

REFERENCE TITLE: Arizona temporary worker program; provisions

State of Arizona
Senate
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Second Regular Session
2008

SB 1482

Introduced by

Senators Arzberger, Aguirre; Representatives Alvarez, Burns J, Garcia M, Pancrazi, Ulmer; Senators Garcia, Rios; Representatives Ableser, Bradley, Brown, Campbell CH, Lopes, Lopez, Lujan, McGuire, Meza, Rios P, Sinema

AN ACT

AMENDING TITLE 23, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10; RELATING TO THE ARIZONA TEMPORARY WORKER PROGRAM; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, Arizona Revised Statutes, is amended by adding
3 chapter 10, to read:

4 CHAPTER 10

5 ARIZONA TEMPORARY WORKER PROGRAM

6 ARTICLE 1. GENERAL PROVISIONS

7 23-1601. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "COMMISSION" MEANS THE INDUSTRIAL COMMISSION OF ARIZONA.

10 2. "DIRECTOR" MEANS THE DIRECTOR OF THE COMMISSION.

11 3. "EMPLOYER" MEANS AN EMPLOYER IN A BUSINESS INDUSTRY IN THIS STATE
12 THAT IS EXPERIENCING A LABOR SHORTAGE, INCLUDING AGRICULTURE AND MEAT
13 PRODUCING INDUSTRIES, HOTEL AND HOSPITALITY INDUSTRIES, CONTRACTORS,
14 HOMEBUILDERS, SUBCONTRACTORS FOR ROOFING AND LANDSCAPING, HOSPITALS AND
15 NURSING HOMES.

16 4. "FOREIGN WORKER" MEANS A SKILLED WORKER FROM THE REPUBLIC OF MEXICO
17 WHO IS ELIGIBLE UNDER THIS ARTICLE TO PROVIDE LABOR TO AN ELIGIBLE BUSINESS
18 INDUSTRY IN THIS STATE.

19 23-1602. Arizona temporary worker program; program termination

20 A. THE ARIZONA TEMPORARY WORKER PROGRAM IS ESTABLISHED TO PROVIDE
21 FOREIGN WORKERS TO EMPLOYERS IN THIS STATE THAT ARE EXPERIENCING A LABOR
22 SHORTAGE.

23 B. TO PARTICIPATE IN THE ARIZONA TEMPORARY WORKER PROGRAM, AN EMPLOYER
24 SHALL FILE AN APPLICATION WITH THE COMMISSION. THE DIRECTOR MAY REQUIRE THE
25 EMPLOYER TO PAY AN APPLICATION FEE. THE APPLICATION, ON A FORM PRESCRIBED BY
26 THE COMMISSION, SHALL INCLUDE:

27 1. THE NAME, ADDRESS AND FEDERAL INCOME TAX IDENTIFICATION NUMBER OF
28 THE EMPLOYER.

29 2. THE EMPLOYER'S BUSINESS INDUSTRY.

30 3. A DESCRIPTION OF THE LABOR SHORTAGE EXPERIENCED BY THE EMPLOYER AND
31 AN EXPLANATION OF THE EMPLOYER'S EFFORTS TO FIND LOCAL WORKERS WITH THE
32 NECESSARY SKILLS TO PROVIDE LABOR TO THE EMPLOYER.

33 4. ANY ADDITIONAL INFORMATION THAT THE COMMISSION REQUIRES.

34 C. WITHIN THIRTY DAYS AFTER RECEIVING THE APPLICATION, THE COMMISSION
35 SHALL REVIEW AND MAKE A DETERMINATION WITH RESPECT TO THE EMPLOYER'S
36 PARTICIPATION IN THE ARIZONA TEMPORARY WORKER PROGRAM. IF APPROVED BY THE
37 COMMISSION, THE APPROVED EMPLOYER MAY RECRUIT FOREIGN WORKERS AT A UNITED
38 STATES CONSULATE IN THE REPUBLIC OF MEXICO TO PROVIDE LABOR FOR THE EMPLOYER
39 UNDER THE ARIZONA TEMPORARY WORKER PROGRAM.

40 D. AN APPROVED EMPLOYER THAT RECRUITS A FOREIGN WORKER SHALL OBTAIN AN
41 APPLICATION FROM THE FOREIGN WORKER THAT INCLUDES THE NAME, PHOTOGRAPH,
42 FINGERPRINTS AND ANY OTHER NECESSARY BACKGROUND INFORMATION REQUIRED BY THE
43 COMMISSION. THE APPLICATION FOR THE FOREIGN WORKER, INCLUDING THE PHOTOGRAPH
44 AND FINGERPRINTS OF THE FOREIGN WORKER, SHALL BE COMPLETED AT THE UNITED
45 STATES CONSULATE. THE EMPLOYER SHALL SUBMIT THE COMPLETED APPLICATION TO THE

1 COMMISSION. THE COMMISSION SHALL COORDINATE WITH THE DEPARTMENT OF PUBLIC
2 SAFETY TO CONDUCT A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO
3 SECTION 41-1750 AND PUBLIC LAW 92-544 AND DETERMINE WHETHER THE FOREIGN
4 WORKER IS ELIGIBLE TO PARTICIPATE IN THE ARIZONA TEMPORARY WORKER PROGRAM.
5 THE COMMISSION MAY CHARGE THE APPROVED EMPLOYER A FEE FOR EACH CRIMINAL
6 RECORDS CHECK. THE EMPLOYER SHALL ALSO OBTAIN A CRIMINAL RECORDS CHECK OF
7 THE FOREIGN WORKER FROM AN APPROPRIATE LAW ENFORCEMENT AGENCY IN THE REPUBLIC
8 OF MEXICO AND SUBMIT THE RESULTS TO THE COMMISSION. A FOREIGN WORKER WHO HAS
9 BEEN CONVICTED OF A CRIME IN THE UNITED STATES IS NOT ELIGIBLE TO PARTICIPATE
10 IN THE ARIZONA TEMPORARY WORKER PROGRAM. A FOREIGN WORKER WHO HAS BEEN
11 CONVICTED OF A CRIME IN THE REPUBLIC OF MEXICO IS NOT ELIGIBLE TO PARTICIPATE
12 IN THE ARIZONA TEMPORARY WORKER PROGRAM IF THE CRIME WOULD HAVE BEEN A FELONY
13 IN THIS STATE.

14 E. THE DEPARTMENT OF TRANSPORTATION SHALL PREPARE TEMPORARY WORKER
15 LEGAL IDENTIFICATION CARDS AND PROVIDE THE CARDS TO THE COMMISSION. ARIZONA
16 TEMPORARY WORKER LEGAL IDENTIFICATION CARDS SHALL BE NONFORGEABLE AND SHALL
17 MEET THE REQUIREMENTS PRESCRIBED BY FEDERAL LAW. THE DIRECTOR OF THE
18 COMMISSION MAY REQUIRE THE EMPLOYER TO PAY A FEE FOR THE PURPOSES OF ISSUING
19 A TEMPORARY WORKER LEGAL IDENTIFICATION CARD. ANY FEE THAT IS COLLECTED
20 UNDER THIS SUBSECTION SHALL BE USED FOR THE ADMINISTRATIVE COSTS INCURRED BY
21 THE DEPARTMENT OF TRANSPORTATION TO PREPARE TEMPORARY WORKER LEGAL
22 IDENTIFICATION CARDS.

23 F. IF THE COMMISSION APPROVES A FOREIGN WORKER TO PARTICIPATE IN THE
24 ARIZONA TEMPORARY WORKER PROGRAM, THE COMMISSION SHALL ISSUE AN ARIZONA
25 TEMPORARY WORKER LEGAL IDENTIFICATION CARD FOR THE APPROVED FOREIGN WORKER
26 AND NOTIFY THE DEPARTMENT OF PUBLIC SAFETY. THE DEPARTMENT OF PUBLIC SAFETY
27 SHALL MAINTAIN A DATABASE OF APPROVED FOREIGN WORKERS. THE IDENTIFICATION
28 CARD SHALL BE ISSUED TO THE APPROVED EMPLOYER THAT RECRUITED THE FOREIGN
29 WORKER. THE APPROVED EMPLOYER IS RESPONSIBLE FOR DELIVERING THE
30 IDENTIFICATION CARD TO THE APPROVED FOREIGN WORKER AT THE UNITED STATES
31 CONSULATE IN THE REPUBLIC OF MEXICO.

32 G. AS PRESCRIBED BY FEDERAL LAW, AN APPROVED FOREIGN WORKER WHO HAS
33 RECEIVED AN ARIZONA TEMPORARY WORKER LEGAL IDENTIFICATION CARD MAY ENTER THE
34 UNITED STATES AND RETURN TO THE REPUBLIC OF MEXICO THROUGH A PORT OF ENTRY ON
35 THE ARIZONA BORDER. AN APPROVED FOREIGN WORKER WHO HAS AN ARIZONA TEMPORARY
36 WORKER LEGAL IDENTIFICATION CARD MAY WORK ONLY IN THIS STATE AND MAY NOT
37 TRAVEL OUTSIDE THIS STATE.

38 H. THE COMMISSION SHALL REVOKE THE ARIZONA TEMPORARY WORKER LEGAL
39 IDENTIFICATION CARD OF ANY APPROVED FOREIGN WORKER WHO IS EITHER:

- 40 1. REPORTED ABSENT FROM WORK BY AN APPROVED EMPLOYER FOR FOURTEEN
41 CONSECUTIVE DAYS.
- 42 2. UNABLE TO BE LOCATED BY AN APPROVED EMPLOYER.
- 43 3. DETERMINED TO HAVE TRAVELED OUTSIDE THIS STATE.
- 44 4. CONVICTED OF A CRIME IN THIS STATE.

1 I. IF THE COMMISSION REVOKES AN ARIZONA TEMPORARY WORKER LEGAL
2 IDENTIFICATION CARD OF A FOREIGN WORKER, THE COMMISSION SHALL NOTIFY THE
3 DEPARTMENT OF PUBLIC SAFETY AND THE UNITED STATES IMMIGRATION AND CUSTOMS
4 ENFORCEMENT THAT THE FOREIGN WORKER IS NO LONGER AUTHORIZED TO BE IN THE
5 UNITED STATES. THE NOTICE SHALL INCLUDE THE LAST KNOWN ADDRESS OF THE
6 FOREIGN WORKER. ON RECEIPT OF A NOTICE UNDER THIS SUBSECTION, THE DEPARTMENT
7 OF PUBLIC SAFETY SHALL REVOKE THE APPROVED STATUS OF THE FOREIGN WORKER IN
8 THE DEPARTMENT'S DATABASE.

9 J. UNLESS REVOKED, AN ARIZONA TEMPORARY WORKER LEGAL IDENTIFICATION
10 CARD ISSUED UNDER THIS SECTION IS VALID FOR TWO YEARS. THE CARD MAY BE
11 RENEWED ON APPLICATION OF THE APPROVED EMPLOYER AND ON APPROVAL BY THE
12 COMMISSION. THE DIRECTOR MAY REQUIRE THE EMPLOYER TO PAY A RENEWAL FEE.

13 K. ANY APPLICATION OR RENEWAL FEES OR FEES FOR CRIMINAL RECORDS CHECKS
14 THAT THE COMMISSION COLLECTS UNDER THIS SECTION SHALL BE USED PROPORTIONATELY
15 FOR THE ADMINISTRATIVE COSTS INCURRED BY THE COMMISSION AND THE DEPARTMENT OF
16 PUBLIC SAFETY FOR THE PURPOSES OF THIS SECTION.

17 L. IF AN APPROVED EMPLOYER OFFERS VACATION TIME TO AN APPROVED FOREIGN
18 WORKER, THE EMPLOYER SHALL OBTAIN THE ADDRESS WHERE THE FOREIGN WORKER CAN BE
19 LOCATED DURING THE TIME OF VACATION. AN EMPLOYER THAT FAILS TO MAINTAIN
20 RECORDS UNDER THIS SUBSECTION IS INELIGIBLE TO PARTICIPATE IN THE ARIZONA
21 TEMPORARY WORKER PROGRAM.

22 M. AN APPROVED EMPLOYER SHALL COMPLY WITH ALL LABOR LAWS PRESCRIBED BY
23 THE FEDERAL GOVERNMENT AND THIS STATE.

24 N. THE COMMISSION SHALL ADOPT RULES NECESSARY FOR THE ADMINISTRATION
25 OF THIS SECTION.

26 O. PURSUANT TO SECTION 41-3102, THE PROGRAM ESTABLISHED BY THIS
27 SECTION ENDS TEN YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

28 Sec. 2. Conditional enactment; notice

29 A. This act is not effective unless the federal government enacts
30 legislation that authorizes this state to implement a temporary worker
31 program or other similar program.

32 B. The attorney general shall notify in writing the director of the
33 legislative council of the date on which this condition occurs.