

SENATE BILL NO. 204—SENATOR ELLISON

FEBRUARY 12, 2025

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to employment.
(BDR 53-724)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to wages; authorizing a temporary agricultural foreign worker who performs herding or production of livestock on the range under an H-2A visa and his or her employer to enter into a written agreement to exclude from the wages of the worker certain specified periods for meals, sleep and other free time; exempting an employer of a temporary agricultural foreign worker who performs herding or production of livestock on the range under an H-2A visa from certain recordkeeping requirements; requiring the enforcement of certain provisions relating to payment of wages and prosecution of violations thereof; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing federal law, an H-2A visa permits certain persons to work in the
2 United States as a temporary nonimmigrant agricultural worker. Regulations of the
3 United States Department of Labor establish minimum wages and working
4 conditions for H-2A workers, including temporary agricultural foreign workers
5 who perform herding or production of livestock on the range. Under the H-2A visa
6 program, employers must offer, advertise in recruitment and pay each temporary
7 agricultural foreign worker who performs herding or production of livestock on the
8 range a wage that is at least the highest of various wage sources listed in those
9 federal regulations, including the applicable minimum wage imposed by state law.
10 (8 U.S.C. § 1188; 20 C.F.R. §§ 655.200-655.235) **Section 1** of this bill designates
11 such a worker as an “H-2A visa herder” for the purposes of the provisions of this
12 bill.



13 Existing law requires an employer to pay wages to an employee for each hour
14 the employee works. (NRS 608.016) Existing law authorizes a domestic service
15 employee who resides in the household where he or she works and his or her
16 employer to exclude from the domestic service employee's wages certain periods
17 for meals, sleep and other periods of complete freedom. (NRS 608.215) **Sections 1-**
18 **5** of this bill enact similar provisions for H-2A visa herders.

19 **Section 1** authorizes an H-2A visa herder and his or her employer to agree in
20 writing to exclude from the herder's wages certain periods for meals, sleep and
21 other periods of complete freedom from all duties. Under **section 1**, if a period
22 excluded from the H-2A visa herder's wages is interrupted by a call to duty, the
23 interruption must be counted as hours worked for which compensation must be
24 paid. **Section 1** also provides that if it is found by the parties that there is a
25 significant deviation from the initial agreement, a separate record must be kept for
26 the period in which the deviation occurs or a new agreement must be reached that
27 reflects the actual facts.

28 Existing law requires every employer to establish and maintain records of
29 wages for each employee, including, with certain exceptions, the total hours
30 employed in the pay period by noting the number of hours per day. (NRS 608.115)

31 **Section 3** of this bill exempts an employer of an H-2A visa herder from this
32 requirement.

33 **Section 4** of this bill requires the Labor Commissioner or the representative of
34 the Labor Commissioner to cause the provisions of this bill to be enforced and
35 violations thereof to be prosecuted. **Section 5** of this bill provides that a person who
36 violates the provisions of this bill, or any regulation adopted pursuant thereto, is
37 guilty of a misdemeanor.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 608 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. An employer and an H-2A visa herder may agree in*
4 *writing to exclude from the wages of the H-2A visa herder:*

5 *(a) Periods for meals if the period for meals is at least one-half*
6 *hour for each meal;*

7 *(b) Periods for sleep if the period for sleep excluded from the*
8 *wages of the H-2A visa herder does not exceed 8 hours; and*

9 *(c) Any other period of complete freedom from all duties*
10 *during which the H-2A visa herder stays on the premises and*
11 *engages purely personal pursuits. To be excluded from the wages*
12 *of the H-2A visa herder pursuant to this paragraph, a period must*
13 *be of sufficient duration to enable the H-2A visa herder to make*
14 *effective use of the time.*

15 *2. If a period excluded from the wages of the H-2A visa*
16 *herder pursuant to this section is interrupted by a call to duty by*
17 *the employer, the interruption must be counted as hours worked*
18 *for which compensation must be paid.*

19 *3. An agreement made pursuant to this section may be used*
20 *to establish the total hours of employment in a pay period of an*



1 *H-2A visa herder in lieu of maintaining precise records of the*
2 *number of hours worked per day. The employer shall keep a copy*
3 *of the agreement and indicate in the record of wages maintained*
4 *pursuant to NRS 608.115 that the work time of the H-2A visa*
5 *herder generally coincides with the agreement. If it is found by the*
6 *parties that there is a significant deviation from the initial*
7 *agreement, a separate record must be kept for the period in which*
8 *the deviation occurs or a new agreement must be reached that*
9 *reflects the actual facts.*

10 *4. As used in this section, "H-2A visa herder" means a*
11 *temporary agricultural foreign worker who has been hired to*
12 *perform herding or production of livestock on the range under an*
13 *H-2A visa, pursuant to 20 C.F.R. §§ 655.200 to 655.235, inclusive.*

14 **Sec. 2.** NRS 608.016 is hereby amended to read as follows:

15 608.016 Except as otherwise provided in NRS 608.0195 , and
16 608.215 ~~§~~ *and section 1 of this act*, an employer shall pay to the
17 employee wages for each hour the employee works. An employer
18 shall not require an employee to work without wages during a trial
19 or break-in period.

20 **Sec. 3.** NRS 608.115 is hereby amended to read as follows:

21 608.115 1. Every employer shall establish and maintain
22 records of wages for the benefit of his or her employees, showing
23 for each pay period the following information for each employee:

24 (a) Gross wage or salary other than compensation in the form of:

25 (1) Services; or

26 (2) Food, housing or clothing.

27 (b) Deductions.

28 (c) Net cash wage or salary.

29 (d) Except as otherwise provided in NRS 608.215 ~~§~~ *and*
30 *section 1 of this act*, total hours employed in the pay period by
31 noting the number of hours per day.

32 (e) Date of payment.

33 2. The information required by this section must be furnished
34 to each employee within 10 days after the employee submits a
35 request.

36 3. Records of wages must be maintained for a 2-year period
37 following the entry of information in the record.

38 **Sec. 4.** NRS 608.180 is hereby amended to read as follows:

39 608.180 The Labor Commissioner or the representative of the
40 Labor Commissioner shall cause the provisions of NRS 608.005 to
41 608.195, inclusive, and 608.215 *and section 1 of this act* to be
42 enforced, and upon notice from the Labor Commissioner or the
43 representative:

44 1. The district attorney of any county in which a violation of
45 those sections has occurred;



1 2. The Deputy Labor Commissioner, as provided in
2 NRS 607.050;

3 3. The Attorney General, as provided in NRS 607.160 or
4 607.220; or

5 4. The special counsel, as provided in NRS 607.065,
6 ↪ shall prosecute the action for enforcement according to law.

7 **Sec. 5.** NRS 608.195 is hereby amended to read as follows:

8 608.195 1. Except as otherwise provided in NRS 608.0165,
9 any person who violates any provision of NRS 608.005 to 608.195,
10 inclusive, or 608.215 ~~§~~ *or section 1 of this act*, or any regulation
11 adopted pursuant thereto, is guilty of a misdemeanor.

12 2. In addition to any other remedy or penalty, the Labor
13 Commissioner may impose against the person an administrative
14 penalty of not more than \$5,000 for each such violation.

