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HB 577
Health and Welfare of H-2 Visa and Migrant Workers – COVID-19 Pandemic –
Regulations (Healthy Farmworkers Act)

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SUPPORT

Centro de los Derechos del Migrante, Inc. (CDM or Center for Migrants' Rights) submits this written testimony in SUPPORT of HB 577 - Healthy Farmworkers Act. CDM, a not-for-profit, binational organization with offices in Maryland and Mexico, supports migrant workers throughout their labor migration journey—from the moment they are recruited in their home communities, to their workplace in the U.S., and upon their return home. Migrant workers, including those in the H-2 temporary visa programs, depend on their employers for housing once they arrive at the worksite in the U.S. Unfortunately, many workers find themselves in poor, substandard housing. HB 577 would guarantee safe and healthful living conditions for workers, regardless of their immigration status, a critical protection for migrant workers who are routinely housed in high-risk environments for contracting highly-contagious diseases such as COVID-19.

Deplorable, substandard housing for migrant workers is an issue that has been impacting farmworkers, and those in the food processing industries for a long time. Dr. Thurka Sangaramoorhty and Emilia M. Guevara, scholars in the Anthropology Department at the University of Maryland, College Park, detailed their experience with a farmworker and his wife residing in Dorchester County in 2016:

“Francisco, a 50-year-old man from Zacatecas, Mexico, lived in a run-down trailer with his diabetic wife Marina. He told us that he typically earned less than \$11,000 dollars a year from farmwork, yet he paid \$80 a week in rent to his employer (approximately 38% of his income) and what he considered a large portion of his pay for what he considered *mugre* (dirt). Francisco and Marina invited us into the trailer by way of their waterlogged deck. Marina told us that she wanted the Lord to take her away from this misery as she timidly showed us her abdomen which was covered in sores. Some had healed over and turned purple, but others were red and raised. She told me that she required insulin for Type I diabetes, but the injection sites didn't heal properly and eventually became infected.

She added that she tried to keep her house clean, but the trailer was falling apart. Blankets covered all the broken furniture. The rectangular trailer had a bathroom on either side of the structure, two small rooms, a small kitchen with shelves and a larger living room area. The first

bathroom could not be used because the floor was collapsing and the linoleum was warped. Francisco told me that the floor rotted out around six months ago. He had called his employer several times, but he refused to fix the damage. Francisco showed us the usable bathroom which reeked of sewage. The outreach workers told us that they had reported these deplorable conditions to the Dorchester County Health Department before but no one followed up. They told us that very little could be done to remedy Francisco and Marina's plight because their employer was a lawmaker with a lot of clout in the Eastern Shore."

Who is a migrant worker? Background on the H-2 temporary work visa program

A migrant worker is defined as a person who migrates from one geographic location, other than their home, to another (or who has migrated from one country to another) with a view to being employed other than on his own account, and includes any person regularly admitted as a migrant for employment.¹ Migrant workers in the U.S. can be people that travel from one state to another, following crops. For example, a number of migrant workers travel from Florida to Maryland following the production of tomatoes. Other types of migrant workers come to work in Maryland with a temporary work visa, such as the H-2A and H-2B temporary work visa. HB 577 specifically focuses on the migrant workers that come to Maryland from out-of-state, with or without an H-2A or H-2B visa.

The federal government created the H-2A and H-2B temporary work visa programs to meet workforce demands throughout the country. Agricultural employers utilize the H-2A temporary visa program to hire workers from abroad to perform agricultural jobs in the U.S. The H-2B non-agricultural temporary work visa program allows employers industries such as seafood processing, landscaping, and amusement parks to employ migrant workers. Businesses and employers trying to access migrant workers through this program must comply with certain requirements, primarily that they cannot fulfill their workforce demands with only local hires. The employers usually contract with a foreign labor contractor or recruiter to seek workers from outside the U.S. to help them find and hire workers to come work in the country. Throughout its 15 years of advocacy, CDM has worked extensively with workers that have been recruited in Mexico.

Most often, when H-2 migrant workers are recruited for these jobs in Maryland, their only point of information is the recruiter. The recruiters, hired by employers in the U.S., go into communities abroad and recruit workers for these jobs. Recruitment can occur in a variety of ways, such as via message boards, on-line or printed announcements, and many times by word-of-mouth. Despite recruitment fees being unlawful, many recruiters charge workers exorbitant fees for the opportunity to be recruited and work in the U.S., leaving workers indebted before they even arrive to the U.S. Once recruited, workers have to travel to a U.S. Embassy or consulate's office to process their visa paperwork. From there, after three to five days of waiting for their visa, the worker will make the trip to their worksite in the U.S.

The housing arrangements are made by the recruiter and employer with no input from the worker. When a worker arrives in the U.S., they are usually taken to their lodging and one

¹ International Labour Organization. <https://www.ilo.org/public/english/standards/relm/ilc/ilc87/r3-1b2.htm>

there they are surprised to find inhospitable living conditions far from what they expected. Few alternatives exist for migrant workers who arrive indebted and who depend on employers for transportation and housing. Such was the story of an H-2B carnival worker that arrived in Maryland only to find himself in a dilapidated trailer home without running water and rotten food in a dirty kitchenette.²

Why HB 557 Would Ensure Healthy & Safe Housing for Migrant Workers COVID-19 & Migrant Worker Housing

When the COVID-19 global pandemic broke out, there were hundreds of thousands of migrant workers getting ready to come to the U.S. on an H-2A or H-2B temporary work visa. Our immediate concern as advocates was, and still is, “What is going to happen to workers living crowded housing arrangements?” We know from first-hand experience that migrant workers tend to live in crowded housing, usually sharing limited housing with many other workers. Housing arrangements vary and can include: trailer homes, labor camps, motels, private housing, and vans. The conditions also vary, and hence why HB 577 is needed in order to ensure all migrant workers have access to healthy and safe housing.

Employers hiring migrant workers through the H-2A agricultural temporary work visa program are required to provide housing to their workers at no-cost to them.³ The housing has to meet minimum housing standards as set by the federal government and the inspections must be carried about by the state’s workforce agency (SWA). In Maryland, the SWA is the Workforce Development & Adult Learning unit housed within the Department of Labor.⁴

Unlike the H-2A program, the H-2B non-agriculture temporary work visa program does not require employers to provide housing to their migrant workers. H-2B employers will often rent out private housing or make other arrangements for lodging of their migrant workers. The majority of H-2B migrant workers have to pay rent and other lodging expenses, such as internet and utilities. For example, the women crabpickers of Maryland’s Eastern Shore that come to work with an H-2B visa pay between \$40-45 per week to cover rent, transportation and even internet fees.⁵ The women crab pickers we interviewed for our report titled *Breaking the Shell* shared that although housing conditions had improved over time, there are conditions yet to be addressed, such as lack of heating, pests and insects, and overall habitability standards.⁶ During our interviews with these women, we spoke with one group of 21 women sharing a three-bedroom, two-bathroom house.⁷

² Farewell Ferris Wheel. Sisley, J. & Martinez, M. 2016. <http://www.farewellferriswheel.com/>

³ U.S. Department of Labor, Wage and Hour Division. *Fact Sheet #26: Section H-2A of the Immigration and Nationality Act (INA)*, accessed at: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs26.pdf>

⁴ Agricultural Employers and Workers - Workforce Development & Adult Learning, Maryland Department of Labor: <http://www.dllr.state.md.us/employment/agempworker.shtml>

⁵ Centro de los Derechos del Migrante, Inc., *Breaking the Shell: How Maryland’s Migrant Crab Pickers Continue to be “Picked Apart,”* September 2020. Accessed at: <https://cdmigrante.org/wp-content/uploads/2020/09/Breaking-The-Shell.pdf>

⁶ Id., p. 13.

⁷ Id., p. 13.

As we saw the pandemic unfold, we also saw a number of COVID-19 outbreaks occur in food processing worksites throughout the country. One such outbreak was the one that occurred at the seafood processing plants in Dorchester County. In July, there were 50 crab pickers that tested positive for COVID-19 in the Eastern Shore's seafood processing plants.⁸ Fortunately, there were no fatalities but this shows that there is a need for proper oversight and inspections of housing provided to workers.

Working and living in close proximity are key to the rapid transmission of a highly-contagious airborne virus. The lack of enforceable guidelines has left to the employer's discretion what kind of safety measures to implement and whether they even choose to take any action to mitigate the risks of coronavirus transmission. HB 577 would ensure housing inspections of employer-provided housing to migrant workers and thereby be one more action towards mitigating the transmission of COVID-19. CDM respectfully requests a **FAVORABLE** report on **HB 577 - Healthy Farmworkers Act**.

⁸ Baltimore Sun. *As migrant crab pickers suffered from coronavirus on Maryland's Eastern Shore, one worried about her future*. Sept. 1, 2020. <https://www.baltimoresun.com/coronavirus/bs-md-crab-pickers-coronavirus-outbreaks-20200901-y4xw6gclqnbefg43hxeevolke4-story.html>