

Immigration law puts new burden on employers

(Third in a four-part series on the new federal immigration law and its effects in this area.)

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Agricultural employers in the Pajaro Valley are blaming the new immigration law for caus-

ing a shortage of field workers.

Emile Agaccio, who employs 50 field workers to pick raspberries at the foot of Hecker Pass, says he could use 15 or 20 more workers but can't find

any.

It's a problem he's never had in the past.

"We've had to go to the employment office to get more workers out here," he said. "There simply doesn't seem to be that many around."

Agaccio said the new immigration law is the cause.

"People are just plain afraid of it," he said.

The Immigration Control and Reform Act of 1986 came into effect last November. It is a two-pronged assault aimed at eventually stemming the tide of illegals from Mexico.

The law established the amnesty and Special Agricultural Worker (SAW) programs to help illegals attain legal status. At the same time, it established employer sanctions, requiring all employers to verify that employees hired as of Nov. 6, 1986, have a legal right to work.

Sanctions for knowingly hiring undocumented workers include fines of up to \$10,000 and jail sentences up to six months.

Sanctions were supposed to take effect this month, but enforcement has been delayed

special report

until July, and Congress is considering postponing sanctions until October.

Among the documents employees may present to prove they have legal status are birth certificates, passports, Social Security cards or immigration papers.

David Ilchert, director of the Immigration and Naturalization office in San Francisco, said employers shouldn't be asking workers for documentation until federal employee verification forms (called I-9s) become available.

Even then, he said, as long as employees attest they are eligible for one of the legal residency programs, employers may hire them without documentation and without fear of penalty, at least until Sept. 1.

Cynthia Rice, a lawyer for the California Rural Legal Assistance, said employers must be careful once they do begin asking for verification.

"The biggest thing we try to emphasize is that verification must be asked of everyone," Rice said. "If you ask one

person and don't ask another you could face charges of discrimination."

The most common problem, immigration experts say, is confusion among employers. Many do not know how far they have to go to verify a job applicant's legal status.

The law requires a "good faith" effort, but does not hold employers responsible for applicants who use forged documents.

The law affects all employers, even those who employ only a few workers, and will eventually affect most employees, who will be asked to verify citizenship or legal right to work before being hired.

All businesses will feel the effects of the law because of the paperwork they will be required to do and the records they will be required to keep.

Businesses that have traditionally hired illegals — including farms, restaurants, hotels and motels, and other low-wage and service industries — are feeling additional effects of the law.

Worker shortages have been reported in California's Central Valley, where farming is big business; in Los Angeles and its surrounding communities, where the garment industry has traditionally employed illegals;

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Kurt Ellison

Emile Agaccio watches Evelyn Johnson (left) and Rosario Cruz sort berries.

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and in Washington state, where strawberries and other crops are grown.

Here in the Pajaro Valley, agriculture is the king of employment for illegals but some of its servants aren't showing up to keep the castle.

Illegals who are showing up to work in the local fields say workers are confused about the law.

They say many are under the impression that employers are already asking for documentation. They say many have stayed in Mexico instead of migrating.

Some say their fellow illegals aren't migrating because they want to stay in one place until they go through the legalization process.

Agaccio, the farmer, said if workers aren't found, his problems will intensify as the season for perishable crops hits its peak in the next few weeks. He said he would need to increase his work force to 60 to 100 people. Without workers, crops won't be harvested and will spoil on the vine, which would mean not only a loss for the grower but an increase in prices for the consumer.

Nita Gizdich, a blackberry grower on Peckham Road, says workers haven't been showing up to work at her fields, either.

"I could use 15 to 20 laborers by tomorrow morning and another 20 by next week," she said on a recent morning.

She also blamed the immigration law, adding that many of

the migrants who had shown up are now leaving for Mexico.

"We have to ask the ones that are here to fill out forms," she said. "We tell them our government is going to wipe the slate clean with them. It's hard to explain that. They find it hard to understand — it's too puzzling for them."

"They're scared about it. They'd rather pack their bags and head home than fill out forms."

A shortage of workers isn't the only problem employers say they have with the new law. Some say the law is a nightmare of paperwork and is doomed to failure.

Kathy, a Pajaro Valley berry grower who did not want her full name used in this story, said she's unhappy with the law for several reasons.

She said the procedure it has established to qualify for the legalization programs is too complicated.

She said she has been scurrying about, picking up forms and making doctor appointments for her employees to help them legalize.

"There are five different forms to be completed for everything from fingerprints to medical exams," she said. "And only certain doctors are allowed to give exams and only certain entities have been given power to fill out forms and everything has to be done according to specific directions or it's no good."

"It's been difficult for us, literate gringos or whatever, to figure out. I don't know how

these poor Mexican people can find out all the things they have to.

"It looks to me that this whole law was destined to fail. It can fail in 100 different ways."

Still, not all employers are having difficulties with the law.

Strawberry grower Clint Miller said he does not hire illegals and has had no problem finding workers this season.

"It's such a high investment. You can't afford to have the 'migra' (INS agents) come and take them away," he said.

Other employers said the law is causing them inconveniences, because of increased paperwork and change in hiring policies, but no major problems.

Gus Garcia, from Richard A. Shaw Inc. Frozen Foods, described the law as a "killer whale of paperwork."

He said the company is trying to help those who wish to legalize by supplying them with letters verifying employment with the company.

The company promises to produce a letter in 72 hours for any employee and in a week's time for any former employee.

He admitted the move is a selfish one.

"We want to maintain a stable workforce," he said. "We suffered quite a turnover in the past, because many of our employees couldn't settle down. All that is changing. This will help them grow roots. That not only helps the individual but it also helps the community. It helps us by minimizing the cost it takes to bring in new employees and train them."