

[Signature] *A. Merkley* 6-12-13
12:29p

AMENDMENT NO. _____ Calendar No. _____

Purpose: To increase the employment of Americans by requiring State workforce agencies to certify that employers are actively recruiting Americans and that Americans are not qualified or available to fill the positions that the employer wants to fill with H-2B nonimmigrants.

IN THE SENATE

AMENDMENT NO. 1237

By *Merkley*

To provide

To: *S. 744*

Referred

5
Page(s)

GPO: 2012 77-320 (mac)

Ordered to be on the table and to be printed

AMENDMENT intended to be proposed by Mr. MERKLEY

Viz:

1 On page 1793, between lines 17 and 18, insert the
2 following:

3 **SEC. 4607. AMERICAN JOBS IN AMERICAN FORESTS.**

4 (a) SHORT TITLE.—This section may be cited as the
5 “American Jobs in American Forests Act of 2013”.

6 (b) DEFINITIONS.—In this section:

7 (1) FORESTRY.—The term “forestry” means—

8 (A) propagating, protecting, and managing
9 forest tracts;

1 (B) felling trees and cutting them into
2 logs;

3 (C) using hand tools or operating heavy
4 powered equipment to perform activities such as
5 preparing sites for planting, tending crop trees,
6 reducing competing vegetation, moving logs, pil-
7 ing brush, and yarding and trucking logs from
8 the forest; and

9 (D) planting seedlings and trees.

10 (2) H-2B NONIMMIGRANT.—The term “H-2B
11 nonimmigrant” means a nonimmigrant described in
12 section 101(a)(15)(H)(ii)(b) of the Immigration and
13 Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).

14 (3) PROSPECTIVE H-2B EMPLOYER.—The term
15 “prospective H-2B employer” means a United
16 States business that is considering employing 1 or
17 more nonimmigrants described in section
18 101(a)(15)(H)(ii)(b) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)).

20 (4) STATE WORKFORCE AGENCY.—Except as
21 used in subsection (c), the term “State workforce
22 agency” means the workforce agency of the State in
23 which the prospective H-2B employer intends to em-
24 ploy H-2B nonimmigrants.

25 (c) DEPARTMENT OF LABOR.—

1 (1) RECRUITMENT.—As a component of the
2 labor certification process required before H-2B
3 nonimmigrants are offered forestry employment in
4 the United States, the Secretary of Labor shall re-
5 quire all prospective H-2B employers, before they
6 submit a petition to hire H-2B nonimmigrants to
7 work in forestry, to conduct a robust effort to re-
8 cruit United States workers, including, to the extent
9 the State workforce agency considers appropriate—

10 (A) advertising at employment or job-
11 placement events, such as job fairs;

12 (B) advertising with State or local work-
13 force agencies, nonprofit organizations, or other
14 appropriate entities, and working with such en-
15 tities to identify potential employees;

16 (C) advertising in appropriate media, in-
17 cluding local radio stations and commonly used,
18 reputable Internet job-search sites; and

19 (D) such other recruitment strategies as
20 the State workforce agency considers appro-
21 priate for the sector or positions for which H-
22 2B nonimmigrants would be considered.

23 (2) SEPARATE PETITIONS.—A prospective H-
24 2B employer shall submit a separate petition for
25 each State in which the employer plans to employ

1 H-2B nonimmigrants in forestry for a period of 7
2 days or longer.

3 (d) STATE WORKFORCE AGENCIES.—The Secretary
4 of Labor may not grant a temporary labor certification
5 to a prospective H-2B employer seeking to employ H-2B
6 nonimmigrants in forestry until after the Director of the
7 State workforce agency—

8 (1) has, after formally consulting with the
9 workforce agency director of each contiguous State
10 listed on the prospective H-2B employer's applica-
11 tion, determined that—

12 (A) the employer has complied with all re-
13 cruitment requirements set forth in subsection
14 (c) and there is a legitimate demand for the
15 employment of H-2B nonimmigrants in each of
16 those States; or

17 (B) the employer has amended the applica-
18 tion by removing or making appropriate modi-
19 fications with respect to the States in which the
20 criteria set forth in subparagraph (A) have not
21 been met;

22 (2) certifies that the prospective H-2B em-
23 ployer has complied with all recruitment require-
24 ments set forth in subsection (c) or any other appli-
25 cable provision of law; and

1 (3) makes a formal determination that nation-
2 als of the United States are not qualified or avail-
3 able to fill the employment opportunities offered by
4 the prospective H-2B employer.