The EAGLE Act of 2021: section by section

H.R.3648, 117th Congress, as introduced June 1, 2021

The EAGLE Act of 2021 was introduced in the House on June 1, 2021 by Reps. Zoe Lofgren (D-CA) and John Curtis (R-UT). It would have ended the per-country cap on employment-based green cards and added new rules for employers of H-1B workers, but it did not become law. This summary describes the bill as introduced, one section at a time, and each point names the part of the bill text it summarizes.

Sec. 1. Short title

The bill would have been cited as the Equal Access to Green cards for Legal Employment Act of 2021, or the EAGLE Act of 2021.

Sec. 2. Numerical limitation to any single foreign state

This section would have ended the per-country cap on employment-based green cards and set it at 15% for family-sponsored green cards. Transition rules would have applied to EB-2 and EB-3 green cards for nine fiscal years. The section had no rule that people already waiting would never wait longer than under the law at the time.

- The per-country limit would have applied only to family-sponsored green cards. People born in any one country could have received up to 15% of those green cards each year (2% for a dependent area). (Sec. 2(a))
- The special rules for countries that reach the limit would also have covered only family-sponsored green cards. (Sec. 2(b)(2))
- The country-specific offset in the Chinese Student Protection Act of 1992 (section 2(d) of that Act) would have been removed. (Sec. 2(c))
- These changes would have taken effect at the start of the second fiscal year after the bill became law. (Sec. 2(d))
- For nine fiscal years after that date, a set share of EB-2 and EB-3 green cards would have been reserved for applicants born outside the two countries with the highest demand: 30% in the first year, 25% in the second, 20% in the third, 15% in the fourth, 10% in the fifth and sixth, and 5% in the seventh, eighth and ninth. (Sec. 2(e)(1)(A))
- In each of those nine years, a further 5.75% of EB-2 and EB-3 green cards would have been reserved for people born outside those two countries. They would have gone first to spouses and children joining a worker in the United States who already had an EB-2 or EB-3 green card. (Sec. 2(e)(1)(B)(i))
- Any of the 5.75% not used by the end of the second quarter could have gone to new arrivals who had not lived or worked in the United States in the four years before their petition was filed. Any still unused by the end of the third quarter could have gone to other EB-2 and EB-3 applicants born outside the two highest-demand countries. (Sec. 2(e)(1)(B)(ii)–(iii))
- For the first seven fiscal years, at least 4,400 of the EB-3 green cards not already reserved would have been set aside each year for the shortage occupations listed in 20 C.F.R. 656.5(a) (nurses and physical therapists). Spouses and children would not have counted against the 4,400. (Sec. 2(e)(2))
- During the nine years, people born in any one country could have received no more than 25% of the reserved green cards, and no more than 85% of the EB-2 and EB-3 green cards that were not reserved. (Sec. 2(e)(3))
- If, at the end of the third quarter of a fiscal year, the Secretary of State found that these rules would leave EB-2 or EB-3 green cards unused, the remaining green cards for that year could have been issued without them. (Sec. 2(e)(4))
- The two countries with the highest demand would have been the two with the most people whose employment-based immigrant petitions were approved but who were still waiting for a green card to become available. The Secretary of State would have decided this together with the Secretary of Homeland Security. (Sec. 2(e)(6))

Sec. 3. Posting available positions through the Department of Labor

This section would have required employers to post H-1B jobs on a public Department of Labor website before filing for a new H-1B worker.

- Within 180 days after the bill became law, the Secretary of Labor would have had to set up a searchable website for these job postings, free to the public. The launch could have been delayed once, by up to 30 days, with notice in the Federal Register. (Sec. 3(a))
- The Secretary could have worked with private companies or nonprofit organizations to build and run the website. (Sec. 3(a))
- Before filing for a new H-1B worker, employers would have had to post the job on a searchable Department of Labor website for at least 30 days. (Sec. 3(d))
- Each posting would have had to give the occupation and job title, the education, training or experience required, the salary or wage range and benefits, the work locations, and how to apply. (Sec. 3(d))
- Posting would not have been required for an H-1B worker already counted against the annual H-1B limit who was not eligible for a full six-year period, or for an H-1B worker changing employers under INA 214(n). (Sec. 3(d))
- The Secretary of Labor would have had to tell Congress, and publish in the Federal Register, the date the website would start operating. The website rules would have applied to applications filed 90 or more days after that date. (Sec. 3(b)–(c))

Sec. 4. H-1B employer petition requirements

This section would have added conditions to the labor condition application, which an employer files with the Department of Labor before an H-1B petition. It would also have ended the use of visitor visas in place of H-1B visas.

- Employers would have had to state on the labor condition application how they determined the prevailing wage. (Sec. 4(a))
- An employer, or anyone acting for it, could not have advertised a job as open only to H-1B workers, or as giving H-1B workers priority or preference in hiring. (Sec. 4(b), INA 212(n)(1)(H)(i))
- An employer could not have recruited mainly H-1B workers to fill the job. (Sec. 4(b), INA 212(n)(1)(H)(ii))
- An employer that had employed H-1B workers during an earlier period set by the Secretary of Labor would have had to give the Secretary those workers' W-2 forms for that period. (Sec. 4(b), INA 212(n)(1)(I))
- An employer with 50 or more employees in the United States could not have filed for new H-1B workers if more than half of its US staff held H-1B or L-1 visas. (Sec. 4(c)(1))
- Companies treated as one employer under section 414(b), (c), (m) or (o) of the Internal Revenue Code would have been counted together for the 50% limit. (Sec. 4(c)(1))
- Extensions and job changes for H-1B workers already employed when the bill became law would not have been affected. (Sec. 4(c)(2))
- The 50% limit would have taken effect 180 days after the bill became law. (Sec. 4(c)(3))
- The Department of Labor would have charged a fee for each labor condition application to cover processing costs. The fees would have paid for administering, overseeing, investigating and enforcing the H-1B program. (Sec. 4(d))
- This subsection was titled "Elimination of B-1 in lieu of H-1". Unless another law allowed it, a person coming to work in a specialty occupation, the kind of job that normally needs an H-1B visa, could not have been given a visitor (B) visa or admitted as a visitor for that work. (Sec. 4(e))

Sec. 5. Investigation and disposition of complaints against H-1B employers

This section would have rewritten the protection for people who report H-1B violations, and would have required US Citizenship and Immigration Services (USCIS) to pass evidence of violations to the Department of Labor.

- Employers could not have retaliated against workers, former workers or job applicants who reported violations, and an employer that did would have been liable for their lost wages and benefits. (Sec. 5(a))
- Retaliation would have included taking, not taking, or threatening a personnel action, and intimidating, threatening, restraining, coercing, blacklisting, firing or otherwise discriminating. The protection would have covered a person who disclosed information they reasonably believed showed a violation of the H-1B rules, or who cooperated or sought to cooperate with those rules. (Sec. 5(a))
- The Director of USCIS would have had to give the Secretary of Labor any information in employers' H-1B petition materials that showed the employer was not following H-1B program rules. (Sec. 5(b))
- After receiving that information, the Secretary of Labor could have opened an investigation and held a hearing. (Sec. 5(b))

- The rewrite of this paragraph would also have removed the existing protections for employers that showed good-faith compliance, and the rule that limited penalties for an employer using an industry prevailing-wage standard. (Sec. 5(b); current INA 212(n)(2)(H) per H. Rept. 117-353)

Sec. 6. Labor condition applications

This section would have changed how the Department of Labor reviews labor condition applications and compares wages, given it new audit and investigation powers, and raised fines.

- Labor condition application information that the Department of Labor makes available for public examination in Washington, D.C. would also have been available on its website, without charge. (Sec. 6(a)(1))
- The Department of Labor would have reviewed each application for clear signs of fraud or misrepresentation of a material fact, as well as for completeness and obvious errors. It would not have certified an application that showed such signs. (Sec. 6(a)(2)–(3))
- If its review found clear signs of fraud or misrepresentation, the Department could have investigated and held a hearing. (Sec. 6(a)(4))
- The actual wage an employer reports would have had to be based only on employees with substantially the same duties and responsibilities as the H-1B worker in the same area (unless there were no such employees in that area). Experience, qualifications, education, job function, specialized knowledge and other legitimate business factors would have been taken into account. (Sec. 6(b))
- The prevailing wage would have had to reflect the best available information for the area within normal commuting distance of the actual address where the H-1B worker is employed. (Sec. 6(b))
- On receiving a complaint, the Secretary of Labor could have opened an investigation into whether the employer failed to meet a condition of its application or misrepresented a material fact. This would have replaced the rule that the Secretary must investigate whenever there was reasonable cause to believe a violation occurred. (Sec. 6(c)(2)–(3))
- The Secretary could have surveyed how well employers follow the H-1B rules, and could have audited any employer of H-1B workers each year. (Sec. 6(c)(3))
- The Department of Labor would have had to audit every year each employer with more than 100 full-time equivalent employees in the United States of whom more than 15% held H-1B visas, and to publish a summary of the general findings. (Sec. 6(c)(3))
- An employer whose annual audit found no willful failure to meet a condition of its application would not have had another annual audit for at least four years, unless there was evidence of misrepresentation or fraud. (Sec. 6(c)(3))
- Maximum fines for violating labor condition application rules would have roughly tripled: from $1,000 to $3,000, from $5,000 to $15,000, and from $35,000 to $100,000 per violation. (Sec. 6(d)(1)–(3))
- A fourth fine, in INA 212(n)(2)(C)(vi)(III), would have risen from $1,000 to $3,000. (Sec. 6(d)(4))
- The lowest tier of fines would also have covered the new conditions on job advertisements, recruiting and W-2 forms added by Sec. 4(b). (Sec. 6(d)(1)(A))
- The Secretary of Labor would no longer have had to certify personally that there was reasonable cause, and approve the investigation, before the Department started an investigation on its own. (Sec. 6(e)(1))
- When the Secretary received specific credible information about an employer, the Department could have investigated the employer's compliance with all H-1B requirements. The bill would have removed the conditions that the source's identity be known to the Secretary and that the information show a willful failure, a pattern of failures, or a substantial failure affecting several employees. (Sec. 6(e)(2))
- Information from Department of Labor staff, and information employers submitted to get H-1B workers approved, could have been used to start an investigation. The bill would have removed the clauses that excluded them. (Sec. 6(e)(3)–(4))
- The existing rule requiring advance notice to the employer of an investigation would have been kept, but the Secretary could have skipped notice when it would interfere with an investigation, not only with efforts to get the employer to comply. That decision still could not have been challenged in court. (Sec. 6(e)(7))
- If an investigation gave a reasonable basis to find that the employer had failed to comply with the H-1B requirements, the Secretary would have had to give notice and an opportunity for a hearing not later than 60 days after that determination. The clause it would have replaced set a deadline of 120 days and limited an investigation to 60 days. That clause also applied only to a willful failure, a pattern of failures, or a substantial failure affecting several employees. (Sec. 6(e)(8))

- If a hearing found that the employer had violated a requirement, the Secretary could have imposed a penalty. (Sec. 6(e)(9))

Sec. 7. Adjustment of status for employment-based immigrants

From one year to nine years after the bill became law, this section would have let a worker in the United States whose employment-based immigrant petition had been approved at least two years earlier apply for a green card (adjustment of status) before one was available to them. The green card itself would still have been approved only when the worker's place in line came up.

- A worker in the United States whose immigrant petition had been approved at least two years earlier could have applied for a green card before their place in line came up. Their spouse and children could have applied with them. (Sec. 7(a), INA 245(n)(1))
- The worker would have had to be in the United States after a lawful admission as a nonimmigrant. People admitted as visitors (B), in transit (C), as crew (D), on S visas, or without a visa under INA 212(l) or 217 could not have used this rule, nor could people barred from adjustment of status by INA 245(c), subject to INA 245(k). (Sec. 7(a), INA 245(n)(1)(A))
- Children would have stayed eligible however old they were when the green card became available, and even if the parent had died by then. (Sec. 7(a), INA 245(n)(2))
- Applicants could have received travel permission (advance parole) on the same terms as other applicants for adjustment of status. (Sec. 7(a), INA 245(n)(3)(A))
- The worker could have received a work permit on the same terms as other applicants for adjustment of status, subject to the conditions below. (Sec. 7(a), INA 245(n)(3)(B)(i))
- A spouse or child who was not authorized to work, and not eligible to ask for a work permit, when the application was filed would not have become eligible for a work permit because of this application. (Sec. 7(a), INA 245(n)(3)(B)(ii))
- Until a green card became available, the worker's duties, hours and pay would have had to be on the same terms as those of the employer's similarly situated US workers in the area. If the employer did not employ, and had not recently employed, more than two such workers, the comparison would have been with other similarly situated US workers in the area. (Sec. 7(a), INA 245(n)(4)(A)(i))
- If the worker changed jobs or employers, the new job would have had to be in the same or a similar occupation as the job in the petition. (Sec. 7(a), INA 245(n)(4)(A)(ii))
- The application would have needed a signed letter from the current or future employer stating that the terms of employment matched those of similarly situated US workers in the area, and any other information the Secretary of Homeland Security required. (Sec. 7(a), INA 245(n)(4)(B))
- Each work permit application would have needed a Confirmation of Bona Fide Job Offer or Portability (Form I-485 Supplement J) stating that the original job offer was still valid, or that the worker had accepted a new full-time job in the same or a similar occupation. The work permit would have been valid for three years. Each renewal would have needed a new Supplement J and a new employer letter on the terms of employment. (Sec. 7(a), INA 245(n)(4)(C))
- The green card could not have been approved before one was available to the worker, or if the worker had not filed a Supplement J in the previous 12 months. If one was needed, the Department of Homeland Security would have had to ask for it. (Sec. 7(a), INA 245(n)(5)(A)–(B))
- If a Supplement J showed that the job conditions were not met, the Department would have had to send a notice of intent to deny and give the worker a chance to show compliance. It could have denied the application if the worker did not file the form in time or could not show compliance. (Sec. 7(a), INA 245(n)(5)(C)–(D))
- Each Supplement J filed under this rule would have carried a $2,000 fee. Half would have gone to the Immigration Examinations Fee Account and half to the general Treasury. (Sec. 7(a), INA 245(n)(6))
- Applications could have been filed from one year to nine years after the bill became law. Applications filed before the end of that period would still have been decided under these rules. (Sec. 7(a), INA 245(n)(7))
- "Similarly situated US workers" would have included workers in the same area with similar duties, supervision, education, industry expertise, experience, responsibility and skills. Terms would have been "commensurate" if the employer could show they were within the range the employer had offered, or would offer, to such US workers. (Sec. 7(a), INA 245(n)(8))
- The exception in INA 245(k) would also have applied to applications under this rule. (Sec. 7(b))

Later versions. The House Judiciary Committee approved an amended version 22–14 on April 6, 2022, and reported it to the House on June 7, 2022 as the EAGLE Act of 2022 (H. Rept. 117-353). The reported text kept every number in this summary. It added one provision, a new Sec. 4(f): a representative of the foreign press, radio, film or other foreign media could not have received an H-1B visa to do that work. It also replaced "effective date" with "application" wording in Sections 2, 4 and 7, placed the early green card application rule in a new INA 245(o) instead of 245(n), named "any form associated with section 204(j)" instead of Form I-485 Supplement J, and corrected small drafting errors. The EAGLE Act of 2023 (S.3291, 118th Congress) contained the same protections for American workers.

Texts. H.R.3648 as introduced; as reported; House Report 117-353, which includes the committee's own section-by-section analysis of the reported version.

Prepared by Immigration Voice from the bill text, Nov 18, 2026.