

The Secure America and Orderly Immigration Act of 2005 FREQUENTLY ASKED QUESTIONS

Why is this bill necessary?

Our broken immigration system doesn't work for anyone, immigrants or native-born Americans. The system provides so few legal channels for foreign workers that it all but guarantees an illegal flow. Businesses can't find the labor they need. Entire industries operate on the wrong side of the law. Millions of foreign workers live in the country illegally: a nightmare for them, an affront to the rule of law and an unacceptable security risk for all Americans. No wonder the public is upset – we've got to retake control of the border and reestablish the rule of law.

But, paradoxically, we cannot retake control simply by cracking down harder – we've tried that and it doesn't work. What's needed: first, we've got to replace our unrealistic laws – laws so out of sync with reality that we can hardly enforce them. Then, once we've built a new, more honest system based on laws that allows us to meet our labor needs, we must enforce these new limits to the letter. In the age of international terrorism, we have no choice: we need a realistic system – and we need to enforce it so it's airtight.

How will the bill help eliminate illegal immigration?

Unlike the current system, which is all but unenforceable and often lacks teeth where we need them most, the Secure America and Orderly Immigration Act sets realistic immigration ceilings and provides for an array of tough, smart, new enforcement measures – including an innovative system to ensure that employers who hire immigrant workers comply with the law.

On the border, it provides for better technology, including unmanned aerial vehicles, or drones. It also mandates a process by which the Department of Homeland Security will continue to monitor and accommodate our changing enforcement needs on the border. The bill augments and enhances our efforts to combat human smuggling and increases coordination and information sharing among authorities responsible for border control.

Perhaps most important, and most novel, are the Secure America and Orderly Immigration Act's provisions for interior enforcement. In addition to a groundbreaking employer verification system, the legislation mandates strong penalties for employers who knowingly violate immigration laws and bars temporary workers who do not abide by the terms of the program from participating in the future.

How does the bill ensure that employers who hire immigrant workers comply with the law?

The Secure America and Orderly Immigration Act establishes an Employment Eligibility Confirmation System, to be run by the Social Security Administration, that will allow employers to verify electronically that a foreign worker is in the country legally and authorized to work. Any employer who participates in the program will be required to use this system, and the bill will levy stiff fines on employers for knowingly violating any immigration or labor laws.

The verification system will include safeguards to ensure that employers do not use it to discriminate against job applicants. It also allows workers to verify personal information and appeal to the government to address any inaccuracies in the system.

How will the proposal enhance our national security?

Under the current unworkable system, our Border Patrol agents are overwhelmed. They apprehend roughly a million illegal immigrants trying to cross into the country each year, and hundreds of thousands more manage to slip by them – all without vetting or controls of any kind. The Secure America and Orderly Immigration Act will end this unacceptable state of affairs by funneling laborers into a legal guest worker program, freeing up federal agents to focus their energy on securing the border and protecting Americans against terrorists and criminals.

The legislation will also enhance security within the United States by encouraging millions of currently undocumented workers to come forward and register with the government. The goal: to shrink and eventually eliminate the undocumented population, to dry up the smuggling trade and put document forgers out of business – depriving would-be terrorists of the illegal support system they currently exploit in immigrant communities.

What kind of security checks will ensure that terrorists don't take advantage of this program?

Both temporary workers coming from abroad and those already here who come forward to register with the government will have to undergo an array of background checks – including checks against the most sophisticated available databases – designed to screen out criminals and anyone who could endanger our security.

Will this legislation help reduce the violence and other chaos that illegal immigration currently generates in border states – the trespassing, the smuggler violence, the deaths along the frontier?

Yes, that is one of the primary goals of this legislation. The Secure America and

Orderly Immigration Act's temporary worker program is designed to give workers coming illegally to do jobs we need done a safe, orderly, legal way to enter the United States. Most will prefer the new legal path. Those wishing to come to America to work will no longer have to risk the long, dangerous, illegal journey. There will be less and less demand for the services of smugglers: in addition to safety issues, it will be cheaper to come the legal way. And authorized migrants will cross the border at our designated ports of entry, restoring the rule of law to the lands along the border.

What will this bill do about the document fraud that has become so rampant in this country, thanks to illegal immigration?

The Secure America and Orderly Immigration Act will work in two ways to reduce document fraud. First, all temporary workers who participate in the program will be issued biometric, machine-readable, tamper-proof visas. Second, employers who participate in the program will no longer be expected to determine on their own, without help from the government, whether a temporary worker's identification is authentic. After an employee has been hired, the employer will be able to use the electronic Employment Eligibility Confirmation System to confirm that the worker is who he says he is and that he is authorized to work.

How does this bill address the needs of the U.S. economy?

Under our current unrealistic system, there is virtually no legal way for a foreign laborer without family in the United States to enter the country to work at a full-time, year-round job. According to the Pew Hispanic Center, American business creates some 485,000 such jobs a year for immigrant workers – and we need them to keep our economy growing. But current immigration law provides visas for only 5000 workers of this kind.

Without these foreign workers, many industries – agriculture, food-producing, hospitality, construction, among others – would all but collapse. And eventually, many businesses would move to other countries – including perhaps American agriculture. We as a nation cannot afford that – but nor can we continue on our present course of sacrificing the integrity of our laws in order to keep our economy growing.

The Secure America and Orderly Immigration Act has a better answer. We can meet our labor needs and maintain our laws by creating a guest worker program that guarantees employers the labor they need – a legal, reliable, secure supply of workers – making it unnecessary for American businesses to resort to undocumented workers.

How will the program actually work – how will willing workers connect with willing employers?

A foreign worker seeking to come to the U.S. to work would look for jobs and apply for them on a web-based electronic database, America's Job Bank. He would connect with prospective employers through the database, and once he had been hired, the employer would confirm electronically that the connection had been made. Then the foreign worker would go to the nearest U.S. consulate, where an U.S. official would access the database to confirm that he had a job and was authorized to enter the U.S. He would then be issued a biometric, machine-readable temporary visa.

What kind of numerical limit does the bill place on temporary workers?

The bill mandates an annual cap to limit the number of temporary workers. How many? Remember, the goal of the bill is to give workers now coming illegally a legal, orderly way to enter the country. So, the first year the law is in place, the numerical ceiling will reflect our best estimates of the numbers now coming illegally: 400,000. In subsequent years, the ceiling will rise and fall as changes in the U.S. economy impact the demand for foreign workers.

Won't this bill lead to more illegal immigration?

No. The goal of the bill is to replace the current illegal flow with legal workers by giving the foreign workers our economy needs a safe, orderly, legal way to enter the country. Once every available job is filled by an authorized worker, and it is impossible – as it will be under this program – to get work without a valid visa, there will be much less incentive for other migrants to cross the border illegally. Far fewer employers will need to resort to illegal workers, and those who do – the truly unscrupulous, exploitative minority – can be targeted with enforcement and tough new penalties.

Won't the new, temporary workers undercut American workers by taking their jobs?

No. As study after study of the labor market shows, American workers don't generally compete with immigrants – they don't generally want the low-paying, low-skilled jobs that immigrant workers come to fill. Our native-born work force is getting older. It's shrinking – remember, our birth rates are falling. As a nation we are more and more educated. In 1960, half of all American men dropped out of high school and went into the unskilled labor force. Today only 10 percent of the native-born drop out. And few American families now raise their children to be busboys or to work out in the fields.

Furthermore, the Secure America and Orderly Immigration Act includes a variety of measures designed to protect U.S. workers. The legislation mandates that employers who are considering hiring an immigrant worker must first try to hire a

U.S. worker, advertising all available jobs for two weeks on an electronic job registry. That registry will be accessible on the web to an interested U.S. worker, and the Department of Labor will circulate it to public employment services across the country. After three years – and every three years after that - employers will also be required to re-advertise the jobs held by temporary workers, guaranteeing that immigrants are not displacing Americans who are qualified and available to fill the same jobs. Finally, employers will be prohibited from hiring foreigners to replace striking workers or those who have been recently fired.

But won't the availability of these foreign workers depress wages for Americans?

No. In fact, creating legal channels for foreign workers will make it much less likely that they will undermine U.S. laborers. Under the current system, many undocumented workers fear to stand up for their rights or bargain with employers. They accept submarket wages and working conditions – and this in turn makes it harder for American workers to bargain for their rights.

By providing an ample flow of legal guest workers and implementing tough, new workplace enforcement provisions, the Secure America and Orderly Immigration Act will greatly reduce this unfair competition. Temporary workers and newly legalized immigrants will enjoy all the freedoms of U.S. workers, including the right to change jobs and join a union. This will dramatically increase their bargaining power – making life better for them, but also for native-born American workers.

Isn't this bill an amnesty?

No. Unlike some proposals for reform, which ignore illegal immigrants, the Secure America and Orderly Immigration Act recognizes that we cannot fix the system without facing up to the reality of the existing underground economy and eliminating it. Nor does the proposal grant illegal immigrants an automatic pardon. On the contrary, it penalizes them for their past behavior and makes them go to the back of the line to wait their turn for permanent visas.

The Secure America and Orderly Immigration Act's approach begins with a dose of realism: recognition that most Americans would be unwilling to deport the eleven million undocumented immigrants living and working in our midst -- and that we must act in our own national interest to deal with this vast underground community and the security risk it poses. The bill requires undocumented workers to come forward and register with the government. They will be required to pay a substantial fine— a total of \$2000 – to participate in the temporary worker program. They will have to meet a prospective work requirement – six more years on the job – before they can apply for a permanent visa. Only those who can prove that they are learning English and who have gone through rigorous

criminal background checks and security screenings will be permitted to apply. No one will be granted automatic permanent resident status, nor will they be permitted to “jump the line” ahead of those who are waiting to enter through a legal process.

Does this bill do anything to help the people waiting patiently in line in their home countries?

Yes. There is currently a backlog of more than 2.3 million eligible people waiting in line in countries around the world for family- and employment-based visas. The Secure America and Orderly Immigration Act amends current law to reduce this backlog, ensuring that everyone waiting now will be granted a visa within five to six years. It will also reform the system to reduce the likelihood of future backlogs.

But won't the program still reward people who have broken the law at the expense of those who have followed the rules and waited their turn outside the country?

No. Once the existing backlogs have been reduced, no one already waiting in line will have to wait more than five or six years to enter the country – and meanwhile, no one who participates in the temporary worker program will be granted a green card any sooner than five to six years from now.

Nor will the undocumented workers who come forward to register under the Secure America and Orderly Immigration Act be allowed to cut in line ahead of those who come in the future as new temporary workers.

The legislation will create two different kinds of temporary visas: one for formerly undocumented workers who come forward to register and another for those coming into the country for the first time under the new guest worker program – and the two different kinds of workers will be treated very differently.

New temporary workers who come into the country legally will be granted H-4A visas, while formerly undocumented workers will receive provisional H-4B visas. New temporary workers will pay a \$500 processing fee; the formerly undocumented will pay a \$2000 fine. New temporary workers will be permitted to remain in the country for a total of six years (a three-year visa renewable once), during which they or their employer can petition for permanent status. (The employer can petition at any time, the worker himself after accumulating four years of work in the country.) Formerly undocumented workers, in contrast, will have to wait six years before they can apply for green cards – so when they do apply, they will effectively get in line behind those who have entered legally and are already having their applications processed.

What incentives will there be for temporary workers to return to their home countries?

Under the Secure America and Orderly Immigration Act, the U.S. will collaborate with sending countries to encourage foreign laborers to return home, creating an array of additional incentives in their countries of origin. Perhaps most important, the bill will require the U.S. government to work with sending countries to develop their economies, easing the pressure on their citizens to go abroad in search of jobs.

What happens when the economy goes sour – or at the end of the growing season, once the crops have been picked? Won't we find ourselves burdened with a lot of unemployed temporary workers?

The Secure America and Orderly Immigration Act requires any temporary worker unemployed for more than 60 days to return to their home country. But they may come back to the U.S. at any time if they find another job through the electronic job registry – and they may stay until their visa expires.

How will we prevent new guest workers from overstaying their visas and slipping into the underground economy?

An array of enforcement provisions will prevent guest workers from overstaying. Under the new employer verification system, it will be impossible for anyone without a valid visa to find work in the United States. Employers who knowingly violate immigration laws will face stiff penalties, including hefty fines. And any immigrant caught in violation of the law will be barred forever from future participation in the guest worker program.

Will workers participating in the temporary worker program be separated from their families?

No, both new temporary workers and the previously undocumented will be permitted to remain with their families.

Consistent with current immigration law and following the precedent set by other temporary visa programs, the bill will permit spouses and children to accompany temporary workers. Family members who are eligible can apply to participate in the program as temporary workers. In other cases, the breadwinner will have to prove that he or she can provide financially for the rest of the family.

But even temporary workers who do not choose to bring their spouses and children with them to the U.S. will find it easier to maintain family ties under the Secure America and Orderly Immigration Act. Both new temporary workers and

the previously undocumented will now be able to travel freely back and forth between the U.S. and their home country, enabling them to maintain links to both their families and their communities.

Wasn't our last major guest worker program – the Bracero program – a disaster? What will this bill do to protect guest workers from being exploited by their employers?

Both new temporary workers and the previously undocumented will enjoy the same rights and protections as American workers. They will be able to bargain for wages and benefits just as U.S. workers do. If they don't like their work environment or the way they are treated, they will be permitted to change jobs – further enhancing their ability to bargain for their rights. They will have the same rights that American workers have to join or organize a union. And employers hiring temporary workers will be required to comply with all federal, state and local labor laws.

Does the bill make any kind of provision to encourage immigrants to learn English and assimilate into American culture?

Unlike the current system, which does virtually nothing to encourage immigrants to assimilate, the Secure America and Orderly Immigration Act creates a public-private foundation within the Office of Citizenship of the USCIS to pay for English and civics classes.

How will this program be funded?

The program will be funded in large part by fees collected from immigrant workers – both new temporary workers and the previously undocumented. The monies will be used for registering the undocumented, processing visas and other applications, enhancing enforcement, and providing English and civics education to immigrants.

Does the bill provide any other government benefits for immigrants?

No. This legislation makes no changes to current law regarding what federal benefits immigrants are eligible for.

Isn't it true that the American people don't support this kind of reform?

The American people know that the immigration system is broken and in need of reform. They also know that mass deportations of undocumented workers are not realistic. They want a solution that recognizes we are a nation of immigrants and a nation of laws.

In a March 2005 survey of 800 likely voters from around the nation, 75 percent said that they support immigration reform similar to Secure America and Orderly Immigration Act: registration of undocumented workers already here, a continuing regulated flow of workers to keep the economy growing in the future and enhanced enforcement to restore the integrity of our law. Support for this reform package was solid across party lines; it did not waver even in the face of the strongest arguments from immigration restrictionists. Those who favor reducing immigration or think we can solve the problem with enforcement alone are a small minority, albeit a vocal one. The overwhelming majority of voters crave a real solution – one that will work to fix the system, providing the workers we need and restoring the rule of law in our communities.

We tried something like this proposal before, in 1986. Why should we go down this path again?

The problem with the 1986 Immigration Reform and Control Act (IRCA) was that it fell far short of real reform: many of its enforcement measures were ineffective, and it created no legal channels for future workers, all but guaranteeing that the illegal flow would continue and that a new illegal population would accumulate in the United States. The Secure America and Orderly Immigration Act avoids the mistakes of two decades ago by combining tough enforcement with legal channels for the future flow and a path to legal status for those already here and working. This combination will eliminate the existing underground economy and create a sound new system based on the rule of law.