



The FORTE bill will kill guest worker visas

By Alex Nowrasteh

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Immigration reform is alive in the House with Speaker John Boehner (R-Ohio) and Rep. Eric Cantor (R-Va.) both supporting the expansion of several legal immigration opportunities. However, policymakers should beware of Trojan Horse bills that will greatly restrict legal immigration while purporting to solve current problems. The Fraudulent Overseas Recruitment and Trafficking Elimination Act (FORTE) is on Cantor's Spring 2014 Legislative calendar. If it becomes law, it will end most current guest worker visa programs without creating a replacement.

FORTE's title makes it sound like an anti-human trafficking bill, but it's deceptive. Almost the entire text of FORTE piles fees and regulations on labor recruiters and employers of current guest worker visas. The proposed regulations are so burdensome and expensive and the criminal penalties so great for paper work errors (yes, you read that right) that it would make guest worker visas prohibitively expensive.

The effect of FORTE will not only do nothing to crack down on human traffickers; it will instead make current guest worker visas too expensive to use, creating a shortage in the labor force.

Guest workers are foreign workers temporarily employed in American firms. Due to the existing immigration laws, they already have to comply with a complexity of rules and regulations that limit their productivity. For example, there are four different federal agencies that currently regulate virtually every minute detail of H-2A seasonal agricultural guest workers. Exasperated by this, many American farmers turn to unauthorized immigrant workers. The rules for other guest worker visas like the H-1B for highly skilled guest workers are also extremely strict.

What FORTE would do is build an entirely new regulatory structure for guest worker visas *on top of* the existing structure. For instance, FORTE requires a firm sponsoring guest workers to disclose in absurd detail the training the guest worker will need going forward. Workers have to consent in writing to any changes. But an H-1B work visa typically lasts six years: how is the employer supposed to be able to know what training will be required over a six year stint of employment?

Sponsoring firms of H-1B guest workers must currently fill out a form called a Labor Condition Application (LCA). On the LCA, the sponsor must state all of the employee's expected work

locations. Firms have violated these LCA's in the past, labeled "fraud" by the government for allowing workers to take conference calls from their homes, which are not listed on the LCAs. Under FORTE's new paperwork requirement, such a knowingly committed omission could lead to a 20-year prison sentence and (thousands of dollars?) in fines.

Migrant workers and employers need flexibility in determining wage rates, length of employment, working conditions, transportation, and training. FORTE limits those choices by locking both migrants and employers into another complex web of rules that will ultimately do more to restrict guest worker visas.

Migrant workers should, as much as possible, be treated as at-will employees who can change employers without jeopardizing their immigration status. Right now many migrants and firms are being forced to use foreign labor recruiters, some of whom are corrupt, to help them navigate America's already complex guest worker visa system. Streamlining current regulations will diminish the amount of corruption by allowing migrants and firms to navigate American immigration laws themselves.

Instead of pursuing those level-headed reforms, FORTE will effectively shackle the few guest workers that remain, limit their choices, and give a bigger role to labor recruiters – big steps backwards for everyone concerned.

Will FORTE stop international human trafficking? No. It's an emotional title attached to a bill that will gut legal worker migration, and ironically, would likely drive more would-be guest workers into the arms of human smugglers.

America's guest worker visas are beset by problems that will only get worse if FORTE is passed. And rather than protect future migrant workers and expand their choices, this law will drive more of them into the uncertainties and abuses of working illegally in the United States.

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