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(Original Signature of Member)

111TH CONGRESS  
1ST SESSION

**H. R.**

To apply in fiscal year 2009 the exemption of returning workers from the numerical limitations for seasonal nonimmigrant workers in order to provide short-term immediate relief to small and seasonal businesses.

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IN THE HOUSE OF REPRESENTATIVES

Mr. KRATOVIL (for himself, Mr. CONAWAY, Mr. STUPAK, Mr. WITTMAN, Mr. DELAHUNT, and Mr. GARRETT of New Jersey) introduced the following bill; which was referred to the Committee on

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**A BILL**

To apply in fiscal year 2009 the exemption of returning workers from the numerical limitations for seasonal non-immigrant workers in order to provide short-term immediate relief to small and seasonal businesses.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Job and Sea-  
5 sonal Business Preservation Act”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds as follows:

3 (1) The H-2B visa program provides for the  
4 temporary admission of nonimmigrant aliens to the  
5 United States to perform temporary non-agricultural  
6 work.

7 (2) Under current law, the Department of  
8 Labor must certify, upon application by a United  
9 States employer intending to petition for the admis-  
10 sion of nonimmigrant H-2B workers, that there are  
11 not enough able and qualified United States workers  
12 available for the position sought to be filled and that  
13 the employment of the foreign workers will not ad-  
14 versely affect the wages and working conditions of  
15 similarly employed United States workers.

16 (3) Under current law, a nonimmigrant H-2B  
17 worker is required to have a residence in a foreign  
18 country which the worker has no intention of aban-  
19 doning. The worker must be coming to the United  
20 States to perform only temporary service or labor for  
21 a limited period of time.

22 (4) The H-2B visa program is currently limited  
23 to 66,000 nonimmigrant visas per fiscal year. This  
24 number is insufficient to meet the current labor de-  
25 mands of small and seasonal businesses, especially

1 summer seasonal employers with needs in the second  
2 half of the fiscal year.

3 (5) In 2005 and 2006, the Congress passed leg-  
4 islation exempting nonimmigrant workers who  
5 counted against the H-2B visa cap in any one of the  
6 3 previous fiscal years from being counted again  
7 against the cap. This provision expired in 2007 and  
8 small and seasonal businesses across the country are  
9 now facing a labor shortage, due to the temporary  
10 nature of these jobs, and the unavailability of United  
11 States workers who are willing or able to consider  
12 these temporary seasonal positions.

13 (6) Our economy is in recession and last month  
14 alone the Nation lost an estimated 651,000 jobs, ac-  
15 cording to the Bureau of Labor Statistics. Thou-  
16 sands of full-time American jobs depend on tem-  
17 porary seasonal positions.

18 (7) According to a recent University of Mary-  
19 land report, for each H-2B nonimmigrant worker in  
20 the crab industry who is denied entry due to the nu-  
21 merical limitation on the visa category, an estimated  
22 2.5 American jobs are lost.

23 (8) The Congress must take every step to pre-  
24 serve American jobs, and without immediate relief  
25 many small and seasonal businesses could be forced

1 out of business, thereby costing additional American  
2 jobs.

3 (9) There is broad consensus that the H-2B  
4 visa program should be comprehensively reformed.  
5 Until this occurs, however, an extension of the re-  
6 turning worker exemptions enacted in 2005 and  
7 2006 is an appropriate interim solution.

8 (b) PURPOSE.—The purpose of this Act is to provide  
9 small and seasonal businesses the labor force they need  
10 to survive until broader H-2B program reform can occur.

11 **SEC. 3. APPLICATION IN FISCAL YEAR 2009 OF RETURNING**  
12 **WORKER EXEMPTION TO H-2B NUMERICAL**  
13 **LIMITATION.**

14 Section 214(g)(9)(A) of the Immigration and Nation-  
15 ality Act (8 U.S.C. 1184(g)(9)(A)) is amended—

16 (1) by striking “2004, 2005, or 2006” and in-  
17 serting “2006, 2007, or 2008”; and

18 (2) by striking “2007” and inserting “2009”.