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## The Impact of the 2007 Oklahoma immigration reform act on labor costs in the restaurant industry

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THE IMPACT OF THE 2007 OKLAHOMA IMMIGRATION REFORM ACT ON LABOR  
COSTS IN THE RESTAURANT INDUSTRY

by

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A professional paper submitted in partial fulfillment  
of the requirements for the

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## TABLE OF CONTENTS

LIST OF TABLES .....	2
ABSTRACT .....	3
CHAPTER ONE .....	4
Introduction.....	4
Statement of Purpose .....	6
Justification.....	6
Glossary of Terms.....	6
CHAPTER TWO .....	10
Introduction.....	10
Literature Review.....	10
A General Review of Immigration in the United States .....	10
The Impact of Immigration Policies of the United States on Labor Cost in the Restaurant Industry .....	26
Oklahoma Restaurant Industry .....	37
Summary .....	39
CHAPTER THREE .....	41
Introduction.....	41
Methodology.....	41
Sampling Strategy.....	42
Data Collection .....	43
Limitations of the Study.....	48
Conclusion and Recommendation .....	48
APPENDIX.....	52
REFERENCES .....	54
Acknowledgments.....	59

## LIST OF TABLES

Table 1 .....	44
Table 2 .....	44
Table 3 .....	45
Table 4 .....	45
Table 5 .....	46
Table 6 .....	47

## ABSTRACT

The Impact of the 2007 Oklahoma Immigration Reform Act on Labor Costs in the Restaurant

Industry

by

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Restaurant industry is becoming the largest employer of immigrants in the United States, immigration policies are fundamental to the success of the restaurant industry, as entrepreneurs, as customers, and as workers. Therefore, this paper attempts to investigate current issues regarding the unauthorized labor force in the hospitality industry. In particular, this study will try to discover and explore the difference in labor costs in the restaurant industry before and after the newest immigration reform act enacted in Oklahoma. In addition, this paper will also provide suggestions for future researchers in this research field.

## CHAPTER ONE

### Introduction

The immigration issue has attracted more and more attention in recent years, especially after amnesty was granted to illegal aliens in 1986. Since the first immigration legislation was implemented in 1917, in order to find a way to solve different problems in the United States, the immigration laws have been changed and improved over and over again. From the Immigration Act of 1924, the main purpose of which was to set immigration limitations and establish a standard to select people who were best suited to American society (“Historical Documents in United States History,” 2009a), to the most recent Comprehensive Immigration Reform Act of 2007, which tried to find a comprehensive solution for the growing number of illegal immigrants and to achieve more effective control of the unauthorized labor force (Goodson & Richardson, 2008), the purpose of immigration policies has changed dramatically in the past 91 years. Also, in last 100 years or so, illegal immigration to the United States, especially with regard to the unauthorized labor force, has become more and more serious. According to the newest report from the Pew Hispanic Center, the unauthorized immigrant population reached 11.9 million in the United States as of March 2008 (Passel, 2008). Also, approximately 7.2 million unauthorized aliens were in the labor force in 2005 (Passel, 2006). It is no doubt that illegal immigration affects the U.S. economy, American communities, and affects significantly the U.S. labor market (Beckman, Persinger, Mason, Rudman, & Wiggin, 2006). As Nevaer said in his book, *The Rise of the Hispanic Market in the United States: challenges, dilemmas, and opportunities for corporate management*,: “Illegal immigration touches all of our lives, whether we buy produce in supermarkets or eat in fine restaurants or depend on caregivers for our children” (Nevaer, 2004).

The impact of illegal immigration on the United States is not a simple issue that can be blamed just on the government or employers. It is a problem requiring thoughtful and rational ideas and a great deal of effort to address all the aspects, including the business community, government, citizens, and society as a whole (Milo, 2007).

It is the same case in the restaurant industry. According to the National Restaurant Association, the restaurant industry is becoming the largest employer of immigrants in the United States (National Restaurant Association, 2008). Based on a 2005 population survey, 12 percent of the workers in the restaurant industry were illegal aliens (Passel, 2006), with a total of almost 10.8 million laborers in that occupation in 2005 (Chao & Rones, 2007) and almost 11.3 million in 2007 (United States Department of Labor, 2008). As Representative Tom Tancredo, a Colorado Republican, said, "I go to dinner at restaurants and probably have come into contact with people who are here illegally" (Nevaer, 2004). To some degree, illegal labor has become a significant part of the restaurant industry. People go to restaurants and they know that their dishes are being washed by an illegal immigrant (Nevaer, 2004). Hence, the new immigration reform act strictly prohibiting employers from recruiting unauthorized aliens will have a significant impact on the restaurant industry. However, illegal immigration in the restaurant industry is a complex issue that cannot be resolved by an immigration reform act or one verification system. Therefore, this paper will try to explore the potential influence of the new reform act on the restaurant industry in the United States by analyzing the impact of the newest immigration reform legislation on labor costs in the restaurant industry in Oklahoma since this is the state in which the law has already been enacted. Also, the paper will summarize the key immigration laws in the United States and discuss the most recent information regarding unauthorized immigration.

## Statement of Purpose

The purpose of this paper is to investigate current issues regarding the unauthorized labor force in the hospitality industry. In particular, this paper attempts to discover and explore the difference in labor costs in the restaurant industry before and after the newest immigration reform act enacted in Oklahoma. Based on this analysis of the impact of the newest immigration reform act on labor costs in the restaurant industry in Oklahoma, this paper will try to examine the potential impact on labor costs in the restaurant industry in the United States if the law expands nationwide.

## Justification

As Michael Kaufman, president of Pond Hill Ventures LLC and treasurer of the National Restaurant Association, said, “Immigrants are fundamental to the success of the restaurant industry, as entrepreneurs, as customers, and as workers. And, therefore, a rational immigration policy is essential to our industry’s continued growth” (Kim & Shott, 2006). Any big change in immigration legislation will influence the restaurant industry significantly. Hence, exploring and discovering the impact of the policy on the restaurant industry is important and necessary for both the researchers who are studying illegal immigration in the restaurant industry and restaurant practitioners in the United States. Also, suggestions and recommendations will be provided regarding the issue of illegal immigration in the restaurant industry in the United States.

## Glossary of Terms

The following is an explanation of the terms used in this paper.

*Adjustment of Immigrant Status:* A process that permits foreigners who are already in the United States to apply for immigrant status. Foreign nationals who enter the United States as non-immigrants, refugees, or parolees might have their status altered to that of legal permanent

resident if they are qualified to obtain an immigrant visa and one is available right away. If the status is changed successfully, the alien is considered an immigrant as of the date of the adjustment—regardless of whether the alien may have been in the United States for a long period of time (United States Immigration Support, 2009).

*Agricultural Worker:* An agricultural worker is a foreign worker who comes to the United States to carry out agricultural work or services, as defined by the Secretary of Labor, for a temporary period of time as a non-immigrant (United States Immigration Support, 2009).

*Alien:* Any person who is not a citizen or national of the United States of America; a foreigner (United States Immigration Support, 2009).

*Certificate of Naturalization:* An official document issued by the Department of Homeland Security. This certificate serves as proof that an individual has become a U.S. citizen (naturalized) after immigration to the United States (United States Immigration Support, 2009).

*Citizenship:* Normally, citizenship describes the country that a person was born in. However, a person can change citizenship in a process called naturalization (United States Immigration Support, 2009).

*Employer verification:* The procedure, established by the Immigration Reform and Control Act of 1986 (IRCA), requires U.S. employers to verify the identity and eligibility of individuals to work legally. Form I-9 is used for all individuals (U.S. citizens and aliens) hired or referred for a fee on or after November 7, 1986, in accordance with INA Section 274A, 8 U.S.C Section 1324a (United States Immigration Support, 2009).

*Employment authorization document:* The official name for a work permit and authorization by the U.S.CIS legally to take on work in the United States (United States Immigration Support, 2009).

*Green card:* Officially known as a Permanent Resident Card, Form I-151 or Form I-551 is evidence of lawful permanent resident status in the United States. It allows a foreign national to live, work legally, travel abroad, and return to the United States. Green card holders may also apply for U.S. citizenship after a certain period of time (United States Immigration Support, 2009).

*Illegal alien:* An “illegal alien” is a foreigner who (1) does not owe allegiance to our country; and (2) who has violated our laws and customs in establishing residence in our country. He or she is therefore a criminal under applicable U.S. laws. The term “illegal alien” is used by U.S. citizens who believe that non-citizens entering our country must comply with our immigration laws. The term “illegal alien” is predicated upon U.S. immigration law that requires foreigners entering the U.S. to comply with our country’s rules and laws regarding entry into and residence within our country (Adversity.net, 2009).

*Lawful permanent resident (LPR):* Any person who is not a citizen of the United States and who lives in the U.S. under lawfully recognized and legally recorded permanent residence as an immigrant. Such a person may also be called a permanent resident alien, resident alien permit holder, or green card holder (United States Immigration Support, 2009).

*Migrant:* A migrant is an individual who departs his/her country to live in another country (United States Immigration Support, 2009).

*Naturalization:* The bestowment of citizenship upon a person when he/she is born (United States Immigration Support, 2009).

*Non-immigrant:* A foreigner who enters the United States temporarily for a specific purpose and who must fulfill two requirements: a permanent residence overseas and qualification for non-immigrant classification. Some of the non-immigrant classifications are students, international

representatives, temporary workers and trainees, exchange visitors, intracompany transferees, NATO officials, and religious workers, among others. Most non-immigrants can be accompanied or joined by spouses and unmarried minor children (United States Immigration Support, 2009).

*Overstay:* A visitor who has exceeded the stay in the U.S. after the date indicated on the Arrival-Departure Record (United States Immigration Support, 2009).

*Quota system:* The system used to limit the number of visas available to each country for particular visa classifications (United States Immigration Support, 2009).

*Unauthorized migrant:* a person who resides in the United States but who is not a U.S. citizen, has not been admitted for permanent residence, and is not classified in a set of specific authorized temporary statuses permitting longer-term residence and work (Passel, 2006).

*Undocumented immigrant:* An “undocumented immigrant” is the same as an “unauthorized alien” and is a civil offense under applicable U.S. laws. Most U.S. citizens do not use the term “undocumented immigrant” preferring instead the more descriptive and accurate term “unauthorized alien.” The term “undocumented immigrant” is used by those who believe in “open borders,” (Adversity.net, 2009).

*Visa:* A United States visa grants the holder the right to apply for entry to the United States but does not grant the visa holder the right to enter the United States. Entry can be refused at the port of entry. The Department of State (DOS) is in charge of visa administration at U.S. embassies and consulates. Outside of the U.S., the Department of Homeland Security (DHS) Bureau of Customs and Border Protection (BCBP) immigration inspectors determine admissibility and duration of stay. Upon approval of entry, DHS immigration inspectors are required to record the terms of admission on Form I-94 or I-94W as well as in the individual’s passport (United States Immigration Support, 2009).

## CHAPTER TWO

### Introduction

In this chapter, the author will review various literature related to immigration policies in the United States, from the Immigration Act of 1924 to the Comprehensive Immigration Reform Act in 2007, providing a summary of different reports regarding the history, the current situation of unauthorized immigration in the United States, and the unauthorized labor force in the United States. In addition, after the general review, the chapter will also include more details and information about the restaurant industry in the United States, such as the importance of labor costs in the restaurant industry, the current workforce circumstances in the restaurant industry in the United States, including the unauthorized labor force, and the previous studies and articles on the subject of the impact of immigration policies on labor in the restaurant industry in the United States. More to the point, the third part of chapter 2 will discuss information about the Oklahoma restaurant industry, including the labor force, the scope of the restaurant industry in Oklahoma, and House Bill 1804, the new immigration reform in Oklahoma.

### Literature Review

#### *A General Review of Immigration in the United States*

#### *Chronology of the United States Immigration Policy*

United States immigration policy has a long history since the country's foundation. In 1924, the Immigration Act, the first legislation related to limitations on immigration, was issued. Since then, the U.S. Congress has passed several important laws and policies that have influenced heavily the immigrant situation in the U.S. Those landmark policies include the bilateral Bracero Treaty in 1942, which provided temporary visas for short-term work to

Mexicans in order to address the labor shortage during World War II; the Immigration and Nationality Act of 1965, which tried to establish preferences for immigrants from specific regions; the Immigration Reform and Control Act of 1986, which basically gave illegal laborers permanent legal status simply to decrease the number of illegal aliens in the United States; the Comprehensive Immigration Reform Act of 2006, which provided more legal residence to undocumented workers and more admissions to highly skilled foreign workers; and the most current Comprehensive Immigration Reform Act and several state immigration laws.

Therefore, let us take a look at some of these significant policies.

*The Immigration Act of 1924.*

The Immigration Act of 1924, also known as Johnson-Reed Act, included the National Origins Act and the Asian Exclusion Act. The main purpose of this act was to limit the number of immigrants from any country to 2% of the number of people from that country who already lived in America in 1890 (Historical Documents in United States History, 2009a). Also, this was the first time that the United States imposed legislative limits on immigration. According to the U.S. Congress, the goal of this limitation was to select the people who were best suited to American society (“Historical Documents in United States History,” 2009a).

Second, the Immigration Act of 1924 established the permanent quota system, which decreased the annual amount of immigrants from 358,000 to 164,000. Third, the Immigration Act made a future reduction of the number to 154,000. Fourth, the Act cut immigration from the western and northern part of Europe by 29% but reduced it by 87% for the eastern and southern part of Europe. Additionally, according to the new law, all the immigrants had to apply for a visa from the U.S. consul in their own countries in order to enter America (“Historical Documents in United States History,” 2009a).

On the other hand, since the U.S. wanted to keep good relationships with western countries, especially Mexico, and still needed a large number of workers, the 1924 Act did not apply to those countries. During World Wars I and II, the U.S. faced a huge shortage of workers. In order to fix the problem, the U.S. government and the Republic Mexico made a contract transferring thousands of workers into the U.S. to work in the agriculture and construction industries. In the 1930s, when the quota system which was based on regional origin, went into effect and the Great Depression occurred, and since the U.S. barred most refugees from entering America because the quota system did not differentiate between refugees and immigrants, the number of immigrants dropped significantly. Only 2,718,006 immigrants entered the United States between 1924 to 1947, roughly equivalent to the total number of people who immigrated to America in any two-year period before World War I (“Historical Documents in United States History,” 2009a).

In addition, the act created the term “non-immigrant” in order to distinguish immigrants from all other types of entry into the U.S., and it created a category of admission for non-immigrant entries. Also, the law imposed fines on transportation companies who carried aliens to the land in violation of the law (“Historical Documents in United States History,” 2009a).

The Immigration Act of 1924 also included the Asian Exclusion Act, which was designed to restrict all Asians from entering the United States. This act was based on the Chinese Exclusion Act passed in 1882 and renewed in 1892, prohibiting all Chinese immigrants specifically from entering into the United States. The Asian Exclusion Act is a typical example of discriminatory legislation in America, the goal of which was to control and select immigrants based on their regional origins (Smith, 2009).

In fact, in the 1800s, Asian immigrants already faced a tough situation in America; although they worked hard to pursue success, they still could not become citizens or own any land. In addition, they faced significant discrimination from European Americans. Even so, some European Americans thought that the United States should specifically exclude all Asian immigrants. In 1924, with the growing concerns about Asian immigration, the Asian Exclusion Act finally was established. It is significant that the act prohibited Asians from becoming citizens or owning land (Smith, 2009).

The Asian Exclusion Act was not repealed until 1943. It is an important part of American history, especially for those who were not aware of the discrimination against Asians until the mid-20<sup>th</sup> century. It is a classic example of how not to create or establish rules in the future (Smith, 2009).

*The Immigration and Nationality Act of 1952.*

The Immigration and Nationality Act of 1952 continued and improved the national origins quota system established in 1924. It also ended the restriction on Asian immigration, and it was the first legislation basing immigration selections on skills and family reunifications. Although it did not apply heavily at that time, it was big progress in immigration law (U.S. Department of State, 2009).

In 1952, during the middle of the Cold War, since the economy was not a primary concern anymore, keeping the United States safe was the priority factor in immigration. Basically, there were two main opinions regarding immigration law. One was favored giving more freedom to people from Eastern Europe and Asia. It was argued that people from Northern and Western Europe were heavily preferred by the quota system, which might cause people to feel that those of European descent were superior to Asians. On the other hand, some Republican

senators showed concern regarding the possibility of communist infiltration through immigration, believing that the safety of American citizens could be threatened and that the foundation of America could be harmed by those hostile communists. Therefore, they believed that the best way to assure the security of American life and to preserve the basis of the country was the limited, selective national quota system for immigration. At that time, President Truman was unsure about upholding the national origin quota system based on ethnicity and race. He felt that the immigration selection was discriminatory, so he objected to this new law. However, the law obtained enough support in Congress to override the president's veto (U.S. Department of State, 2009). Essentially, the Immigration Act of 1952 revised the national quota system of 1924 and offered the chance for Asians to immigrate to the United States.

The new law changed the allowable immigration rate to one-sixth of one percent of the population of each nationality since 1952 in the United States. Hence, 85 percent of the 154,277 visas would be available to the people from Northern and Western Europe. Also, like the act of 1924, the quota system still did not apply to countries in the Western Hemisphere (U.S. Department of State, 2009).

Second, the revised quota system would offer at least 100 visas for each Asian country each year. In addition, the new law ended the prohibition on Asians from becoming American citizens. This progress improved the relationship between the U.S. and Asian nations. However, the quota system continued to select people based on race, not nationality. It is obvious that although it stopped preventing Asians from coming to the United States, in reality, the low number of visas for Asians and the race-based selection were still discriminatory against Asians. As a result, after 1952, the number of Asian immigrants was still very limited in the U.S. (U.S. Department of State, 2009).

On the other hand, the Act of 1952 still made some good improvements in the immigration legislation. First, the new law introduced a preference system under the quota system. The purpose of this preference system was to give visa priority to people who had special skills or already had relatives in the U.S. Moreover, a labor certificate system was created in order to exclude new immigrants who might become unwanted competitors for current U.S. citizens (U.S. Department of State, 2009).

*The Immigration and Nationality Act of 1965.*

In the early 1960s, President John F. Kennedy proposed the removal of the preference for immigrants from specific countries or cities. This proposal also helped the relatives of U.S. citizens who had special skills or useful knowledge gain priority in coming to the U.S. in the future. In addition, this change would benefit the U.S. in the future. Although Kennedy did not see his bill considered in person, in 1965, the civil rights movement gained enough power to eliminate the discrimination from immigration law (Martin & Midgley, 1999).

Two pieces of immigration, the Immigration Origins Act of 1924 and the Immigration and Nationality Act of 1952 both reflected racial and ethnic discriminations, especially with regard to Asians. For example, under the Immigration and Nationality Act of 1952, while the number of allowable European immigrants was 149,667, the number for Africans was 1,400 and the number for Asians was 2,990. Therefore, the main purpose of the 1965 act included allowing more individuals from the third world to immigrate to the U.S. and giving legal titles to certain refugees. Based on this act, the future immigrants would be welcomed to the United States because of their specialties, skills, and professional knowledge, not due to their origins. More specifically, immigrants were accepted based on the following criteria: spouses and offspring of permanent residents, unmarried adults whose parents were American citizens, special

professionals, artists, and scientists. In addition, siblings of adult citizens, married offspring of American citizens, and refugees from communist countries or the Middle East were also welcomed to come to America (“Historical Documents in United States History,” 2009b). As a result, under the 1965 act, 170,000 immigrants from the Eastern Hemisphere were admitted as U.S. residents, with less than 20,000 allowed per region. Additionally, 120,000 immigrants with no national limitations were granted residency in America (“Historical Documents in United States History,” 2009b).

One important aspect of this act is that it was the first time that Asians would be welcomed to come to America, and it did result in a flood of Asian immigration into the United States during the 1950s. Generally speaking, the 1965 act made a significant change in the ethnic make-up of the United States because of the new immigration from non-European countries that resulted (Canellos, 2008).

*The Immigration Reform and Control Act of 1986.*

The Immigration Reform and Control Act of 1986 greatly changed the illegal worker situations in the U.S., resulting in a huge flood of immigration to the United States that largely changed the number of non-white people in America. The main purpose of the act was to control effectively the number of undocumented aliens in the U.S. (Library of Congress, 2009).

The 1986 act reformed immigration law, in five primary ways. First, the new policy created an employment verification system, requiring employers to examine whether employees' working status was verified by a passport, working permit documents, Social Security card, birth certificate or other proof that employees are American citizens or authorized aliens. Also, according to the law, employers have to keep hiring and personnel records for three years. Therefore, it became illegal knowingly to recruit unauthorized workers or hire people without

verifying their working eligibility. Employers who violate the law face penalties. In addition, the practice of hiring or recruiting documented aliens based on national origin or citizenship status was considered unfair under the new legislation. However, if employers preferred to hire U.S. citizens or nationals rather than qualified aliens, such recruitment would not be considered an unfair practice (Library of Congress, 2009).

Second, the immigration law of 1986 improved enforcement and services by establishing more administrative practices for the Border Patrol, the Immigration and Naturalization Service (INS), and other related organizations. The legislation stated that unlawful transportation of illegal aliens into America would face serious criminal penalties. Moreover, the act established a fund up to \$35,000,000 in order to make sure that necessary activities related to immigration enforcement could be accomplished (Library of Congress, 2009).

Third, the new Act granted amnesty to certain illegal aliens who entered the U.S. before January 1982, which essentially offered undocumented aliens legal status in the U.S. More to the point, the 1986 act offered temporary residency to those aliens who had entered the United States before January 1, 1982, and lived in the U.S. constantly in an illegal status since that date. It also authorized people who had entered U.S. with a lawful status but stayed beyond the legal period that expired before January 1, 1982, for legal resident status. Additionally, the 1986 act granted permanent residency status to temporary resident aliens who had resided continuously in the United States with temporary resident status and had sufficient understanding of English and the history of America. If the applicants were 65 years of age or older, the government would grant permanent residency without an examination into the language and history requirement. However, the act did not provide legal status to persons who were convicted of a felony or several misbehaviors, or those who had participated in religious, racial, or political discrimination. It

also gave such immigrants the right to federal financial assistance, education assistance, food stamps, and Medicaid for five years after receiving the legal resident status (Library of Congress, 2009).

Fourth, the act also provided amnesty to certain agricultural seasonal workers and immigrants who had established a continuous residence in the United States and illegally stayed in the U.S. since January 1, 1982. More specifically, applicants must have worked at least 90 days of seasonal agricultural work during the 12-month period ending May 1, 1986 as well to qualify to apply for permanent resident status. Currently, employers can request more seasonal agricultural workers if they prove that the number of local U.S. workers is insufficient for the particular job and that the practice of hiring seasonal agricultural laborers from outside the country will not negatively influence U.S. workers' working conditions and wages. Furthermore, employers in the agriculture industry can ask for additional admissions for workers in a state of emergency or request a decrease in admissions because of an oversupply of workers (Library of Congress, 2009).

Finally, the new immigration act allowed an additional 5,000 non-preference visas to those countries that had been affected unfavorably by the Immigration and Nationality Act of 1965 (Library of Congress, 2009).

*The Illegal Immigration Reform and Immigrant Responsibility Act of 1996.*

Illegal immigration The Reform and Immigrant Responsibility Act of 1996, which vastly changed the immigration law of the United States, addressed several important subjects, including improvement of immigration enforcement and border control, new programs against aliens' document deception, reform of the procedures for removing "unlawfully present" aliens in the U.S., new criminal alien legislation, a requirement for receiving vaccinations before

entering into the United States, a restriction against employment of undocumented laborers and discrimination by employers against immigrants, new measures regarding F-1 students, J-1 exchange visitors, and J-1 foreign physicians, new processing requirements for non-immigrant and immigrant visas at U.S. consulates, implementation of the Visa Waiver Pilot Program and the green card lottery, and provisions against fraudulent marriage and abusive relationships. Next, we will talk more specifically about some significant changes (Immigration Law Portal, 2009).

First, under 1996 Immigration Act, three pilot programs were added into the employment verification system established in 1986 Immigration Reform and Control Act in order to fight the recruitment of undocumented laborers. The basic program simply used the I-9 employment verification process for most illegal aliens. Another provision was the “citizen attestation pilot program,” which not only used I-9 verification procedures but also gave employers the right to ask for documentation related to citizenship when a worker claims to be a U.S. citizen. The third provision was the “employee eligibility confirmation system,” which made use of electronic communication or telephone to confirm employment verification. Previously, it had been considered discrimination if an employer hired authorized workers based on their origins or citizenship. Under the new law, even if the employer tried to discriminate by requesting documents other than required working authorization documentation and verification, it would be considered an unfair immigration-related practice (Immigration Law Portal, 2009).

Second, according to the new law, aliens who came to the U.S. illegally or overstayed a non-immigrant visa for 180 days but less than a year would be prohibited from applying for any legal status in the U.S. for a three-year period. Those who stayed unauthorized in the U.S. longer than one year would be restricted from applying for any lawful status for ten years (Immigration Law Portal, 2009).

*The Comprehensive Immigration Reform Act of 2006.*

Compared to the Immigration Reform and Control Act of 1986, the major difference of the Comprehensive Immigration Reform Act of 2006 is that the new legislation established the Immigrant Accountability Act of 2006, giving unauthorized aliens, especially unauthorized laborers, a pathway to adjust their status to legal permanent resident (LPR) status. Under the new Immigrant Accountability Act of 2006, the aliens and their spouses and minor children would be adjusted to LPR status if they meet certain requirements. The alien has to prove that he or she physically stayed in the United States on or before April 5, 2001, did not leave the U.S. during the period between April 5, 2001, and April 5, 2006, and he or she was illegal as a non-immigrant on April 5, 2006. In addition, the alien needs at least three years of employment experience in the United States between April 5, 2001, and April 5, 2006, and has to prove that he or she will be employed at least six years after the application is enacted. Also, documents must be provided related to the payment of income tax during that three-year period. The application fee would be at least two thousand dollars (Seghetti, 2006).

Moreover, the 2006 Reform Act also established a new H-2C guest worker program, allowing employers to bring in outside temporary laborers to the United States to work in categories other than the jobs covered under existing H-2A visas or other working visa categories. Also, the new H-2C holders can be authorized to work in the United States for up to six years and during this six-year period, they can apply to adjust to LPR status (Seghetti, 2006).

Other than these two main changes, the new 2006 Reform Act gave unauthorized agricultural workers more ways to adjust to a legal status. Under the new rules, aliens who had been employed in agricultural occupations in the United States and met certain requirements

could apply for a “blue card” status. If those blue card holders met additional requisite standards, they would adjust to LPR status (Seghetti, 2006).

*Undocumented workers—state laws of 2007.*

Although the federal government enacted a new Comprehensive Immigration Reform Act in 2007, it failed to give a real, complete solution for the increasing number of immigrants in the United States. Therefore, states began to create their own unauthorized alien laws based on their current situations. By November 2007, about 1,562 new items related to unauthorized immigrants had been enacted in all 50 states, and there are a total of 244 bills in 46 states finally becoming laws (Goodson & Richardson, 2008).

*Unauthorized Immigration in the United States*

U.S. immigration law has been reformed again and again in order to control illegal immigration more effectively. Therefore, we have to understand the unauthorized migrants’ situation in the United States.

*Unauthorized Immigration in the United States*

*Unauthorized migrants’ demographic characteristics.*

Based on the new Pew Hispanic Center estimate report, in March 2008, there were 11.9 million undocumented aliens living in the U.S. (Passel & Cohn 2008). In fact, the unauthorized migrant population has grown significantly during the past few years. Therefore, let us have a chronological look at the demographic aspects of unauthorized immigration.

The 2006 research report from Pew Hispanic Center stated that most undocumented migrants have entered the U.S. since 1990. In the 1980s, 1.8 million illegal migrants lived in the U.S., about 180,000 immigrating per year. From 1990 to 1994, the amount increased to 2 million, with about 400,000 added per year. Then from 1995 to 1999, the unauthorized alien population

increased to 2.9 million, an increase of almost 1 million in only 5 years with about added 575,000 per year (Passel 2006). It is obvious that the speed of undocumented arrivals was getting faster at the end of the 1990s and the early years of this decade (Passel & Suro, 2005).

According to one report from the Urban Institute Immigration Studies Program, by 2002 there were 9.3 million unauthorized aliens in the U.S., representing 26% of the total foreign-born population in the country. Among the total population, Mexicans represented 57% of the total, about 5.3 million. Undocumented aliens from other Latin American countries made up about 23 percent, 2.2 million. Almost 10 percent had come from Asia and 10 percent from other parts of the world (Passel, Capps, & Fix, 2004).

By March of 2004, a total of about 10.3 million undocumented aliens were living in the United States. In 2000, the number was 8.3 million (Passel, Van Hook, & Bean, 2004); the unauthorized population has increased quickly during recent years. Therefore, the average number of new immigrants for the period between 2000 and 2004 was about 485,000 per year. Although the number was slightly smaller than the average from 1995-1999, it still represented significant growth. In addition, these 10.3 million illegal aliens made up about 29 percent of the total 36 million foreign-born residents of the U.S. (Passel, 2005).

Also, Mexicans still represent the biggest group of the total unauthorized population, comprising 57 percent and a total number of 5.9 million. We should see that although the total undocumented population has grown rapidly in the past few years, the share of Mexicans is the same as it had been in the past. In addition, another 24 percent of the total, about 2.5 million, came from other Latin American countries. Nine percent came from Asia and 10 percent from other parts of the world (Passel, 2005).

Mexicans as a group have shown a significant increase in the last couple of years. Based on the 1970 census, there were only about 760,000 Mexicans in the U.S. at that time. With the fast growth since then, in 2004, the number of total Mexican was 11 million, of which more than half of the population was undocumented. In fact, the unauthorized Mexicans caused the outstanding growth. The Mexican population in the U.S. has increased by an annual average of 500,000 per year since 1994, and illegal migrants have contributed about 80 to 85 percent of the increase (Passel, 2005).

By March 2005, based on the data from the monthly Current Population Surveys of 2005 and information from Border Patrol, the number of unauthorized aliens had reached 11.1 million in the United States, an increase of 0.8 million from 2004. Based on the numbers and information since 2000, during the period from 2000 to 2005, the average annual growth was more than .5 million per year, indicating that illegal migrants still are continuing to come to the United States. In addition, the unauthorized population represents 30 percent of the total foreign-born population (Passel, 2006).

Regarding the national origins in terms of those undocumented migrants, Mexicans make up 56 percent of total population, or 6.2 million, a .3 million increase from 2004. There is no doubt that Mexicans occupy and will always occupy the largest portion of the unauthorized population. Besides Mexicans, another 2.5 million are from other Latin American countries. If we combine illegal aliens from Mexico and other Latin American countries together, they made up 78% of the total undocumented population in 2005. In addition, the number of unauthorized aliens from Asian countries was about 1.5 million, an increase from 465,000 in 2000. Now that portion is 13 percent. The last 9 percent come from rest of the world. Mexico and other Latin American countries dominate the unauthorized flow (Passel, 2006).

As mentioned earlier, as of March 2008, the number of unauthorized immigrants in the United States had reached 11.9 million. Compared to the 2005 number, 11.1 million, it shows a .8 million increase over those three years. Therefore, it is obvious that the growth of unauthorized population slowed over the period from 2005 to 2008 compared to the speed in earlier years. In addition, the annual average for the period from 2005 to 2008 of undocumented migrants fell to 500,000 per year from 800,000 per year from 2000 to 2004, and it showed a year to year decreasing trend during the last 3 years (Passel & Cohn, 2008).

However, although the pace of undocumented population has been slower, the size of the population has increased by 40% compared to that in 2000. The unauthorized population, 11.9 million, represents 4% of the total U.S. population (Passel & Cohn, 2008).

After understanding the unauthorized population's number and origins, I will discuss the main destinations where the unauthorized population goes and stays. There are eight states containing almost two thirds of the unauthorized population living in the United States: California (24 percent), Texas (14 percent), Florida (9 percent), New York (7 percent), Arizona (5 percent), Illinois (4 percent), New Jersey (4 percent), and North Carolina (3 percent) (Passel, 2005).

Before 1990, the unauthorized population was highly concentrated in only six states: California, Texas, New York, Florida, New Jersey, and Illinois. However, since the middle of the 1990s, with the fast growth of undocumented arrivals, the unauthorized population began to enter into new areas and states that previously had only a small amount of foreign-born population. As a result, 40 percent of the total foreign-born population consists of unauthorized migrants. In addition, the undocumented population in Texas comprises 40 percent of the total

foreign population, and for the other five traditional states, the portion of unauthorized population is about 30 percent of the foreign-born population (Passel, 2005).

*The unauthorized labor force in the United States.*

As of March 2005, the United States had around 7.2 million undocumented migrants in the labor force, representing approximately 4.9% of the total 148 million U.S. workers (Passel, 2006). Among the unauthorized laborers, males had a higher ratio of working compared with native-born males or legal immigrants. Based on the 2005 report from the Pew Hispanic Center, 94 percent of male unauthorized migrants aged 18 to 64 years old, were in the labor force while only 83 percent of native-born males and 86 percent of male legal immigrants were in the civil work force. The higher portion of male labor force is due to several reasons. One main factor is that undocumented migrants, compared to other the two groups, are much younger, and we all know that older workers are more likely to be retired. Therefore, since fewer male unauthorized aliens are old enough to retire, most of them are likely to work. In addition, more young legal immigrants and native-born men go to college than illegal aliens. As a result, they are more likely to go to work while other groups are in college (Passel, 2006).

Unauthorized females, however, have a lower ratio of participating in the civil labor force compared with female legal immigrants and native-born females. About 54 percent of female undocumented immigrants work while 63 percent of female legal immigrants and 72 percent of native-born women are in the labor force. A number of reasons contribute to this lower percentage. One significant factor is that more unauthorized females tend to marry than others and are more likely to have children. Hence, they are more likely to stay at home and take care of children rather than go to work outside the home (Passel, 2006).

Third, although unauthorized laborers work in different occupations throughout the labor force, the majority of them are working in limited occupations. It is obvious that a few undocumented laborers work in “management, business, and professional occupations” and administrative occupations compared with native workers. Less than one fourth of undocumented workers fall into those occupations, while six of ten native workers work in business or administrative related occupations. The principal factor is that unauthorized workers often work in occupations that do not require much education. For instance, in agricultural and construction occupations, the portion of the total number of unauthorized laborers (4% and 19%) who participated in those occupations was about three times the portion of native workers in those kinds of jobs (Passel, 2006).

Alternatively, we can also look at the percentage of illegal laborers in various occupations. As discussed earlier, in some types of occupations, unauthorized workers represent a large share of the total numbers of workers. Therefore, the 4 percent of unauthorized laborers who work in agricultural occupations make up 24 percent of all the workers in this farming category. 17 percent of the labor force in cleaning occupations is filled by undocumented workers. Also, unauthorized laborers represent 14 percent of all the workers in construction and 12 percent in food preparation (Passel, 2006). It is obvious that these occupations require little or no education and certification.

*The Impact of Immigration Policies of the United States on Labor Cost in the Restaurant Industry*

*The Importance of Labor Costs in the Restaurant Industry*

Labor costs in the restaurant industry means the cost of labor, which includes wages, salaries, overtime, holiday pay, and all cash payments. Labor costs in the restaurant industry,

which consist of more fixed than variable costs, represent a big percentage of total sales (Kotas, 1970). According to the National Restaurant Association (NRA), labor costs consume about 33 percent of total sales in full-service restaurants and almost 30 percent in limited-service establishments (Sullivan, 2004). Labor costs in the food service industry are so significant that people describe managing labor costs in the restaurant industry is “as critical to the back office as an ice-cold martini or piping hot cheeseburger is to the consumer out front”(Sullivan, 2004).

#### *Current Workforce Situation in the Restaurant Industry in the United States*

The National Restaurant Association describe restaurants as “cornerstones” for the U.S. economy, for career opportunities of millions of Americans, and also for local communities (Oklahoma Restaurant Association, 2007). It is true. There are 935,000 restaurant locations nationally, with direct sales of \$537 billion a year, more than \$1.5 billion as day. If considering the indirect impact of the restaurant industry on sales in other industries, the total contribution to the U.S. economy by the restaurant industry is about \$1.3 trillion a year. Also, the restaurant industry, which employed 11.27 million people in 2007 (United States Department of Labor, 2008), is expected to grow faster to reach 15 million employees in the next decade and is becoming the largest private-sector employer in the United States. For people who want to start their careers, the restaurant industry is a significant source of opportunities for people with different backgrounds. About 32 percent of American adults got their first job experience in a restaurant. Also, one in four restaurants nationwide is minority-owned (Oklahoma Restaurant Association, 2007), and the restaurant industry is the largest employer of immigrants in the U.S. (National Restaurant Association, 2008).

Based on the data from the Department of Labor (2008) statistics, as of May 2007, the restaurant industry employs about 11.27 million people in the United States. There are various

areas of employment in the restaurant industry, such as chefs and cooks, waiters and waitresses, dishwashers, hosts and hostesses, etc. In this paper, we will focus on two major groups that comprise most of the employees in the restaurant industry—chefs, cooks, and food preparation workers, and food and beverage serving and related workers.

*Employment of chefs, cooks, and food preparation workers.*

First, it is important to understand the job responsibilities and necessary background knowledge of this group of workers before we discuss the numbers. Chefs, cooks, and food preparation workers are in charge of a variety of food—from soups and salads to entrees, side dishes, and desserts. They work in a wide range of restaurants and related accommodations and food service places. While food preparation workers prepare all the vegetables and meat and perform other related responsibilities such as cleaning the work area and manage ovens or stoves, cooks and chefs cook food and create new recipes (United States Department of Labor, 2007a). In addition, work hours in the restaurant industry vary from those of other industries. Employees have to work in the early morning, late evening, and holidays and weekends, which are normally non-work periods. Take the work schedules of chefs, cooks, and food preparation workers in fine-dining restaurants as an example. In those types of restaurants, work schedules are longer compared to those in other industries because of the wide range of dining hours and the nature of the work, which requires extra time to prepare ingredients ahead. It is normal for lots of executive chefs to work 12 hours per day because they have to manage the delivery of ingredients in the early morning, think about the menu, and get the food ready for the menu. All of these duties are time-consuming (United States Department of Labor, 2007a). In addition, chefs, cooks, and food preparation workers normally do not require a degree or specific qualifications. In fact, on-the-job-training is really significant and is the most common way to

train fast-food cooks and food preparation workers. Chefs with more skillful responsibilities often go to cooking school. Although a lot of cook-related training programs are accessible for high school students or people who do not have certain degrees or qualifications, more advanced duties still require more specific training after high school. Also, experience is considered to be one of the most significant requirements for cooks, chefs, and food preparation workers (United States Department of Labor, 2007a).

Second, in 2006, the number of chefs, cooks, and food preparation workers reached 3.1 million, include about 15 percent of jobs in institutions such as schools and hospitals. Therefore, aside from those employees, there are approximately 2.6 million chefs, cooks, and food preparation workers in the restaurant industry in the United States (United States Department of Labor, 2007a). More specifically, food preparation workers contribute 902,000 jobs; the number of cooks in restaurants and fast food establishments is 1,479,000; chefs and head cooks represent 115,000 jobs, and there are about 195,000 jobs for short-order cooks (United States Department of Labor, 2007a).

Third, the earnings of chefs, cooks and food preparation workers are in a wide range because of the different types of employers, restaurants, and food service establishments' locations. Generally, wages are highest in stylish and fancy restaurants in hotels, where most advanced and skillful chefs are employed. Also, salaries tend to be higher in major cities and tourist destinations (United States Department of Labor, 2007a). As of May 2006, the median annual salary of chefs and head cooks was \$34,370. The median annual wage for non-fast food restaurant cooks was \$20,340. The median annual salary for fast food cooks was \$15,410. The median annual salary of short-order cooks was \$17,880, and the median annual wage of food preparation workers was \$17,410 (United States Department of Labor, 2007a).

*Employment of food and beverage serving and related workers.*

Before we discuss the employment of these serving related workers, let us clarify their duties and basic background knowledge first to help better understand their jobs. Food and beverage serving and related workers are the people who directly face customers, or we can say that they stand on the front lines in the restaurant industry. Their responsibilities include greeting the customers, helping them get seated, handing them menus, taking orders, and bringing food and beverages to customers. Moreover, introducing menus, meeting customers' needs, and cleaning and setting up tables are part of their jobs as well. It is also important to help other co-workers to improve customer service since for the restaurant industry, customers are the primary object (United States Department of Labor, 2007b). In addition, because the nature of the restaurant industry requires long working hours, serving related workers, like chefs and cooks, must work early mornings, late evenings, weekends, and holidays. Also, since restaurants have extremely busy rush hours and free hours, this special nature of the industry requires flexible working schedules for employees. Therefore, part-time work is much more common in food and beverage serving workers than in any other industry (United States Department of Labor, 2007b). Most of the jobs require little education, any specific qualifications, or previous working experience. For example, dish washers do not require a particular education, and restaurants provide on-the-job training for dish washers. Therefore, those types of jobs are considered to be more like an immediate income rather than a career. As a result, a lot of young high school students and immigrants who do not have high educations prefer this kind of job (United States Department of Labor, 2007b).

Second, in 2006, according to the United States Department of Labor, about 7.2 million jobs were held by food and beverage serving and related workers. They work in food and

drinking establishments, such as fast-food places, fine dining restaurants, etc. Also, the 7.2 million jobs include food and beverage serving and related workers who are employed by hotels, recreation establishments, and other places that provide accommodation. Similar to chefs, cooks, and food preparation workers, these kinds of jobs are concentrated in larger cities and tourism destination areas (United States Department of Labor, 2007b). In 2006, the number of combined food serving workers, including fast food, reached 2,503,000. Waiters and waitress held 2,361,000 jobs. Also, the number of attendants in cafeteria and coffee shops was about 533,000, along with about 517,000 dishwashers about 495,000 bartenders, and about 351,000 for hosts and hostess from restaurants, lounges, and coffee shops. All other serving related workers numbered about 472,000 (United States Department of Labor, 2007b).

The third thing we have to discuss is the earnings of food and beverage serving and related workers. Normally, customer tips and hourly wages contribute their earnings, and since both tips and hourly wages vary among restaurants, the earnings vary largely. If we compare fast-food laborers and full service restaurants workers, because fast food workers usually do not obtain any tips, their hourly wages might be higher than those who work in full-service restaurants. However, their overall earnings might be lower than full-service restaurant waiters and waitress resulting from their high customer tips. Also, in some restaurants or drinking and eating establishments, employers use a tip pool to distribute tips to all the laborers in order to make workers feel that they are part of the team and thus improve customer service (United States Department of Labor, 2007b). Specifically, in 2006, here is the median earnings (including tips) for food and beverage serving and related workers are as follows: beginning wage based on federal minimum wage—\$5.85 (some states have higher minimum wages); waiters and waitresses—\$7.14; attendants—\$7.36; dishwashers—\$7.57; hosts and hostesses—

\$7.78; and bartenders—\$7.86. People who work in busy and expensive restaurants earn more than average (United States Department of Labor, 2007b).

*Unauthorized laborers in the restaurant industry in the United States.*

There are few articles and reports about unauthorized laborers in the restaurant industry in the United States. The most current report found was Passel's (2006) study on the size and characteristics of the unauthorized workforce that mentioned the unauthorized laborers in the restaurant industry in the United States in 2005 based on a national survey conducted in May 2005. 17 percent of all unauthorized workers, or about one in six unauthorized laborers, work in the leisure and hospitality industry, while only 8 percent of native workers are employed in the industry (Passel, 2006).

Moreover, according to Passel's (2006) report, in 2005, unauthorized laborers made up about 12 percent of all workers employed in the restaurant industry in the U.S. (Passel, 2006), and there were approximately 10.8 million employees in the restaurant industry in the United States (United States Department of Labor, 2006). Although the study did not provide many details about the number of unauthorized laborers filling different jobs, it gave readers some particular numbers to help understand the real unauthorized labor force situation in the restaurant industry in the United States. First, in 2005, there were 367,000 total dishwashers, and 23 percent of them, about 85,000, were unauthorized laborers (Passel, 2006). Second, for cooks, the total number was about 2.2 million, among whom 436,000 were unauthorized workers, representing 20 percent. Third, food preparation workers held 758,000 jobs in 2005, and 17 percent of those positions were occupied by unauthorized laborers (Passel, 2006).

Although there are few current academic studies regarding unauthorized laborers in the restaurant industry in the United States, then available reports reflect the significance of unauthorized labor force in the restaurant industry in the United States.

*United States restaurant industry employment outlook.*

According to the newest restaurant industry forecast of 2009 from the National Restaurant Association, although it projects that total sales in the restaurant industry will be about \$566 billion in 2009, which means that sales are expected go up by 2.5 percent in current dollars; if considering inflation, the sales actually are expected to decline about 1 percent (Hensley & Donohue, 2008). However, even in the current economic crisis, the industry will still employ about 9 percent of the U.S. workforce. In 2009, restaurants will still be a generator of jobs and opportunities even in this economic downturn (Hensley & Donohue, 2008). According to the forecast, the industry is expected to employ 13 million people in 2009, representing 9 percent of the total number of jobs in the country. Also, the report projects that the industry will produce another 1.8 million jobs over the next decade, increasing the total work force by 14 percent to 14.18 million in 2019 (Hensley & Donohue, 2008). Since the employment growth of the restaurant industry will increase faster than the U.S. population, the labor issue will be critical for the restaurant industry in the next decade (Hensley & Donohue, 2008).

*Studies about Previous Immigration Policies' Impact on Labor Costs in the Restaurant Industry in the United States*

Early studies of immigrants in the restaurant industry were primarily concerned with the 1986 comprehensive immigration reform. Before the 1986 reform was overturned, Bailey (1981) conducted a study with about 90 restaurant owners and managers in New York City and tried to explore the influence of immigrants in the restaurant industry, which can be applied to assess the

impact of immigration reform on the restaurant industry. The purpose of this study is to contrast the similarities among the labor-market roles of immigrants and those of natives and how they interact with the structure of labor and product markets (Bailey, 1985). After doing research in the fast food sector, the intermediate sector, the full-service sector, and the immigrant sector, Bailey (1985) found several important results. First, the analysis showed that immigrants, teenagers, women, and Blacks played distinct roles in the restaurant industry: teenagers in the fast-food sector, adult women in the intermediate sector, and immigrants in the immigrant sector. In addition, in full service restaurants, immigrants tend to dominate unskilled or semiskilled jobs while white, native-born adults fill the dining room jobs. Therefore, when connecting it to the immigration reform that tried to restrict immigrants from working, the author claimed that immigration restriction would tighten the labor market and reduce immigration and would not lead to upgraded employment in secondary-sector industries, even though the reform's supporters argued that it would. The author pointed out that the extent of upgrading would depend on the elasticity of demand for food in different sectors as well as the elasticity of supply of the substitute resource of workers (Bailey, 1983). Therefore, tightening the immigrant labor market would not increase the wage and skill levels in the restaurant industry; instead, it would reduce the average rate and skills because restaurants have to move towards lower sectors due to a lack of immigrant laborers (Bailey, 1985). As a result, the author stated that immigration restrictions would not really enhance the amount of employment of native-born Americans, such as adult women and African Americans, nor would it increase the average wage and skill level in the restaurant industry (Bailey, 1985). At the end of this paper, the author said that although the restaurant industry might not be uniform in their different types of laborers and their work

structures, the result of this comparison can improve and allow a clearer understanding of the interactions between immigrants and other low-wage labor in this unique industry (Bailey, 1985).

After the Immigration Reform and Control Act of 1986, which established the I-9 form, Rita Rousseau (1995) published a study about the real situation of unauthorized laborers in the restaurant industry and offered her opinions regarding newly proposed immigration reform. She found that the major reform in 1986 did not really work well in ending the illegal migrant issue. The study showed that though employers were instructed to ask for work authorization documents, they were not supposed to ask more questions when the documents appeared reasonably genuine because it might be considered a violation of civil rights, and thus, the whole industry soon learned how to make reasonably genuine-looking documents. As a result, employers in the restaurant industry faced a dilemma: if employers asked too many questions regarding reasonably genuine-looking documents, it might be a potential civil rights violation, but if they did not, they might hire someone with counterfeit documents, and both actions were dangerous (Rousseau, 1995). “When the country gets tough on illegal aliens, it’s tough on restaurateurs, too” (Rousseau, 1995). The study also related stories about restaurateurs who had followed the law for several years and found themselves placed under suspicion. They were confused by the immigration policy, and the pending bill would have given them an even more difficult time in dealing with unauthorized laborers, replacement of laborers, and their increasing labor costs (Rousseau, 1995). In addition, since the restaurant industry is one of the biggest areas hiring migrants and workers without legitimate work authorization, the impact of any immigration bill in the U.S. will have an exaggerated consequence for the restaurant industry (Rousseau, 1995).

As we mentioned in previous paragraph, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 was overturned and according to a paper on restaurants and institutions in 2000, restaurants were facing a “crisis” labor shortage (Goldhagen, 2000). The paper stated that since the 1996 reform made it difficult for the restaurant industry and made it more difficult for people to stay in the U.S. and keep their jobs, the National Restaurant Association and other industry lobbyists were trying to roll back the bill in 1996 (Goldhagen, 2000).

After the horrific Sept. 11, 2001, terrorist attack, the U.S. increased enforcement of immigration laws, tightened security, and delayed visa processing, which led to a work shortage in all industries, especially the restaurant industry. Several articles discussed this post-Sept. 11 issue in the restaurant industry. For instance, one special report published by *Nation's Restaurant News* in 2002 mainly discussed the lack of laborers due to the strict immigration policy. It said that there were not enough people willing to fill 1.4 million new jobs by 2010, according to the National Restaurant Association, and that there was a shortage of workers to fill seasonal jobs (Berta, 2002). Also, the paper pointed out that government should focus not only on homeland security but also on economic security, and that it should take into consideration the economic impact before making any policy-related decisions (Berta, 2002).

After three years of tighter restrictions, despite the ongoing terrorism worries, the government tried to loosen immigration restrictions to address the labor shortage (Prewitt, 2004), and restaurants were applauding the new immigration plan. Several articles mentioned the importance of loosening immigration reform for the restaurant industry, and especially for laborers in that industry. The paper said that of the 12 million laborers in the food service industry, 1.4 million, or about 11.7 percent, were immigrants, according to the NRA (Prewitt,

2004). However, Saru Jayaraman, a lawyer who heads the Restaurant Opportunities Center of New York City—a group that helps immigrants with visa programs and help to find restaurant jobs, claimed that in fact there were at least forty percent of the restaurant industry workers are undocumented workers, and they play a major role in the industry. He also pointed out that regardless of the working status, those undocumented laborers should have the right to stay in the U.S. without fear (Prewitt, 2004).

There are few academic studies about how immigration policies affect the labor issue in the restaurant industry, but there are articles that have discussed the general influence the food service industry. Although some people claim that immigration policy does give restaurant employers a way to get laborers legally, like the H-2B program, it does not really work in the real world. Some restaurants try to find more laborers through the H-2B program; however, the whole procedure is really complicated and time-consuming. It usually takes up to four months and more than three quarters of the time, approval is denied (Wishina, 2000). In that case, it is difficult for restaurants to follow the laws while doing successful business.

In general, there are few academic studies regarding the impact of immigration policy on the labor issue in the restaurant industry in the United States, which provides future researchers with opportunities to explore and analyze.

#### *Oklahoma Restaurant Industry*

Oklahoma restaurants are becoming more and more critical to the state's economy as their jobs accounted for 9.3% of total employment in Oklahoma in 2007 (National Restaurant Association, 2009). In 2007, Oklahoma had 5659 restaurants of different types. Also, according the same report from the National Restaurant Association, the Oklahoma restaurant industry was projected to register 4.5 billion dollars in sales in 2008. Moreover, in 2007, each 1 dollar spent in

the restaurant industry in Oklahoma produced another 1.17 dollars in sales for the state's whole economy, and every additional \$1 million spent in the restaurant industry in Oklahoma generated another 36.1 jobs for the state (National Restaurant Association, 2009).

In addition, as of May 2007, the restaurant industry in Oklahoma comprised 126,970 total jobs; waiters and waitresses represented almost 28 thousand jobs, and food preparation and serving workers accounted for an estimated 26 thousand jobs (United States Department of Labor, 2009). In addition, the mean hourly wage in the restaurant industry in Oklahoma was \$7.82 as of May 2007 (United States Department of Labor, 2009), which is lower than the national mean hourly wage of \$9.35 (United States Department of Labor, 2008). According to the Oklahoma Restaurant Association (2007) employment in the restaurant industry in Oklahoma will comprise 170,000 jobs in 2018, about a 30% growth rate over the next decade.

However, the new immigration reform in Oklahoma, House Bill 1804, was signed in May 2007 and took effect on November 1, 2008. The main purpose of this new bill is to address the issues related to unauthorized labor in Oklahoma. The heart of this reform related to employers is making it necessary to register with and use a status verification system. The intention of this requirement is to verify the employment work authorization status of all new employees (Oklahoma Restaurant Association, 2009). According to House Bill 1804, employers have several verification systems options to choose from, including the basic pilot program by the United States Department of Homeland Security or any other similar programs operated by the federal government, the Social Security Number Verification Service or a equivalent verification process applied by the Social Security Administration, or similar third-party programs (Oklahoma Restaurant Association, 2009). In addition, the new bill also forbids employers from employing contractors or subcontractors who are not properly registered and to use a verification

system to confirm the working eligibility of employees. In the same way, House Bill 1804 forbids contractors and subcontractors from entering into any form of contracts unless they are properly registered with and use the verification system to verify the employment eligibility of all employees (Oklahoma Restaurant Association, 2009). Under House Bill 1804, if an individual contractor does not offer enough proper employment authorization documentation for a contracting entity, the contracting entity will be “required to withhold state income tax from independent contractor’s compensation at the top marginal income tax rate” (Oklahoma Restaurant Association, 2009). In addition, there is one part of HB 1804 that will be troublesome for employers as well, which is that the new bill creates a right of action regarding discrimination for U.S. citizens or permanent resident aliens who are not hired while the employer still employs unauthorized labor. More specifically, if the employer knows or should know that an employee hired after July 1, 2008, is unauthorized, a discharged employee works in the same category as the unauthorized employee, and the two have equal skills, knowledge, and responsibilities, the employer is violating the civil rights of the discharged employees and the employment action will be considered discrimination (Oklahoma Restaurant Association, 2009).

### Summary

Chapter two covers the key concepts of immigration policies in the United States, the current employment situation in the restaurant industry in the United States, and includes critical issues regarding the most recent unauthorized labor force circumstances in the restaurant industry in the United States. In addition, since the purpose of this paper is to investigate the current issues regarding the unauthorized labor force in the hospitality industry, and in particular, this paper attempts to discover and explore the difference in labor costs before and after the newest immigration reform act was enacted in the restaurant industry in Oklahoma. Therefore,

chapter two also contains the key aspects of the Oklahoma restaurant industry situation and previous studies and opinions regarding the impact of immigration policies on labor issues in the restaurant industry in the United States. As a result, chapter two provides strong support and foundation for the research study described in chapter three.

## CHAPTER THREE

### Introduction

This study examines the impact of Oklahoma's new immigration reform bill on labor costs in the restaurant industry in Oklahoma using a mail survey approach. According to Zikmund (2003), mail questionnaires can reach a geographically wider sample, especially when target respondents are located in rural areas or are difficult to get in touch with (Zikmund, 2003). In this case, restaurants are located in various areas, and our sample consists primarily of restaurant executives and managers who are relatively harder to reach; therefore, a mail survey in this research is an appropriate methodology enabling the exploration and understanding of current phenomena.

### Methodology

A mail survey is a "self-administered questionnaire sent to respondents through the mail". (Zikmund, 2003). According to the book *Business Research Methods*, there are three main advantages to using a mail survey as a research approach: high geographic flexibility, relatively low cost, and respondent convenience. More specifically, regarding high geographic flexibility, as I mentioned earlier, mail surveys can reach respondents who are located in relatively isolated areas and enable a researcher to get in touch with people who are difficult to reach, such as executives and managers. In addition, mail questionnaires can be easier to distribute broadly to a large number of respondents, so studies might be conducted and analyzed faster and less expensively. Second, compared to telephone surveys and interviews, the cost of mail surveys is relatively low. Third, mail questionnaires can be more convenient for respondents because

surveys can be filled out whenever respondents are available, so they might have more time to think about their answers and replies (Zikmund, 2003).

On the other hand, mail surveys also have several weaknesses. One primary disadvantage is the low speed of data collection because researchers have no control over the return of questionnaires, and the time spent waiting responses can be long. In addition, the typically low response rate is a very critical weakness of mail surveys. Since researchers do not have direct communication with respondents, the cooperation of respondents is moderately low, so the response rate is low as well. Also, since mail surveys are highly standardized and there is no interviewer to offer clarifications, the possibility of respondent misunderstanding can be high. Fourth, although mail questionnaires cost relatively little, this does not mean that they are cost-effective. Since mail surveys usually include follow-up mailings with additional postage, and those surveys have higher chances of being thrown away, a mail survey is not as effective as other research methods (Zikmund, 2003).

### Sampling Strategy

For this study, data were collected via mail surveys. Due to the weaknesses of mail surveys, we tried to increase response rates for our surveys by using several different sampling strategies. First was the usage of a cover letter. According to Zikmund's text, a "cover letter is a letter that accompanies the questionnaire in a mail survey and its purpose is to induce the reader to complete and return the questionnaire" (Zikmund, 2003). In order to obtain respondents' attention and cooperation, in my cover letter, I explained the importance of the study, asked for help, and promised confidentiality. Also, the cover letter explained that answering these questions would only take a short time and invited them to use the reply envelope to return the survey. In order to show respect, a handwritten signature was included as well.

Second, increasing respondents' interest in the survey is important in increasing the response rate as well. Therefore, while creating questions related to the topic and the research objective, it is also important to make questions interesting to respondents and to make questions as short as possible so that respondents will think it is easy to finish. In our survey, five questions were provided. However, we designed the questions such that we could gather information as much as we could in these five questions.

Third, reply envelopes with a return address were offered along with the mail survey in order to make it easier for the respondents to return the questionnaires. Also, handwritten addresses were used on the mailing envelopes.

#### Data Collection

The survey was conducted during March 2009. The purpose of the research was to explore the impact of the new immigration reform on labor costs in the restaurant industry in Oklahoma. The sample was derived from two different sources. One was from the Oklahoma Restaurant Association and the other was from a list developed by Dr. Robert Woods, a UNLV professor and my chair for my professional paper. He is a professional in the restaurant industry and has a good and active relationship with the National Restaurant Association. 122 restaurateurs were selected. Some were managers, and the others were restaurant owners. 50 people completed the mail surveys and responded within 15 days after the follow-up mailings were sent out. Therefore, the response rate was 41%. This small sample size has a potential bias that will be discussed later in the chapter. However, the assessment of the measurement of this study will be conducted to evaluate the validity of this research.

Validity is the ability of a measure to measure what it is supposed to (Zikmund, 2003). In our study, the questions were clear and understandable so that respondents could understand and

answer correctly. For example, one question was, “How many undocumented laborers were employed in the past?” This question was asked in order to compare the number of documented and undocumented laborers in the restaurant industry. Also, since most of the respondents are practical restaurateurs in Oklahoma and their opinions can be respected with regard to the validity of the study, the objective of this study was achieved.

### Results and Findings

After summarizing all the answers from the mail reply, some useful information was gathered about the impact of new immigration reform on labor cost in the restaurant industry in Oklahoma. Here are the results and findings of respondents’ reply.

Table 1

#### *Restaurant Type of Respondents*

Restaurant type	Numbers
Fine dining	11
Full service moderate price	33
Limited Service (fast food, cafeteria etc...)	3
Drinking places (bars, taverns, pubs etc...)	3

Table 2

#### *Basic Labor Cost of restaurants*

Issues	Lowest	Average	Highest
hourly wage for documented workers (dollars)	6.75	9.11	13.75
hourly wage for undocumented workers (dollars)	6	8.19	10.5

Table 3

*Restaurant Employment Situation*

Restaurant employment issue	Summary
Position could be filled by undocumented labors	33 respondents replied that 0% -20% of all positions could be filled. 12 respondents stated 21% -50% of all positions could be filled. 5 respondents stated more than half of all positions could be filled.
Position were actually filled by undocumented labors	35 respondents stated estimated 5%-10% of all positions were filled. 15 respondents stated they don't use any undocumented labors.  It is been noticed that positions that actually filled by undocumented labors are all back-to-house positions, which mainly include food preparation workers and chefs.

Table 4

*Impact of New Immigration Reform Act on Labor Cost of Restaurants*

The change of labor cost if the law is overturned	Summary
Labor cost will go up	29 respondents stated labor cost will go up. The variety of estimated increased labor costs is huge, from 1.5% to 25%.
Labor cost will not change	20 respondents stated labor cost will not change.
Labor cost will go down	1 respondent said labor cost will go down because service quality will go up.

Table 5

*Summary of the Impact of Immigration Reform on the Future of Restaurants*

Impact	Description
Feelings about restaurant's future if the immigration reform is overturned.	10 respondents indicated worry about their restaurants' future to some degree.  40 respondents did not indicate worry about their restaurants' future.
The likelihood of failure for restaurants if the immigration reform is overturned.	6 respondents stated the new reform will increase the likelihood of failure.  44 respondents stated the law will not affect the likelihood of their restaurants' future.

Based on those summaries, there are mainly two interesting findings about the impact of immigration reform act on labor cost in the restaurant industry in Oklahoma.

First of all, the impacts of immigration policy are different on different types of restaurants. Full service moderate price restaurants and drinking places would be affected most if the law were overturned. Although the increase rate is extremely various among different restaurants, most of restaurants' labor cost would go up under 20%. Labor costs of fine dining restaurants would not be notably influenced even if the law were overturned. Based on the results of the survey, 82% of fine dining restaurants said the labor cost would not change if the law were overturned. 73% of full service moderate price restaurants stated labor cost would increase averagely by 16.5%. Also since we lack response from limited service and drinking places, the impact on those restaurants needs to be studied in the future research.

Table 6

*Impact on Different Types of Restaurants*

Type of restaurant	Impact
Fine dining	<p>9 fine dining restaurants stated that the labor cost would not change.</p> <p>The other two fine dining restaurants stated the labor cost would increase less than 20%.</p>
Full service moderate price	<p>24 full service moderate price restaurants said labor cost would increase and the average increase rate would be 16.5%.</p> <p>The range of increase rate is large, which is from 1.5% to 20%.</p> <p>The other eight restaurants stated their labor costs would not change.</p>
Limited Service (fast food, cafeteria etc...)	<p>1 stated labor cost would increase by 3%.</p> <p>1 stated labor cost would not change.</p> <p>1 stated labor cost would decrease by 10% due to higher service quality.</p>
Drinking places (bars, taverns, pubs etc...)	<p>2 said labor cost would not change.</p> <p>2 stated labor cost would increase, by 5% and the other is 25%.</p>

Secondly, the immigration policies have limited impact on labor cost in the restaurant industry. Based on the result of the survey, although 58% respondents said that labor cost would increase if the law were overturned, only 20% respondents indicated worry about their restaurants' future and 12% respondents think the new immigration reform would increase the likelihood of failure of their restaurants. In my opinion, one important reason is that most of the restaurants only hire a small amount of unauthorized labors, which can be illustrated from this survey. Also, the average wage difference is only 92 cents per hour, which will not have a big influence on restaurants if they are not able to hire any unauthorized labors. Therefore, in general, the impact of immigration policy on labor cost in restaurant industry is limited.

#### Limitations of the Study

First, there is a lack of available literature regarding previous academic studies directly related to the topic, which is the impact of immigration reform on labor costs in the restaurant industry. Second, since the new immigration reform in Oklahoma had not been overturned yet, the respondents' answers may be influenced by the overturning of the law and thus the analysis and conclusion might be affected as well. Third, the number of respondents is small and the sample was not randomly selected. Forth, since the conclusions and recommendations are based solely on the author's opinions and subjectivity, the paper might have a potential bias.

#### Conclusion and Recommendation

This paper covers the essential literatures related to the purpose of the study. First, it discussed the key immigration policies in the United States from 1924 to 2007. Second, it also included the current situation regarding the unauthorized labor force in the restaurant industry in the United States and in Oklahoma. Furthermore, based on the literature review, a study was conducted to explore the impact of immigration reform on labor costs in the restaurant industry

in Oklahoma. The methodology used for this research was a mail questionnaire, and the sample consisted of restaurateurs in Oklahoma. The results showed that the new immigration policy would have different impact on labor cost in different types of restaurants. According to the findings, full service moderate price restaurants' labor cost would be affected most if the law were overturned. In addition, most of the respondents believe that the new immigration reform would have limited influence to the future of their restaurants.

On the other hand, since labor costs can be divided into different areas, such as dish washer costs, cook costs, food preparation worker costs, and wait staff costs, and this study only concentrated on the overall cost, which is not specific enough to demonstrate which part of restaurant operation would be most affected, the author recommends that future studies should explore the impact of immigration law on more detailed labor costs. In addition, Nevaer (2004) said in his book that in certain states, most dish washers and food preparation workers in restaurants were unauthorized laborers. Therefore, if a future study is able to focus on certain types of laborers in the restaurant industry, the analysis and results would make more sense for the restaurant industry. Also, the study conducted in this paper focused primarily on the unauthorized laborers and costs in the restaurant industry. However, the impact of immigration reform is not only on cost but also on the time spent and the burden of preparing proper documents to bring foreign laborers to the United States. As mentioned earlier in the literature review, the whole procedure to bring laborers into the United States is really complicated and time-consuming. As a result, I recommend that future research should include the burden of documentation in immigration reform, which will negatively influence restaurant business in the long run. More specifically, future research can explore the difficulties to bring foreign laborers to the United States along with the shortage of laborers in the restaurant industry.

Moreover, most articles related to the restaurant industry and immigration policies have been concerned with the impact of labor costs and how immigration policies can increase the problem of labor shortages in the restaurant industry. However, few articles mention or discuss how it might influence service quality in the restaurant industry. Among the respondents of this study, only one respondent mentioned the service quality in restaurants. Some argued that although hiring native laborers might cost more than unauthorized laborers, the service quality is more easily improved since native employees are much easier to communicate with and to train. In the restaurant industry, service quality is one of the critical ways to create a competitive advantage since high service quality contributes to high customer satisfaction, which will result in future success (Madanoglu, 2004). Hence, future studies of immigration policies and the restaurant industry should also pay attention to how immigration policies affect the service quality in the restaurant industry or conduct a comparison of service quality between unauthorized and native laborers in the restaurant industry. Using a qualitative method such as a focus group to explore this topic might be more rational.

On the other hand, in this case, since the immigration reform has not been overturned yet, restaurateurs might not really feel the influence of immigration reform. Therefore, I suggest that future researchers use a test-retest method, which means using the same scale or measure with the same respondents at two separate points in time (Zikmund, 2003) in order to increase the reliability of the methodology of the research. In addition, the influence of the unauthorized workforce is extremely different from state to state. Oklahoma has been less affected by the unauthorized workforce than other states but has stricter immigration laws than other states. As mentioned earlier in the literature review, there are six states where most unauthorized aliens live, including California, Texas, and New York. As a result, if future researchers can conduct studies

in such states, I believe that the results would be more useful and practical. Using a research method such as a case study or focus group to gain an in-depth perception regarding the impact of immigration policies on the restaurant industry in those states would be helpful as well.

## APPENDIX

## SURVEY

Please place an "X" next to your response

## RESTAURANT TYPE

- \_\_\_\_\_ a. fine dining
- \_\_\_\_\_ b. full service moderate price
- \_\_\_\_\_ c. limited service (fast food, cafeteria etc...)
- \_\_\_\_\_ d. drinking places (bars, taverns, pubs etc...)

## EMPLOYEES

- \_\_\_\_\_ a. Number of total staff
- \_\_\_\_\_ b. How many of those positions could be filled with undocumented workers if legal to do so?
- \_\_\_\_\_ c. Number of undocumented workers employed in the past?

## LABOR COST

- \_\_\_\_\_ a. Average hourly wage for documented workers
- \_\_\_\_\_ b. Average hourly wage for undocumented workers

## YOUR FUTURE IF THE LAW IS OVERTURNED

- \_\_\_\_\_ a. Labor will go up (please enter an estimated percentage here\_\_\_\_)
- \_\_\_\_\_ b. Labor costs will not change

\_\_\_\_\_ c. Labor costs will go down (please enter an estimated percentage here \_\_\_\_\_)

Are you worried about your restaurant's future if the law is overturned? \_\_\_\_ (yes/no)

Does this increase your likelihood of failure? Not at all \_\_\_\_ Yes, some \_\_\_\_ Yes, a lot \_\_\_\_

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