

Lack of Cow Milkers for Yogurt Drives Immigration Debate

By Alan Bjerga - Mar 12, 2013

The [Alpina Foods Inc.](#) plant that just opened in Batavia, New York, to feed the nation's growing appetite for Greek-style yogurt should have nearby dairy farmers such as Matt Lamb scrambling to expand their herds.

It isn't -- and not because cows are in short supply. Lamb says he's reluctant to add to his family's 5,000-cow dairy operation for fear he won't have enough workers to milk them every day. That's partly due, he says, to U.S. immigration laws that were designed for seasonal farm laborers instead of the year-round, seven-days-a-week ones he needs.

"There's a true lack of warm bodies to do the work in this industry," said the 36-year-old Lamb, walking through softly falling snow and nearly ankle-deep mud toward one of his milking parlors. "We have Americans who can do this work, but without the immigrants we won't have enough. Businesses will fail, and prices will rise."

The labor shortfall has the bipartisan group of U.S. senators vowing to ensure dairy interests will be reflected in the revamp of immigration laws they are trying to craft. Senators including New York Democrat Charles Schumer, who has pledged to make his state a hub of Greek yogurt production, say they are trying to ensure a reliable supply for companies including [Dean Foods Co. \(DF\)](#), the country's biggest milk producer.

Record Production

Ultimately their efforts could falter as have past attempts to retool the nation's laws on foreign workers. President Barack Obama has been pressing senators to complete their measure this month, and has said he'll release his immigration rewrite if they don't reach a timely agreement.

The nation's 9.2 million dairy cows last year produced more than 200 billion pounds of milk, a record that equates to more than three cups a day for every American, and the sector is expected to generate [\\$38.5 billion](#) in sales this year, up 4.2 percent from last year, according to the U.S. Department of Agriculture.

New York, the [fourth-biggest](#) U.S. milk-producer with about 6,000 dairies, increasingly depends on immigrant labor to tend its cows, joining other states led by [California](#), the biggest dairy state.

A 2009 survey by Texas A&M University sponsored by the [National Milk Producers Federation](#) found that about 41 percent of dairy workers, around 57,000 people, were foreign-born, most from Mexico. Without immigrant labor, higher wage rates and shortages would push up retail dairy prices by 61 percent, the study concluded.

‘Workable Program’

Lawmakers including Schumer said in January they plan to draft legislation that would “create a workable program to meet the needs of America’s agricultural industry, including dairy, to find agricultural workers when American workers are not available.”

Backers include Democrat senators Robert Menendez of New Jersey, Richard Durbin of [Illinois](#) and Michael Bennet of [Colorado](#), and Republicans Marco Rubio of [Florida](#), Lindsey Graham of South Carolina and John McCain and Jeff Flake of [Arizona](#). The March deadline may slip into April, religious leaders said they were told in a meeting with President [Barack Obama](#) last week, and Rubio, who is spearheading the drive among the GOP, said March 5 that he doesn’t know the timing of a formal bill.

“We’re working on it -- as soon as we have it ready,” he said.

Low Wages

Immigration laws, last revamped in 1986, have proven among the toughest to pass in Washington, with the most recent effort, backed by President George W. Bush, failing in 2007. Border security, arguments over which migrants may be offered citizenship and what path that may take, and penalties for law-breakers are all highly controversial potential snags gaining support for legislation.

While the House and Senate and the Obama administration say they’re open to reform this year, specifics so far are few. Homeland Security Secretary Janet Napolitano today said at a conference in [Washington](#) that Obama’s plan would offer “common- sense reform that cuts down illegal border crossings by strengthening employers’ accountability and updating our legal immigration system.”

Critics say businesses supporting the current effort are simply trying to keep wages low for an easy-to-exploit workforce.

Supply, Demand

“They can never adequately explain why they can’t raise wages,” said Eric Ruark, research director for the Federation for American Immigration Reform in Washington. “If there’s a labor shortage, you raise wages. That’s classic supply-and- demand. Maximizing profits for the producer should not be the main goal of our food system.”

In New York, most of the state’s dairies began hiring immigrants after 2000, as native-born workers took jobs in construction or service industries, a separate study by Cornell University in Ithaca found. On average, the workers, mostly from [Mexico](#) and [Guatemala](#), worked 62 hours a week, though employees surveyed said they’d work longer if they could.

“The milk produced in New York comes from farms that have grown way beyond the capacity of family labor,” said Andy Novakovic, a professor of agricultural economics at Cornell. “Maybe you only need one or two immigrants, but as soon as you employ them you run into hiring issues. If immigration

officers show up one day and your milking crew is on a bus to a detention center, what are you going to do that day? There's a tough balance between getting the job done and playing by the rules."

60 Cows

Lamb began hiring foreign-born labor about a decade ago, as fewer U.S.-born workers became available. The shift was gradual, he said. As [farms](#) grew larger and there were fewer farming families whose children traditionally supplied work, immigrants filled the need, he said.

Lamb talked while standing next to a circular platform upon which 60 cows rotated while five workers handled the pumps that draw milk from the animal's udders. The milkers get \$10 an hour, with health benefits after three months, he said. Higher wages would eliminate his already thin profit margins -- and still wouldn't guarantee he could compete with employers offering less backbreaking jobs, he said.

"We do a disservice when we say Americans won't do this work, because it's not true," said Lamb, a co-owner of Lamb Farms Inc. "We have a small labor pool to begin with" in a rural area, he said. "Without the immigrants, there simply wouldn't be enough labor to go around. Already with the yogurt plant, the dairies, we're all just shuffling the same people around."

Guest Workers

The main legal immigration route for farmworkers is the [H-2A agricultural](#) guest-worker program, which is designed to provide farmers with workers to handle harvests. H-2A work under federal rules must be "of a temporary (or seasonal) nature," meaning it's done during specific times of the year, usually when crops are collected, or for a limited period of less than one year when an employer can show that the need for immigrants is short-term. The regulations make no exception for the nation's [65,000 dairies](#), which produce continuously year-round.

About 55,000 workers gained such visas in 2011, 94 percent of them Mexicans, according to a [Government Accountability Office report](#). H-2A critics including the American Farm Bureau Federation, the biggest U.S. farmer group, say the visa's compliance rules are too onerous.

Job Ads

The regulations require employers to buy newspaper and radio advertisements to prove that efforts to hire domestic workers were unsuccessful. That slows hiring and increases costs, farmers say. Once a foreign worker arrives, the employer must pay the government-set prevailing wage and provide housing.

Such rules are necessary to protect against exploitation of workers, said Giev Kashkooli, legislative director for the United Farm Workers, which supports immigration reform while warning against solutions it considers too pro-business. Dairy's year-round nature makes it challenging to distinguish between temporary and permanent needs, he said.

Still, "we want the same thing for dairy we want for fruits and vegetables," he said in an interview. "We want legal citizens to have a chance at those jobs, to make sure that everyone has equal treatment and

that you want to protect wages,” he said. Ideally, workers wouldn’t be tied to a single employer. “Having a worker able to leave their job without a penalty would be very powerful,” he said.

Potatoes, Cabbage

Maureen Torrey, whose family has farmed in the U.S. since the 1600s, employs both dairy and fresh-produce workers a dozen miles up the road from Lamb, near Elba. Along with milk, her 7,000 acres also yield potatoes, cabbage and onions stored and shipped to grocery chains including [Kroger Co. \(KR\)](#). While she uses H-2A visas for the 250 additional laborers she needs to harvest her vegetables, that doesn’t help with dairy, she said, because “you can’t switch people from job to job,” she said.

Both Lamb and Torrey, who has testified before Congress on migrant labor, have undergone audits from the Immigration and Customs Enforcement arm of the Department of Homeland Security, in which worker papers are matched with official records.

Under federal law, farm employers are not required to verify the authenticity of documents produced by workers, and in fact are forbidden from questioning applicants whose papers appear genuine. Still, they are held to a standard [of good faith](#) in hiring. If an audit shows irregularities, workers can be detained and employment ended, and an employer can face criminal charges.

Because of the grey areas in current rules, “people either don’t come to work, or they live in fear every day,” said Torrey. “And we live in fear, because we have no other options” than to rely on migrant labor.

One audit, in 2010, took away more than a third of Lamb’s workforce, pushing him to rely more on native-born labor. “I can find them, but they drive past farms filled with immigrants to get here,” said Lamb.

He said he appreciates the U.S. citizens he’s been able to find. Still, “I fear for my future if that’s my sole source of labor,” he said. And his difficulties finding and retaining workers has made him reluctant to make any changes to his business until he knows he has a stable workforce.

“Mentally, we’re exhausted and drained,” he said. “We have no interest in expansion until this gets solved.

“This is No. 1 for us.”

<http://www.bloomberg.com/news/2013-03-12/lack-of-cow-milkers-for-yogurt-drives-immigration-debate.html>