

Legislators Open Loopholes in Immigration Law

By Kathy Kiely, USA TODAY

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WASHINGTON — Late last year, with little fanfare and no roll call votes, Congress and President Bush reached agreement on an immigration bill.

Not the long-awaited legislation that would determine the fate of as many as 12 million illegal immigrants in the USA, create a border security and employment verification system, and alleviate backlogs that have kept some relatives of U.S. citizens waiting decades. Lawmakers will reopen the debate on that measure this month after failing to reach an agreement last year.

DEMAND FOR VISAS: [Foreigners hope to beat the odds](#)

The last Congress was able to act with dispatch, however, to alleviate one pressing immigration problem — one vexing baseball and hockey teams.

Thanks to the COMPETE Act, signed into law by President Bush on Dec. 22, Major League Baseball and the National Hockey League will be able to fill their farm teams with as many promising prospects as they can find in Latin America, the Caribbean, Canada and elsewhere across the globe.

Up until last year, teams that wanted to try out foreign players in their minor league system had to apply for immigration visas under the increasingly oversubscribed H-2B category, used for seasonal workers in occupations ranging from landscaping to fisheries to hotel housekeeping. Those visas are capped at 66,000 a year.

The visa crunch that brought professional sports leagues to Washington for help and the way Congress handled the problem demonstrates the complexity of the nation's immigration system and the political difficulties of fixing it.

Rather than tackling the big question of whether the U.S. economy needs foreign workers and how many should be permitted into the country each year, the nation's lawmakers have created loopholes and exemptions that circumvent caps on some work visas. Buried in larger, unrelated pieces of legislation, most have sailed through Congress with little or no debate. Recent examples:

- A measure that annually adds 20,000 H-1B visas to the 65,000-a-year limit for foreigners who have earned graduate degrees from U.S. universities was tucked into the 2004 omnibus appropriations bill that provided funding for more than 10 federal agencies. The H-1B category was designed for college-educated foreign workers. The same bill contained a provision allowing each state to request up to 30 foreign doctors a year if they are willing to work in an underserved area.
- A 2005 bill providing emergency funding for the Gulf Coast, Iraq and Afghanistan contained a provision for a one-year exemption from the H-2B visa cap for seasonal workers, such as nursery and hotel employees, who held a job in the USA sometime during the previous three years. The same measure provided 50,000 green cards for foreign nurses.
- The one-year exemption for returning seasonal workers was made permanent in the 2006 defense appropriations bill.

Congress also has shifted groups of workers from one visa category to another, in particular to ease pressure on the two work visas that are capped: H-1B and H-2B.

In 2006, the State Department issued more than 32,000 visas in a category created especially for Australians who have job offers in the USA. Congress created a work visa for citizens of Chile and Singapore under international trade agreements.

There are so many types of visas that the U.S. Citizenship and Immigration Service is running out of letters of the alphabet to name them. A proposed immigration bill the Bush administration is discussing with Congress would create Y and Z visas to admit more temporary workers and grant legal status to those in the country illegally.

The system is "enormously complex," said Rep. Zoe Lofgren, D-Calif., who chairs the House immigration subcommittee. "It's very easy for people to fall afoul of the laws inadvertently."

The complexity also creates opportunities. Sen. Susan Collins, R-Maine., took advantage of one when she introduced the COMPETE Act last year to help two teams in her home state: the Lewiston MAINEiacs, a junior hockey league team that had to delay its home opener because of problems gaining H-2B visas for players, and the Portland Sea Dogs, a member of the Boston Red Sox baseball farm system.

Since the enactment of Collins' bill, minor league hockey and baseball players have been able to take advantage of the unlimited number of P-1 visas, which were formerly reserved for major leaguers.

"We saw a big difference this year," Peter Greenberg, a New York agent who represents some of baseball's biggest Latin stars, told USA TODAY. "Now, I think you'll see the number of foreign players go up dramatically."

Immigration lawyers say their clients want the same chance to hire the world's best.

William Stock, a Philadelphia immigration lawyer, said a pharmaceutical company he represents will outsource an entire department to Great Britain if one prospective employee misses out in this year's H-1B visa lottery.

"There's a global war for talent," Stock said. "We're fighting with one hand tied behind our back."

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