

House Bill 1432

By: Representatives Reeves of the 99th, Martinez of the 111th, Jackson of the 68th, Hutchinson of the 106th, Oliver of the 82nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
2 relations, so as to provide for a state administered guest worker program under the
3 Commissioner of Labor; to provide for the purpose of such program; to provide definitions;
4 to provide for the procedures for such program and the requirements to participate in such
5 program; to provide for authorizations to participate in such program, identification cards,
6 and renewals of authorizations; to provide for penalties for violations; to provide for the
7 promulgation of rules and regulations; to provide for effective dates; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
12 is amended by revising Chapter 11, which was previously reserved, to read as follows:

"CHAPTER 11

34-11-1.

The Commissioner of Labor shall create a state administered guest worker program within the Department of Labor. Such program shall conform to the provisions of this chapter and to applicable federal laws, rules, and regulations. Reserved.

34-11-2.

The state administered guest worker program shall be for the purpose of filling needed labor shortages in the State of Georgia through the hiring by employers within this state of willing citizens of other nations to perform work in this state for limited periods of time.

34-11-3.

(a) As used in this chapter, the term:

(1) 'Commissioner' means the Commissioner of Labor.

(2) 'Department' means the Department of Labor.

(3) 'Guest worker' means a citizen of another country allowed to work in this state pursuant to the program established by this chapter.

(4) 'Guest worker program' or 'program' means the program created by the Commissioner and administered by this state as provided in this chapter.

(b) Before any citizen of another country may be hired and allowed to come into this state under the guest worker program, the Commissioner shall conduct a study or studies to determine if there is a labor shortage in this state and determine the industries in which any such shortage exists and the scope of the shortage. A labor shortage shall exist only when the Commissioner, based upon a study or studies of the labor force in Georgia, determines that no qualified citizens of the United States or persons who are citizens of other countries who are legally present in the United States are available to fill the job openings in Georgia

37 in a particular industry and employing foreign laborers under the program created by this
38 chapter will not adversely affect other currently employed workers in this state. If the
39 Commissioner determines that such a labor shortage does exist in this state, the
40 Commissioner shall determine the magnitude of such shortage and utilize such
41 determination to establish the number of guest workers to be allowed for such industry
42 under the guest worker program.

43 34-11-4.

44 A guest worker may be recruited for employment under this chapter only while present and
45 living in his or her country of citizenship. A person who is not a citizen of the United
46 States shall not be allowed to participate in the guest worker program if:

47 (1) Such person has been previously refused admission into the United States;

48 (2) Such person has been deported from the United States;

49 (3) Such person has been convicted of a felony or crime involving moral turpitude or any
50 act which if committed in this state would constitute reckless driving under Code Section
51 40-6-390 or driving under the influence of drugs, alcohol, or other intoxicating substances
52 under Code Section 40-6-391; or

53 (4) Such person does not meet the qualifications for entry into the United States
54 established by the federal government.

55 A guest worker participating in the guest worker program may bring only immediate family
56 members to accompany such guest worker. Immediate family members shall be limited
57 to the guest worker's spouse and minor children.

58 34-11-5.

59 An employer in the State of Georgia who desires to recruit and hire guest workers pursuant
60 to this chapter shall:

- 61 (1) Pay a fee to the department established by the Commissioner to offset the costs of
62 administering the guest worker program;
- 63 (2) Agree to recruit a guest worker only from such worker's country of citizenship;
- 64 (3) Agree to provide health insurance for such guest worker employed by such employer
65 on the same terms presented to similarly situated domestic employees by that employer;
66 provided, however, that each family member accompanying such guest worker shall be
67 covered by health insurance while such family member is in this state. Such health
68 insurance shall be provided and maintained by the guest worker;
- 69 (4) Agree to provide housing for such guest workers and accompanying family members
70 through housing provided by the employer or other rental or public housing. The
71 Commissioner shall provide for standards for such housing;
- 72 (5) Agree to provide workers' compensation insurance coverage in compliance with state
73 law covering injury and disease arising out of and in the course of the guest worker's
74 employment. If the type of employment for which the guest worker is to be employed
75 is not covered by or is exempt from the state workers' compensation law, the employer
76 shall provide, at no cost to the guest worker, insurance covering injury and disease arising
77 out of and in the course of the guest worker's employment that will provide benefits at
78 least equal to those provided under the state workers' compensation law for other
79 comparable employment;
- 80 (6) Agree to provide to the guest worker, without charge or deposit charge, all tools,
81 supplies, and equipment required to perform the duties assigned;
- 82 (7) Agree to provide each guest worker with three meals a day or furnish free and
83 convenient cooking and kitchen facilities to the guest workers that will enable the guest
84 workers to prepare their own meals. Where the employer provides meals, the job offer
85 shall state the charge, if any, to the guest worker for such meals;
- 86 (8) Agree to pay the guest worker at least the Adverse Effect Wage Rate established by
87 the United States Department of Labor; a prevailing wage set by the Commissioner of

- 88 Labor; an agreed-upon collective bargaining rate; the federal minimum wage; or the
89 minimum wage of this state, whichever is highest, for every hour or portion thereof
90 worked during a pay period by the guest worker;
91 (9) Agree to pay the guest worker's costs of transportation from the guest worker's
92 country of citizenship to this state and the cost to return upon completion of such guest
93 worker's employment contract or the termination without cause of such guest worker's
94 employment contract;
95 (10) Agree to pay the costs of transportation to and from the housing provided to the
96 guest worker to the place of employment;
97 (11) Agree to pay or ensure the payment of all payroll taxes for such guest worker;
98 (12) Agree that each guest worker shall return to the guest worker's country of
99 citizenship upon termination of employment or eligibility under the guest worker
100 program; and
101 (13) Agree to inform the department of the abandonment by the guest worker of such
102 guest worker's employment within three days of any such abandonment of employment
103 by such guest worker.

104 34-11-6.

- 105 (a) A guest worker and accompanying family members shall be authorized to participate
106 in the guest worker program for a period of one year from the date such guest worker is
107 hired. Such authorization may be renewed for additional one-year periods, provided that:
108 (1) The employer agrees to continue the employment of such guest worker under the
109 terms and conditions set forth in this chapter and any rules and regulations promulgated
110 by the Commissioner and agrees to pay the fee established by the Commissioner to offset
111 the costs of the guest worker program; and

112 (2) The Commissioner of Labor certifies that there is a continuing labor shortage in the
113 industry in which such guest worker is employed and there is a need for the continued
114 employment of such guest worker to alleviate such labor shortage.

115 Application for authorization to continue as a guest worker shall be filed not more than 60
116 days and not less than 30 days prior to the termination date of the existing authorization to
117 be a guest worker.

118 (b) The Commissioner shall provide each guest worker and each family member
119 accompanying such guest worker with an identification card bearing a photograph of the
120 guest worker or family member along with the guest worker's or family member's name
121 and other identifying information that the Commissioner deems necessary. The guest
122 worker shall carry such identification card with him or her at all times and shall display it
123 upon request to representatives of the department and law enforcement officers of this
124 state.

125 34-11-7.

126 (a) Any employer participating in the guest worker program who violates any provision
127 of this chapter or rule or regulation promulgated by the Commissioner shall be subject to
128 a civil fine of not more than \$5,000.00 for each such violation.

129 (b) Any person who participates as a guest worker who fails or refuses to return to his or
130 her country of citizenship within 30 days following the termination of his or her
131 employment as a guest worker or within 30 days of the expiration of his or her status as a
132 guest worker shall be guilty of a felony and, upon conviction thereof, shall be punished by
133 imprisonment for a period of not less than one nor more than five years or a fine of not
134 more than \$10,000.00, or both.

135 34-11-8.

136 The Commissioner shall be authorized to promulgate such rules and regulations as
137 necessary to implement the provisions of this chapter.

138 34-11-9.

139 The provisions of this chapter shall become effective on the first day of the third month
140 following a finding by the Attorney General that the program established under this chapter
141 may be lawfully administered under the laws of this state and the United States."

142 **SECTION 2.**

143 This Act shall become effective upon its approval by the Governor or upon its becoming law
144 without such approval.

145 **SECTION 3.**

146 All laws and parts of laws in conflict with this Act are repealed.