ACA FULL-TIME DEFINITION / TREATMENT OF “SEASONAL” MUST BE CHANGED

SAF’s “Ask”

1) Co-sponsor and pass bipartisan legislation to raise the 30-hour definition of full-time employment under the ACA:
   o S. 1188: Forty Hours is Full Time Act of 2013
   o H.R. 2575: Save American Workers Act of 2013

2) Introduce and pass legislation that better reflects the realities of seasonal employment across varying industries and climates. This legislation must:
   a. Provide a simple, more accurate calculation for determining seasonal business size, 
   b. Clarify that seasonal employment is not full-time employment, and 
   c. Align a definition of seasonality with long-standing seasonal employment standards across varying industries and climates.

Full-time employment must be raised from 30 hours per week. Further, seasonal employment has never been considered full-time employment and the various “fixes” used to address seasonality are confusing and broken. The Affordable Care Act’s (ACA) definition of full-time employment and treatment of long-standing seasonal business practices do not reflect existing workforce management principles used throughout the U.S. floral industry. Congress must take bipartisan action now to avoid significant labor disruptions.

The ACA requires that employers subject to the statute’s Shared Responsibility for Employers provisions offer coverage to their full-time employees (and dependents) or face potential penalties. Internal Revenue Code §4980H defines a full-time employee as: “with respect to any month, an employee who is employed on average at least 30 hours of service per week.”

• The 30-hour full-time definition is not in line with industry employment practices
  The Fair Labor Standards Act does not define full-time employment but requires employers to pay overtime when nonexempt employees work more than a 40-hour workweek. This is why the floral industry generally uses a standard closer to 40 hours per week to define full-time employment within their operations. Defining full-time employment at 30 hours of service per week does not reflect employers’ workforce needs or their employees’ desire for flexible hours and higher take home pay. Congress must increase the standard from 30 hours to avoid workforce disruptions and to maintain employee flexibility and wages.

• Seasonal employment is not full-time: “fixes” inadequate and confusing
  Simply put, there is no existing labor standard in which seasonal employment is considered full-time. The “seasonal exception” used in determining ACA business size is unnecessarily complicated and fails to address seasonal workforce practices across a wide variety of industries and climates. Rules to measure the full-time status of seasonal and temporary employees are confusing, creating obstacles to compliance for small seasonal businesses. Congress must reexamine and address the issue of seasonality to simplify compliance, to avoid significant workforce disruptions and to promote small business growth.

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