Special Bulletin!

ASPA ASPA

AMERICAN SOD PRODUCERS ASSOCIATION

A National Organization Dedicated to Advancement of the Sod Industry

June 20, 1983

Surf and Turf

Resorts International Hotel Casino, Atlantic City, New Jersey

1983 International Summer Convention & Field Days, July 11-13, 1983

HISTORY WILL BE MADE BY ASPA...AND YOU WILL BE A PART OF IT AS THE FIRST ASPA INTERNATIONAL SUMMER CONVENTION & FIELD DAYS IS CELEBRATED IN ATLANTIC CITY ON JULY 11-13!

Make your plans now to be on hand for the special International Program scheduled from 1-5 P.M. on Monday, July 11th in Cotillion Room B at Resorts International Hotel Casino. The program theme is "The Sod Industry Today and the Future".

Among ASPA's International Members who will be appearing as panelists on the program:

* Ian Montgomerie, Auckland Turf Nurseries Ltd., Auckland, New Zealand
* Alan Morgan, Morgan & Pollard Ltd., Christchurch, New Zealand
* C.J.P. Crone, Rolawn Ltd., Elvington, York, England
* Chris Watmore, Turfland, Cheshire, England
* Graham Corbett, Lawns for Africa Pty Ltd., Johannesburg, Rep. of South Africa

Panelists from the U.S. and Canada will include:

* Bill Campbell, Fairlawn Sod Nursery, Lynden, Ontario
* Dave Payne, Payne Sod Inc., Pickett, Wisconsin
* Ray Morf, Valley Green Sod Farms, Rapid City, South Dakota
* Richard Rogers, Pacific Sod, Santa Monica, California
* Chris Beasley, Tuckahoe Turf Farms, Canton, Massachusetts
* Morris Brown, Coastal Turf Inc., Bay City, Texas

Featured program speakers will be Dr. Al J. Turgeon, Texas A & M; Rich Hurley, Lofts Seed Company; and Dr. Henry Indyk of Cook College.

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ELECTION OF OFFICERS & TRUSTEES AT BUSINESS MEETING: Following the International program on July 11th, the Annual ASPA Business Meeting will be held in Cotillion Room B. One important item of business will be the election of ASPA Officers for 1983-84 year and election of three Board of Trustees members for three year terms. Enclosed is a brochure to enable you to "meet your candidates". All ASPA members are invited and urged to attend the Annual Business Meeting.

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Association Building • 9th and Minnesota • Hastings, Nebraska 68901 • (402) 463-4683

CONVENTION HIGHLIGHTS

JULY 12 FARM TOUR will provide an opportunity to visit Tuckahoe Turf Farms at Hammonton and Tuckahoe, New Jersey where host, George Betts and his crew will tell about the farms and their operation. There will also be a stop at Atlantic Blueberry Farm.

JULY 13 FIELD DAY will be hosted by Walter and Leo Novasack at Novasack Brothers Turf Farm in South Seaville, New Jersey. A short history of the farm and its operation will be presented. The latest equipment for the sod industry will be displayed and demonstrated with the opportunity for close inspection and discussion with company representatives.

SPECIAL EVENTS

"SURF & TURF" Nite on July 12th at Tuckahoe Turf in Tuckahoe, New Jersey will combine wonderful food, drink, music, boating and swimming.

OPTIONAL SATELLITE TOUR on July 13th goes to Smithville, New Jersey for a day in early America. Included is a delightful luncheon and unique program "Dry Flowers For All Seasons" by Betty Wiita, world renowned author/lecturer and TV personality.

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ASPA REGISTRATION DESK at Resorts International will be located in the hallway outside the Green Rooom on the dining level during the registration hours as listed on the program.

ASPA EXHIBITS will be open from 5:30 P.M. to 9:00 P.M. on Monday evening, July 11th and again from 7 A.M. to 9 A.M. on Tuesday morning, July 12th in Cotillion Room A at Resorts International.

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DEADLINES...

CONVENTION PRE-REGISTRATION DEADLINE - JUNE 24, 1983

ROOM RESERVATION DEADLINE AT RESORTS INTERNATIONAL - JUNE 26, 1983

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COME JOIN US ON THE BOARDWALK IN ATLANTIC CITY - JULY 11-13!!!

IMMIGRATION REFORM AND CONTROL ACT LEGISLATION

WHAT IT SAYS AND WHERE IT STANDS

June 1, 1983

Prepared in cooperation with Agricultural Employers Labor Committee (ALEC)

On May 18, 1983 the United States Senate approved, by a vote of 76 to 18, Senator Simpson's Immigration Reform and Control Act of 1983 (S.529). On May 13, 1983 the House Committee on the Judiciary approved H.R.1510, Congressman Mazzoli's version of the same legislation. The House bill has been referred to four other House Committees - Agriculture, Education and Labor, Energy and Commerce, and Ways and Means. The four Committees have until June 27 to consider the legislation and report to the House their recommendations for change, if any. Soon thereafter, the House will vote on the measure. If passed, the two bills, being different in several aspects, will go to conference, then the conference bill will be voted on by both the Senate and the House. There probably will be changes prior to final Congressional action. The legislation may be defeated. It may be enacted into law, and there are many who feel it will. The information which follows is designed to tell you, in general terms, what the legislation says and where it stands. Both bills are lengthy and complicated. No attempt has been made to give complete, detailed information.

The legislation would make it unlawful to hire, recruit or refer for employment any individual who is not either a U.S. citizen or legally entitled to seek employment in this country. Every employer would be required to examine and keep records of documents shown by a newly hired employee to prove the employee's legal right to work. The requirement would apply to every person hired, even your brother's son or daughter.

Documentation

Except as shown below, a person or entity (corporation, for instance) hiring an individual would be required to attest, under penalty of perjury, on a form to be provided by the Attorney General, that the hiring person or entity has seen the individual's:

- U.S. passport, or
- Social Security card, birth certificate, or other identification acceptable to the Attorney General, and
- Alien documentation card issued by the Attorney General,
- Driver's license or other identification with a photograph issued by a State, or
- Other documentation identified by the Attorney General as acceptable.

An employer would not be held responsible for the authenticity of documents unless it were patently obvious that they were forgeries.

The Attorney General's form will provide space for signature by the employee stating that he or she has a legal right to work and a signature by the employer that he or she has indeed seen the proper documents offered by the employee. The form, properly excuted, would serve as a good faith defense for an employer. An employer may photocopy any document(s) presented by an employee, but such copies must be used only as evidence of compliance with the law.

S.529 exempts employers of 3 or fewer employees from keeping the above records. H.R.1510 requires every employer to keep such documentation.

H.R.1510 makes the keeping of the above documentation optional for an employer until such employer is found to have hired an undocumented alien. From that point on, the requirement becomes mandatory. Under S.529 it is mandatory from day one.

Both bills would require an employer to keep the Attorney's form on file for a period of years (S.529 - 5 years. H.R.1510 - 3 years) after the date of hire, or for one year after employment is terminated.

H.R.1510 states that an employer is relieved of the record keeping requirements if he or she hires an employee referred by a State employment agency and such employee has documentation from the agency which certifies that the agency has complied with the identification procedures and found the worker to be legal.

H.R.1510 provides that an employer has complied with the identification procedures if the proper documents are checked by noon of the day after the worker's employment begins.

An employer who is required to list (on the form to be provided by the Attorney General) the names of new hires and the documents examined for each such individual, and fails to do so, will be subject to a $500 fine for each newly hired person's name not so listed.

Employer Sanctions

Both bills provide for a series of escalating penalties for employers covered by the Act, who knowingly hire undocumented workers. Both bills, however, provide that even though the prohibition against hiring undocumented workers becomes effective the day the legislation is signed into law by the President, penalties will not be assessed during the first six months following enactment. S.529 provides, further, that during the second six months following enactment the Attorney General shall, in the first instance of violation, issue a warning only. H.R.1510 has no such extension, but provides that the Attorney General shall upon a first violation issue a citation outlining the possible penalties.

Once the timing for the above "orientation" provisions has expired, both bills require that a $1,000 civil money penalty be assessed for each undocumented worker hired in the instance of a first knowing violation. A second offense mandates a $2,000 civil money penalty per illegal worker hired. Where an employer is found guilty of a pattern or practice of hiring undocumented workers, S.529 mandates a penalty of not more than $1,000, imprisonment for not more than 6 months, or both per undocumented worker knowingly hired. H.R.1510 mandates up to $3,000 or one year in jail or both per undocumented worker knowingly hired.

Both bills authorize the Attorney General to seek a count-ordered injunction to stop repeat violators.

Both bills provide that before assessing a civil money penalty, the Attorney General must provide the accused an opportunity to request a hearing.

Search Warrants

S.529 requires the Immigration and Naturalization Service to obtain a search warrant prior to entering a farm or ranch. H.R.1510 requires either a search warrant or the owner's permission.

Federal Preemption

Both bills state that the law, if enacted, will preempt any State or local law imposing civil or criminal sanctions upon those who employ, refer or recruit for employment, undocumented workers.

S.529 provides for Federal preemption of any State or local law regulating admissibility of non-immigrant (H-2) workers.

NON-IMMIGRANTS

(H-2 Workers and Transitional Non-Immigrant Agricultural Worker Program)

Both bills provide that needed agricultural workers, above and beyond available legal U.S. workers, may be obtained through the so-called "H-2 Program" set forth in Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act. The following information covers only those provisions dealing with the H-2 Program that are contained in S.529 and H.R.1510. (For those desiring detailed information on the H-2 Program, NCAE has prepared, for sale, an H-2 Manual).

H-2 Workers

Both bills provide that the Attorney General, in consultation with the Secretaries of Agriculture and Labor, shall approve regulations to be issued implementing changes in the H-2 program.

H-2 workers would be admitted to this country to perform agricultural services or agricultural labor of a temporary or seasonal nature. The definition of "agricultural services" and "agricultural labor" would, in S.529, be defined by the Secretary of Labor. H.R.1510 leaves the definition to the Secretary of Labor but adds "and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938."

S.529 limits an H-2 worker's stay in this country to an aggregate of 8 months in any calendar year unless the Secretary of Labor, before enactment of the bill, has recognized certain jobs which require longer periods. H.R.1510 leaves maximum length of stay up to the Secretary of Labor.

Both bills permit the Secretary of Labor to require, by regulation the payment of a fee to recover reasonable costs of processing employer applications for certification for H-2 workers.

The Secretary of Labor may, in both bills, deny certification to an employer if there is a strike or lockout in the course of a labor dispute which, "under the regulations" precludes such certification.

Under S.529, the Secretary of Labor may deny, for up to one year, certification for H-2 workers to an employer who has been found to have substantially violated an essential term or condition of the program during either or both of the preceding two years. H.R. 1510 permits denial of certification for up to three years. H.R.1510 also allows the Secretary of Labor to deny certification if workers will not be covered by Workers Compensation Insurance or its equivalent.

S.529 states that the Secretary of Labor may not require an employer to file an application for H-2 worker certification more than 80 days prior to the date the workers are needed. H.R.1510 sets the time at no more than 50 days.

Both bills require the Secretary of Labor to inform an employer within seven days of receipt of an application for certification if the paper work submitted does not meet the standards, tell the employer why, and allow prompt resubmission. S.529 states that failure to so notify an employer will connote approval (of the paper work, not the request).

Both bills require the Secretary to certify an employer for use of H-2 workers or deny the request not less than 20 days prior to the employer's date of need.

Both bills require an employer who has received H-2 worker certification to accept for employment qualified U.S. workers until the date H-2 workers depart for the employer's job site.

Present regulations require employers to provide free housing to H-2 workers. H.R.1510 permits an employer, at his or her option, to substitute payment of a reasonable housing allowance, but only if housing is available in the proximate area of employment. S.529 has no such provision.

Both bills require the Secretary of Labor to provide for an expedited review of a denial of certification or, at the employer's request, a de novo administrative hearing respecting the denial. The de novo provision permits an employer to introduce into the hearing, factors which may have occurred since certification was denied. At present, a review is limited to the facts as they were at the time the Secretary of Labor denied, in whole or in part, an employer's request for certification.

Transition Program

Although they differ in details, both bills contain a transition program which would allow an agricultural employer to "legalize" his or her work force over a period of three years. This would elimate the shock of having to convert, almost overnight to either all U.S. workers or a combination of U.S. and H-2 workers.

Both bills provide that the Attorney General, in consultation with the Secretaries of Agriclture and Labor shall establish a 3-year transition program which would provide that:

1. During the first year an agricultural employer may fill up to 100 percent of his or her labor needs by hiring transitional workers. The second year the figure would drop to 76 percent. The third year it would be 33 percent. The fourth year his or her work force would have to be 100 percent legal U.S. workers or U.S. and H-2 workers.

2. An undocumented worker may be a transitional worker if he or she had been employed as a seasonal agricultural worker in the U.S. for at least 90 days since January 1, 1980.

3. Transition workers cannot replace U.S. or H-2 workers. They must be protected by all laws and regulations governing employment of U.S. migrant and seasonal agricultural workers.

4. Both workers and employers would have to register for the program.

Amnesty

Undocumented workers can apply for "resident" status. S.529 provides that those who have resided continously in this country since January 1, 1977 may apply for "Permanent Resident" status. Those here since January 1, 1980 may apply for "Temporary Resident" status. Applications must be filed during the first 12 months beginning 90 days after enactment. H.R. 1510 provides that those here since January 1, 1982 can apply for "Permanent Resident" status.