

NumbersUSA

S. 1397

The "Skilled Worker Immigration and Fairness Act"

Sponsored by Sen. Joe Lieberman (I-Conn.)

- Would increase the annual cap on H-1B high-skill nonimmigrant worker visas from 65,000 to 115,000, but, beginning in fiscal year 2008, if the cap is met in any fiscal year, would increase the cap by 20 percent, with a "ceiling" of 180,000 per year;
- Would establish new exemptions from the H-1B cap for: (1) all those with graduate degrees from U.S. institutions (currently, the exemption is capped at 20,000 per year); (2) those holding medical specialty certifications based on U.S.-based post-doctoral training and experience; and (3) those with graduate degrees in science, technology, engineering, or math (STEM) from non-U.S. institutions;
- Would create exemptions from the employment-based (EB) immigrant visa cap for: (1) those with U.S.-based graduate degrees; (2) those with non-U.S.-based graduate degrees in STEM fields who have been working in a related field in the United States for three years preceding their application for an EB immigrant visa; (3) aliens of "extraordinary ability in the sciences, arts, education, business, or athletics"; (4) "outstanding professors and researchers"; (5) aliens granted "national interest waivers"; and (6) EB immigrants' immediate relatives;
- Would enable aliens (and their dependents) who have filed a petition for an EB visa to file for adjustment of status, regardless of whether a visa is immediately available, upon payment of a \$500 fee (the fee need only be paid for the principal alien);
- Would require DHS to issue a three-year employment authorization and three-year advanced parole document to any beneficiary of an application for adjustment of status if a petition for an EB visa has been filed or is pending;
- Would apply the EB visa-related provisions of the bill to all visa applications pending upon enactment and all filed after enactment;
- Would prohibit employers from advertising a job as available only for, or as giving preference to, H-1B visa holders;
- Would prohibit employers with over 50 employees from having more than half of their workforce be H-1B nonimmigrant workers;

- Would authorize the Department of Labor (DOL) to investigate applications that have clear indicators of fraud or misrepresentation, instead of simply checking for completeness and inaccuracies (as current law provides) and would eliminate the current statutory provision that requires the Secretary of Labor to approve each individual investigation;
- Would authorize DOL to hire an additional 200 employees to administer, oversee, investigate and enforce the H-1B program;
- Would raise the employer's H-1B petition fee from \$500 to \$1,000;
- Would require a greater degree of information sharing between DOL and DHS;
- Would authorize DOL to conduct random audits of any company that uses the H-1B program, and would require DOL to conduct annual audits of companies with more than 100 employees for whom 15 percent or more of their workforce is comprised of H-1Bs;
- Would double current fines for employer abuse of the H-1B process; and
- Would require DOL to provide H-1B visa holders with information about their rights, including wage and labor protections.