks, co-owner of the J.M. Clayton Co., a Cambridge, Md., seafood processor. "We've been working with a seasonal guest-worker program, the H-2B program, bringing in and sending home workers every year. But with Congress failing to enact a comprehensive immigration and guest-worker bill, I want to know whether I'll have a job next year. What are you doing to keep these guest workers coming to the U.S. to save our business?"

The question was put by debate moderator Anderson Cooper to Rep. Tom Tancredo, Colorado Republican, who appeared to misunderstand Mr. Brooks' point.

"The gist of the question, as I understand it, is what I'm going to do to stop guest workers from coming in here. ... Well, I'll tell you, I'm not going to aid any more immigration into this country," Mr. Tancredo said to applause from the audience.

H-2B visas do not put workers on a path to citizenship, according to Washington immigration lawyer Glen D. Wasserstein.

"Of course there are overstays, just like any other visa," Mr. Wasserstein said, noting that participating employers are required to certify that workers will return to their native countries.

"But you cannot apply for permanent residence" based on an H-2B visa.

The government does not gather information on people who have overstayed H-2B visas, which are administered by the federal office of Citizenship and Immigration Services, a branch of the Department of Homeland Security.

However, a DHS official said overstays are less common on H-2B visas than other, longer-term visas.

"When you look at the temporary work programs, I think you would see a lot less of a preponderance of folks to overstay H-2Bs, because here's someone who's gone through the [application] process to do it right," said the official, who asked to remain anonymous.

Mr. Brooks' brother, Joe, said their company counts on the help of about 110 workers from Mexico each year. If those workers aren't allowed to come over, U.S. jobs will be at risk, he said.

"If I can't be a viable enough business with just the Americans, I'd have to shut down, just totally, and I'd be out of a job and the crabbers that work for me," said Joe Brooks.

"It's not just me; the fish and supply store, the fuel people" would be harmed.

Mr. Brooks said the company, started by his great-grandfather in 1890, has "tried everything" to recruit local workers.

"We'd prefer to have American workers," he said. The H-2B program "takes a lot more time and paperwork."

Companies that hire H-2B workers must deal with four government agencies, starting with their state work force agency, which then forwards the application to a regional office.

Employers then submit requests to the office of Citizenship and Immigration Services and finally must deal with the State Department to obtain visas.

"It's absolutely absurd. It can really strip the profit out of a seasonal employer," Mr. Wasserstein said, citing application fees and legal costs, as well as the money that participating employers must spend to advertise their openings.

"They make it nearly impossible to follow the law," Mr. Wasserstein said. "That's why people hire illegals."