

Comprehensive Immigration Reform

The Issue: Our current immigration system is broken and needs to be reformed. Immigration laws that are out of sync with 21st century economic realities and demographics have given rise to a vast underground economy characterized by criminal smugglers, fake documents, and millions of undocumented immigrants who are vulnerable to exploitation. Our borders are unmanageable, and we are unable to focus our enforcement resources on those who mean us harm. Moreover, our immigration system is plagued by backlogs and delays; as a result, some close family members are separated for more than 20 years.

AILA's Position: Since many of the problems with our current immigration system are interrelated, AILA believes that any workable immigration reform proposal must be comprehensive. Specifically, it must simultaneously create legal avenues for people to enter the U.S.; allow people already here to earn the opportunity to adjust their status; address the multi-year backlogs in family and employment-based immigration; and create and implement a smart border security and enforcement regime. Thus, any workable proposal to reform our immigration system must:

1. Establish a "Break-the-Mold" Worker Program: Current immigration laws do not meet the needs of our economy or workers. In the current regime, there is *no* visa category authorizing low- or semi-skilled workers to work in the U.S., except on a seasonal basis. That seasonal, employment-based visa—the H-2B program—is wholly inadequate to meet labor needs in a broad range of industries, from landscaping to hospitality to health care. A "break-the-mold" program would provide visas, full labor rights, job portability, and a path to permanent residence over time for those who would not displace U.S. workers. It also would significantly diminish illegal immigration by creating a legal avenue for people to enter the U.S. and return, as many wish, to their countries, communities, and families.
2. Address the Situation of People Living and Working Here: Most undocumented workers are law-abiding, hardworking individuals who pay their taxes and contribute to our society. They are essential to many sectors of our economy. By allowing these people an opportunity to come out of the shadows, register with the government, pay a hefty fine, go through security checks, and earn the privilege of permanent legal status, we can restore the rule of law in our workplaces and communities.
3. Reform the Family-Based and Employment-Based Permanent-Residency Preference Systems: U.S. citizens and legal permanent residents sometimes must wait up to 20 years to reunite with their close family members. Such long separations make no sense in our pro-family nation and undermine one of the central goals of our immigration system: family unity. Relatedly, backlogs for employment-based immigrant visas have expanded dramatically for workers with certain skill sets from certain countries. These backlogs make it difficult for employers to attract and retain the best and brightest talent from around the world, thus undermining our competitiveness in this global economy. Any workable comprehensive immigration reform proposal must eliminate our family-based and employment-based immigrant visa backlogs and reform our preference systems to catch up to 21st century realities.
4. Restore the Rule of Law and Enhance Security: By encouraging those who are already here to come out of the shadows, and by creating legal channels to provide for the future flow of workers, we can restore the rule of law in our workplaces and communities and focus our enforcement resources on those who mean us harm. We need smart enforcement that includes effective inspections and screening practices, fair proceedings, efficient processing, and strategies

that crack down on criminal smugglers and lawbreaking employers. At the same time, our border security practices must facilitate the cross-border flow of goods and people that is essential to our economy. A vibrant economy is essential to fund our security needs.

Current Legislation: Both the House and Senate passed significant immigration bills in the 109th Congress, but only the Senate bill embraces a realistic, comprehensive approach to solving the problems that plague our system. The House bill (H.R. 4437), sponsored by Representatives King (R-NY) and Sensenbrenner (R-WI), focuses solely on ratcheting up interior and border enforcement capacities, increasing penalties for violations of the immigration law, and limiting the legal rights of noncitizens in this country. Leading H.R. 4437's parade of horrors are provisions that would: criminalize unlawful presence; strip the courts of much of their remaining jurisdiction over immigration matters; gut the due process rights of aliens and permanent residents; expand expedited removal; broaden the definition of alien smuggling to include churches, employers, family members, and immigrant advocates; expand the definition of aggravated felony; create new grounds of deportability and inadmissibility; and increase mandatory detention.

By contrast, the Comprehensive Immigration Reform Act of 2006 (S. 2611) passed by the Senate addressed each of the critical components for reform: new legal channels for future worker flows, a path to legal status for the current undocumented population, family- and employment-based immigrant visa backlog reduction, and border security. Although the bill is imperfect and must be improved, by embracing the comprehensive architecture that advocates have sought for years, it represents a remarkable step forward in the immigration reform debate. On the positive side of the ledger, S. 2611 includes:

- The full AgJobs bill, providing a path to permanent status for 1.5 million seasonal agricultural workers and reforms to the H-2A program;
- The DREAM Act, providing a path to permanent legal status for hundreds of thousands of eligible undocumented high school graduates;
- A new “break-the-mold” temporary worker program for 200,000 new temporary workers per year with significant labor protections including portability, a path to permanent residence, and the ability to self-petition;
- A path to legalization for at least 9 million currently undocumented workers and their families;
- A significant increase in family-based and employment-based immigrant visa numbers;
- Significant reforms to the high-skilled immigration programs; and
- Reversal of the BIA streamlining rules.

Noting some of the items on the negative side of the ledger, S. 2611 also includes:

- Mandatory detention for certain individuals apprehended near the border;
- Mandatory expansion of expedited removal;
- Expansion of the aggravated felony definition;
- Restrictions on the voluntary departure program; and
- Expansion of the criminal grounds of removal.

AILA will continue to work toward final passage of a bill that tracks and improves on the Senate legislation.