

# The New York Times

## LA. BUSINESS OWNERS SUE OVER NEW RULES FOR GUEST WORKERS

By Julia Preston  
September 11, 2011

EUNICE, La. – The workers have been in fine spirits this summer in the small plant where Dexter Guillory cuts up alligator meat to feed the growing demand from Southern restaurants for the swamp creatures' steaks.

Mr. Guillory runs his family business in this Cajun country town with a mix of local employees and guest workers from Mexico, who come up each year on legal visas through a federal program known as H-2B. All the workers are paid by the pound of meat they carve in the well-chilled plant, and this year there have been plenty of alligators, so earnings have been good.

"I love this work because I cut more alligator, I make more money, that's why," said Lorena Aguilar, 38, who has been coming from Sinaloa, Mexico, with half a dozen of her relatives, to work for Mr. Guillory for part of the year for nearly a decade.

But small-business owners in south Louisiana, like Mr. Guillory, who cut alligators, peel crawfish, shuck oysters, shell crabs and process shrimp say they are about to receive a shock from new Labor Department regulations that make broad changes to the H-2B program. The employers say the rules, including some issued in January and some still under consideration, could put many of them out of business.

On Wednesday, several Louisiana food associations brought a federal lawsuit against the Labor Department and the Department of Homeland Security, which jointly administer the H-2B program, saying a new mandatory method for setting wages for foreign workers would cause "catastrophic results." Starting Sept. 30, they would have to pay guest workers at crawfish and shrimp processors wage increases that range from 51 percent to 83 percent of current hourly rates, according to the suit.

The employers said these sudden increases would be crippling and would expose them to unwinnable competition from foreign imports and from other businesses that hire illegal immigrants. The suit was joined by other Louisiana businesses that use the guest-worker program, including forestry companies, hotel and amusement park owners and sugar growers.

The dispute is a microcosm of the nation's larger debate over job creation, which President Obama has made his priority. Louisiana employers say their businesses, which give work to thousands of Americans as well as foreign migrants, are being hamstrung by proliferating federal regulations. Administration officials argue that stronger rules are needed to protect Americans' jobs and wages in a time of high unemployment.

The Louisiana lawsuit puts the Labor Department back in the middle of a running feud between employers and labor advocates over one of the few programs that bring Mexican and other foreign low-wage workers legally to the United States.

Under the H-2B program, employers can bring in up to 66,000 nonagricultural foreign workers each year for temporary stints, after they have shown that American workers are not available and that Americans' wages will not be adversely affected.

After years of complaints from employers that the program was inefficient and cumbersome, the administration of President George W. Bush sought to streamline the application process, putting new regulations into effect in January 2009. Farmworker organizations sued the Labor Department to reverse them.

In August 2010, a federal court in Pennsylvania hearing one of those lawsuits ordered department officials to issue new rules on how employers should determine wages for H-2B workers. The new wage rules were issued in January, but department officials, acting under court order, announced only last month that they would go into effect Sept. 30.

In a parallel effort, the Obama administration's labor secretary, Hilda L. Solis, has undertaken a wider critical review of the Bush administration rules. In March, the department published a 77-page proposal.

The Labor Department has not yet issued the final broader rule.

Jane Oates, an assistant secretary of labor, said the department's proposals were intended to improve recruitment of American workers for jobs, while reinforcing protections for foreign migrants. "More of these jobs could be filled by U.S. workers if they were aware of the opportunity and paid prevailing wages," Ms. Oates said.

All the proposed changes have drawn alarmed criticism from employers but were generally praised by labor organizations. The National Guestworker Alliance, a group based in New Orleans, said, "Too often employers shopping for the most exploitable work force manipulate the program," leading to "involuntary servitude" of foreign workers.

Here in Eunice, home of the Cajun Music Hall of Fame, Mr. Guillory said he was baffled by the department's efforts to fix an immigration program he never knew was broken. Persistent high unemployment in other parts of the country has not made it easier for him to find local Americans to take his jobs, which ebb and flow with the seasons.

Mr. Guillory needs labor because demand for alligator meat for restaurant tables has been bolstered by a program on the History Channel, called "Swamp People," whose heroes catch alligators in Louisiana bayous. Mr. Guillory actually gets his alligators less arduously, from nearby farms. He also peels crawfish, another seasonal crop.

Hurricane Katrina in 2005 had a lasting effect on the labor force in this region, he and other employers said, with many thousands of people leaving New Orleans for good. Once reconstruction started, workers headed to the city for well-paying jobs. The generous wages of the Louisiana oil industry also draw local workers away from Eunice.

Many here cannot afford to lose year-round government benefits if they take seasonal, piece-rate jobs with Mr. Guillory, he and several of his full-time American employees said.

But Mexican workers in the plant said they liked the work and the boss and were content with the rhythm of working for six months or so and then returning to Mexico.

"Mr. Dexter gets them through the immigration, and they're good workers," said Elizabeth Guillory, 72, a Eunice resident (no relation to her employer) who is the floor supervisor in

the plant. "I've been poor all my life, and I know what it is to have work." Between Mexicans and Americans in the plant, she said, "We have good relationships."

Ms. Aguilar said she and her family were grateful to be working legally in the United States. "It feels good because not everybody has this chance," she said.

Mr. Guillory says he cannot understand why the Labor Department does not recognize his record as a fair employer. If he cannot hire guest workers, he said, the chain of lost jobs and income for local people would run back to the alligator and crawfish farmers whose crops he would not process and forward to the restaurants that serve his products.

That sequence is what Louisiana employers said they hope to avert with the lawsuit.

"This is a showstopper," said Frank Randol, who runs a crawfish business and a Cajun restaurant in Lafayette and represents the Crawfish Processors Alliance, one group in the suit. "In 40 years I've been in this business, we've faced just about everything," he said, "but now we are facing our own government trying to shut us down."