

U.S.

● MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

STATUTORY CITATION: 29 USC §§ 1801 – 1872

RELATED REGULATIONS: 29 CFR Part 500

GENERAL SUMMARY: The Migrant and Seasonal Agricultural Worker Protection Act provides for the registration of farm labor contractors, imposes restrictions on their activities, and prescribes requirements that farm labor contractors, agricultural employers, agricultural associations and others must follow for the protection of migrant and seasonal farmworkers.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — In general, no person may, for a fee or other compensation, recruit, solicit, hire, employ, furnish or transport any migrant or seasonal agricultural worker unless the person has a certificate of registration issued by the U.S. Department of Labor, specifying which farm labor contracting activities that individual is authorized to perform; farm operators, agricultural associations and their employees are not required to register, but are subject to other requirements and restrictions under the Act. Registered farm labor contractors and their registered assistants must carry their registration certificates at all times while engaging in farm labor contracting activities and must, when so requested, show the certificate to all persons with whom they intend to deal as a farm labor contractor.

CONFIRMATION OF REGISTRATION — No one may use the services of a farm labor contractor to supply any migrant or seasonal agricultural worker without first determining that the contractor has a valid registration certificate which authorizes the activity for which the contractor is utilized.

MIGRANT AGRICULTURAL WORKER PROTECTIONS — Every farm labor contractor, agricultural employer and agricultural association that employs any migrant agricultural worker (those who work seasonally or temporarily and who are required to be absent overnight from their permanent place of residence) must comply with specific duties and responsibilities, some of which are summarized as follows:

Disclosure of Information — Every contractor, employer or association that recruits any migrant worker for employment must, at the time of recruitment, provide the worker with a written statement specifying (1) the place of employment, (2) the wage rates to be paid, (3) the crops and crop activities in which the worker may be employed, (4) the period of employment, (5) the transportation, housing and any other benefits to be provided, as well as the cost to be charged for each of them, (6) the existence of any strike or similar labor unrest at the workplace, (7) the existence of any arrangement under which the contractor or the employer will receive a commission or other benefit from stores or other establishments as a result of sales to the workers, and (8) whether state workers' compensation is provided and, if so, related workers' comp insurance information.

Posting — Contractors, employers and associations that employ any migrant worker must post conspicuously at the place of employment a poster outlining the rights and protections afforded by the Migrant and Seasonal Agricultural Worker Protection Act, and, whenever housing is provided to the workers, the contractor, employer or association must post or furnish each worker a written statement of the terms and conditions of occupancy.

Payroll Records — Farm labor contractors, farm employers and farm associations that employ any migrant worker must keep detailed records of each worker's pay rate, piecework units earned (if paid on a piecework basis), hours worked, total pay period earnings, the purpose and amount of each deduction made from the worker's pay, and net pay. Payroll records must be preserved for at least 3 years.

Payment of Wages — Migrant farmworkers must receive their wages when due, but in no case less often than every 2 weeks or semi-monthly. At the time of payment, each migrant worker employed must receive an itemized written pay statement for the period covered, showing the same information required to be kept in the payroll record, as described above.

Compulsory Purchases — No farm labor contractor, agricultural employer, or agricultural association may require any migrant worker to purchase goods or services solely from the contractor, employer or association.

Safety and Health of Housing — The Act prescribes specific conditions for the provision of housing to migrant farmworkers, including requirements for pre-occupancy inspection and certification (*see entry, U.S. — Housing — Farm Labor Housing Standards*).

SEASONAL AGRICULTURAL WORKER PROTECTIONS — Farm labor contractors, agricultural employers and agricultural associations that employ seasonal farmworkers (those who work seasonally or temporarily, but are not required to be absent overnight from their permanent residence) must comply with essentially the same disclosure, posting, recordkeeping and wage payment requirements, and observe the ban on compulsory purchases, applicable to the employment of migrant farmworkers, as described above.

FALSE OR MISLEADING INFORMATION — In making the information disclosures referred to above, no contractor, employer or association subject to the Act may knowingly provide false or misleading information to any migrant or seasonal worker concerning the terms, conditions or availability of employment.

LANGUAGE REQUIREMENTS — The information required to be disclosed to migrant and seasonal workers under the Act must be furnished in writing, either in English or in the language most easily understood by the workers involved.

MOTOR VEHICLE SAFETY — The transportation of migrant and seasonal farmworkers by farm labor contractors, agricultural employers and agricultural associations is subject to safety and other standards prescribed in the Act, including requirements for insurance coverage (*see entry, U.S. — Transportation — Farmworker Transportation Safety*).

COVERAGE EXEMPTIONS — Among other, more narrow exceptions, the Migrant and Seasonal Agricultural Worker Protection Act does not apply to:

(1) Any individual who engages in farm labor contracting activity on behalf of a farm or other agriculturally related establishment which is owned or operated by the individual or an immediate family member, and when the contracting activity is performed only for that establishment and exclusively by that individual or family member.

(2) Any business or individual employer (other than a farm labor contractor) who did not use more than 500 worker-days of

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agricultural labor in any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

(3) Any person who engages in farm labor contracting activity solely within a 25-mile radius of the person's permanent place of residence, only in that one state, and for not more than 13 weeks a year.

(4) Any labor organization or union.

SPECIAL NOTES OR ADVISORIES

JOINT RESPONSIBILITY — Generally, the workers in a farm labor contractor's crew are considered jointly employed by the farm labor contractor and the farmer who is using their labor, if the farmer has the power to direct, control or supervise their work or to determine pay rates and the method of payment. In the event that a farm labor contractor fails to comply with the disclosure, posting and wage payment requirements outlined above, the farmer is legally responsible for compliance.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by the Act. Any worker who has been subjected to retaliation may file a complaint with the Wage and Hour Division, at any time within 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* Officers of the Wage and Hour Division have authority under the Act to conduct investigations, and consequently they may enter and inspect workplaces (including housing and vehicles), view and copy employment records, and question farm labor contractors, employers and other parties, either in response to a specific complaint or otherwise. The agency may impose civil penalties and refer violations for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The Secretary of Labor may delegate enforcement responsibilities to a state agency upon federal approval of a state plan which describes the functions to be performed by the state agency and the methods to be followed and resources to be devoted to performing those functions. Using that authority, the labor secretary has delegated to these states the responsibility for receiving and processing applications for farm labor contractor certificates, and for issuing certificates to qualified applicants: *Florida, New Jersey, and Virginia.*

PRIVATE CIVIL ACTION — Independent of enforcement action by the Department of Labor, a worker aggrieved by a violation of the Migrant and Seasonal Agricultural Worker Protection Act may file suit in federal court against the offending contractor or employer to recover damages sustained as a result of the violation.

California

● FARM LABOR CONTRACTOR LAW

STATUTORY CITATION: Cal. Lab. Code §§ 1682–1699

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 13660–13667.4

GENERAL SUMMARY: The state Labor Code regulates the activities and conduct of farm labor contractors in California, by imposing licensing requirements on individuals who, for a fee, (1) employ workers to render services in connection with the production of farm products to, for or under the direction of a third party, or (2) recruit, solicit, supply or hire workers on behalf of a farm employer and provide the workers with allied services such as transportation, housing, workplace supervision or disbursement of pay.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may act as a farm labor contractor until a license permitting such activity has been issued to the individual by the state, and unless such license is fully in effect and in the contractor's possession. Prerequisites for issuance of a license include (1) the filing of an application, (2) an investigation of the applicant by the state administering agency, (3) the posting of a surety bond of up to \$75,000 and payment of license and filing fees by the applicant, (4) successful completion of an examination covering laws and regulations related to farm labor contractors and demonstrating the contractor's knowledge of safe work practices related to pesticide use, (5) registration of the applicant and the applicant's employees under the federal Migrant and Seasonal Agricultural Worker Protection Act, if required, and (6) completion by the applicant's employees of training related to the recognition, prevention and reporting of sexual harassment in the workplace.

DUTIES OF LICENSEES — Licensees must (1) carry the contractor's license with them at all times and show it to all persons with whom they intend to deal in their capacity as farm labor contractors, (2) promptly file a change of address with the local post office serving the address of record on the face of the license after each permanent move, (3) pay or distribute money or other things of value to the individuals entitled thereto promptly when due, (4) comply fully with all legal and valid agreements and contracts entered into with any third party in connection with operation as a farm labor contractor, (5) have available for inspection, by the workers and the growers with whom they contract, a written statement in English and Spanish showing the rate of compensation received from the growers and the corresponding compensation being paid to the workers, (6) obtain appropriate liability insurance to cover potential damage to persons or property arising from the contractor's use or ownership of any vehicle for transporting workers, (7) display prominently, at the worksite and on all vehicles used to transport workers, the rate of compensation being paid to the workers, (8) register with the agricultural commissioner of each county in which the contractor has contracted with a grower, and (9) provide their supervisory employees with certain required information and training regarding employment-related laws and regulations.

PROHIBITED ACTS — No applicant for a farm labor contractor's license may make any misrepresentation or false statement in the application, and no licensee may make any false, fraudulent or misleading representation, or publish or circulate any false or misleading information concerning the availability of employment or the terms and conditions of any employment. Licensees are forbidden from sending or transporting any worker to any place where the contractor knows a strike or lockout exists, without notifying the worker that such a condition exists.

TRANSPORTATION — All vehicles used by a licensee to transport workers must display at their entrance the contractor's name and contractor license number. Contractors and their employees who operate a bus or truck in the transportation of workers must be licensed in accordance with state laws applicable to farm labor vehicles (*see entries, California—Transportation—Farmworker Transportation Safety*), and must be registered with the state labor commissioner.

STATEMENT OF WAGE DEDUCTIONS — Every licensee must, at the time of each payment of wages (which must be not less often than once a week) provide each worker with an itemized written statement showing each and every deduction made from the worker's earnings. The statement may be a detachable part of the check or draft used to pay wages, or a separate document.

COVERAGE EXCEPTIONS — The state farm labor contractor law does not apply to anyone who performs recruitment, supervision and other such services not as an independent contractor, but only within the scope of the person's employment by the agricultural establishment on whose behalf those particular activities are being performed. Likewise, for licensing and compliance purposes, the term "farm labor contractor" does not include a commercial packinghouse engaged in both the harvesting and packing of citrus fruit or soft fruit for a client or customer.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge an employee, or discriminate or retaliate in any manner against an employee, because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118)*. The Division is in charge of processing farm labor contractor license applications, issuing such licenses, and monitoring compliance with these provisions by licensees. Unlicensed individuals who operate as farm labor contractors, as well as licensees who violate the requirements imposed on them by these provisions, are subject to civil action and criminal prosecution. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, a list of which may be found online at <http://www.dir.ca.gov/dlse/DistrictOffices.htm>, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — Any worker aggrieved by an alleged violation of this law may take legal action in civil court to recover lost wages, damages (in some cases), attorney's fees and court costs, using a private attorney or public legal service provider.

Colorado

● WAGE PAYMENT LAWS (*FIELD LABOR CONTRACTORS*)

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-4-101 – 8-4-123

GENERAL SUMMARY: Among other provisions, the state wage payment laws require individuals who recruit, solicit, hire or furnish migratory farm labor for seasonal employment to register with the state and to comply with certain obligations and restrictions in their contracting activities.

PROVISIONS APPLICABLE TO AGRICULTURE

REGISTRATION — No one may operate as a field labor contractor in Colorado without first obtaining a certificate of registration from the state, and unless the certificate is fully in effect and in the contractor's immediate possession. Among other prerequisites to issuance of a registration certificate, the applicant must present evidence that he or she has satisfied state workers' compensation insurance coverage requirements.

OBLIGATIONS — Field labor contractors must carry the certificate of registration at all times while engaging in contractor activities and exhibit the certificate to all parties with whom they intend to deal in that capacity. At the time of recruitment, contractors must provide each migratory laborer with a written disclosure, in a language in which the worker is fluent, indicating the area of intended employment, the crops and operations involved, the transportation, housing and insurance to be provided, the wage rate to be paid, and the charges to be assessed against the worker for contracting services. Labor contractors must pay workers' wages promptly when due and must promptly deliver to each worker anything of value entrusted to them on the worker's behalf.

PROHIBITED ACTS — The state may refuse to issue or renew a registration certificate, or may suspend or revoke an existing certificate, in the case of any contractor who (1) makes false statements or misrepresentations on an application for a certificate, (2) gives false or misleading information to migrant workers concerning the terms, conditions or availability of agricultural employment, (3) fails without justification to perform agreements with farm operators or to comply with the terms of any working arrangements made with workers, or (4) allows required workers' compensation insurance to lapse or become inoperative.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441)*. In enforcing these provisions, the Department may investigate specific complaints lodged by migratory workers against field labor contractors, or may investigate suspected violations on its own initiative. Any contractor found to have violated any of these provisions is subject to civil fines imposed by the agency, as well as criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Delaware

● STATE LABOR LAWS (AGRICULTURAL LABOR CONTRACTORS)

STATUTORY CITATION: Del. Code Title 19, § 1501

GENERAL SUMMARY: Chapter 15 of the state labor laws imposes preconditions on the use of farm labor contractors by certain agricultural employers in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: No employer of migratory or seasonal agricultural labor in Delaware may enter into a contract or agreement with an independent farm labor contractor who engages in interstate recruitment of farm labor without first making reasonable efforts to assure that the contractor is duly registered with the U.S. Department of Labor as a farm labor contractor. Presentation to the employer of a DOL registration certificate, valid on its face, is sufficient to satisfy this requirement.

SPECIAL NOTES OR ADVISORIES

REFERENCE TO REPEALED FEDERAL LAW — The Delaware statute requiring employers of migratory or seasonal farm labor to check the federal registration status of any farm labor contractor with whom they propose to do business refers by name to the registration provisions of the Farm Labor Contractor Registration Act and ties compliance to the registration certificate issued by DOL pursuant to that law. FLCRA was repealed by Congress effective April 14, 1983, supplanted, in effect, by the Migrant and Seasonal Agricultural Worker Protection Act (*see entry, U.S. — Labor Contractors & Worker Recruitment — Farm Labor Contractor Registration*). Although not tested to date in the courts, the statutory obligation to verify the registration of contractors under MSPA rather than FLCRA, and the validity of a certificate issued under MSPA's authority for that purpose, are presumed enforceable by the Delaware Department of Labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Florida

● FARM LABOR CONTRACTOR REGISTRATION LAW

STATUTORY CITATION: Fla. Stat. §§ 450.27–450.39

RELATED REGULATIONS: Fla. Admin. Code R. 61L-1

GENERAL SUMMARY: The Farm Labor Contractor Registration Law controls the business activities of farm labor contractors in Florida, by requiring contractors to register with the state, comply with specified duties and responsibilities, and refrain from certain prohibited acts.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATE OF REGISTRATION — No one, for a fee or other compensation, may recruit, transport into or within the state, supply or hire any farmworker to work for or under the direction of a third party, nor may anyone recruit, transport, supply or hire any farmworker and direct or supervise the worker for a fee or other compensation, until a certificate of registration has been issued by the state permitting the individual to do so and unless the certificate remains in full effect. Unless revoked sooner, a registration certificate is renewable each year on the registrant's birthdate (or the date of incorporation, in the case of a corporate entity acting as a farm labor contractor). The application fee for issuance or renewal of the certificate is currently \$125.

REVOCAION OR SUSPENSION OF CERTIFICATE — The state may revoke, suspend or refuse to renew a certificate of registration when the farm labor contractor has (1) violated or failed to comply with any aspect of the Farm Labor Contractor Registration Law or the rules adopted thereunder, (2) made any misrepresentation or false statement in the application for the certificate, (3) given false or misleading information concerning the terms, conditions or existence of employment to persons recruited or hired to work on a farm, or (4) failed to pay unemployment insurance taxes or federal employment taxes, if required by law.

DUTIES AND RESPONSIBILITIES — Every farm labor contractor in Florida must observe the following requirements, among others:

- (1) Carry the registration certificate at all times and present it to all parties with whom the contractor intends to deal in that capacity.
- (2) Promptly pay or distribute to the individuals entitled thereto all money or other things of value entrusted to the contractor by any third party for that purpose.
- (3) Display at the worksite and on all vehicles used by the contractor to transport workers (a) a copy of the registration certificate, and (b) a statement — in English and in the language of the majority of the non-English-speaking employees — showing the pay rate the contractor is receiving from the grower for whom the work is being performed and the pay rate the contractor is paying to the workers for their services.
- (4) Secure an insurance policy adequately insuring the contractor against liability for injury or damage arising out of operation or ownership of any vehicle used to transport farmworkers recruited or hired by the contractor.
- (5) Semi-monthly or at the time of each payment of wages, furnish each worker employed by the contractor an itemized written statement showing each and every deduction made from the worker's pay.
- (6) Produce evidence to the enforcement agency that each vehicle used for the transportation of workers (a) complies with the vehicle inspection and maintenance requirements in the Florida Uniform Traffic Laws (*see entry, Florida—Transportation—Farmworker Transportation Safety*), or (b) bears a valid inspection sticker showing that the vehicle has passed inspection in the state where it is registered.
- (7) On each vehicle used to transport migrant or seasonal farmworkers, display a sticker issued by the state agency, stating that the vehicle is authorized by the agency to transport workers.
- (8) Maintain accurate production and payroll records on each worker, including hours worked, pay rates, units of production, and amounts paid.

GROWER RESPONSIBILITIES — It is unlawful for a farm operator or any other entity to contract with any farm labor contractor for the employment of farmworkers until the contractor presents a current certificate of registration issued by the state.

EXCLUSIONS — The Farm Labor Contractor Registration Law does not apply to farm owners or operators, or to owners or operators of packinghouses or food processing plants who employ workers in planting, cultivating, harvesting or preparing agricultural products for delivery to such packinghouses or food processing plants. The law also exempts from coverage anyone who transports workers solely by means of a carpool.

SPECIAL NOTES OR ADVISORIES

AUTHORIZATION TO ISSUE FEDERAL CERTIFICATES — Under a signed agreement with the U.S. Department of Labor, the Florida Department of Business and Professional Regulation is authorized to receive and process applications for, and to issue, farm labor contractor certificates of registration under the federal Migrant and Seasonal Agricultural Worker Protection Act (*see entry, U.S.—Labor Contractors & Worker Recruitment—Farm Labor Contractor Registration*). The MSPA registration certificates issued by the Florida state agency are entitled to the same recognition in all states as if they had been issued by the U.S. Department of Labor.

RETALIATION — It is illegal for a farm labor contractor to retaliate against anyone who has filed a complaint or aided an investigation under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Farm Labor Program, Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-6603)*. This agency is responsible for issuing farm labor contractor registration certificates under the Farm Labor Contractor Registration Law, and for monitoring contractor compliance with the limitations and duties imposed on them by the statute.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Idaho

● FARM LABOR CONTRACTOR LICENSING LAW

STATUTORY CITATION: Idaho Code §§ 44-1601 – 44-1618

GENERAL SUMMARY: Chapter 16 of the state labor laws regulates the activities of farm labor contractors in Idaho, by requiring that they obtain a state-issued license, prove financial responsibility for payment of claims, and comply with certain duties and restrictions spelled out in the statute.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may act as a farm labor contractor without obtaining a license to do so from the state labor department. As conditions for issuing the license, the applicant must provide information that will enable the department to confirm the person's fitness, competency and qualifications to engage in the farm labor contracting business.

FINANCIAL RESPONSIBILITY — License applicants must obtain a surety bond or equivalent security in the amount of \$10,000 (\$30,000 if they employ more than 20 workers), to cover the contractor's liability to the workers for any unpaid wages or other damages.

DUTIES — Among many other duties imposed on them, farm labor contractors must:

- (1) Carry their contractor license with them at all times.
- (2) Promptly pay their workers and others with whom they do business as a contractor.
- (3) Provide their workers, at the time of recruiting, hiring or dispatching to a worksite, a written statement detailing the wage or piece rate to be paid, the terms and conditions of employment, any housing or other facilities to be provided, and the workers' rights and remedies, including the right to make a claim against the contractor's surety bond.
- (4) Provide the workers with a written pay statement, at the time of each payment, itemizing the total amount of pay, the amount and purpose of each deduction, the hours worked, and the number of units of production if paid on a piecework basis.

RECORDKEEPING — Contractors must make a record, and preserve it for 3 years, of each employee's wages, hours, total earnings, pay deductions, and work locations.

PROHIBITED ACTS — Among other things, it is illegal for a farm labor contractor, or an applicant for a contractor license, to:

- (1) Make false statements or misrepresentations on the license application.
- (2) Make a false, fraudulent or misleading representation to any person, or to circulate or publish false or misleading information concerning the terms, conditions or existence of any employment.
- (3) Use force, intimidation or a threat — including a threat of deportation — to induce workers to give up any part of the wages to which they are entitled.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for a farm labor contractor to fire or in any other manner discriminate against a worker because the worker made a claim against the contractor, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570)*. This agency is responsible for licensing farm labor contractors under state law, and for investigating violations by or complaints against licensed or unlicensed contractors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — A worker aggrieved by a violation of these provisions may bring a civil suit for injunctive relief, damages or both, using a private attorney or public legal service provider. If it finds in the complainant's favor, the court may award actual damages, plus *three times* the amount of actual damages, or up to \$1,000 per violation, whichever is greater. Civil action must be commenced no later than 2 years after the violation occurred.

Kansas

● EMPLOYEE PROTECTION LAWS (*CREW CHIEF REGISTRATION*)

STATUTORY CITATION: Kan. Stat. §§ 44-125 – 44-129

GENERAL SUMMARY: The state labor laws include explicit provisions for the protection of migrant workers in Kansas, largely regulating the employment-related activities of agricultural crew leaders.

SPECIFIC TERMS AND CONDITIONS

CREW LEADER REGISTRATION — Any person (other than an employer or custom combine operator) who brings any migrant agricultural worker into Kansas, or who is responsible for finding them employment, must register with a local office of the state employment service. Upon registration, the crew leader must furnish the agency with a list of the names and Social Security numbers of all migrant workers the crew leader serves in that capacity and the names of the farm operators for whom worker recruitment services are being performed.

AVAILABILITY OF INFORMATION — Any of the information furnished to the state by a crew leader as described above must be made available to the public upon request.

WAGE PAYMENTS — All farm operators and other agricultural establishments that employ migrant agricultural workers in Kansas must make wage payments directly to each individual worker, and no such payment may be made to a crew leader.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workforce Services Division, Kansas Department of Commerce, Topeka, Kansas 66612 (785-296-3481)*. Violations of these provisions are treated as a misdemeanor criminal offense, and any crew leader convicted of a violation is barred from doing business in Kansas for a period of 2 years.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Maine

● **EMPLOYMENT STANDARDS IN FORESTRY AND FARMING (*FARM LABOR CONTRACTOR REGISTRATION*)**

STATUTORY CITATION: Me. Rev. Stat. Title 26, § 643-B

GENERAL SUMMARY: Chapter 7, Subchapter 2-A of the state labor statutes contains a provision applicable to farm labor contractors in Maine.

SPECIFIC TERMS AND CONDITIONS: Each farm labor contractor employing migrant and seasonal farmworkers is required to file a copy of its federal registration under the Migrant and Seasonal Agricultural Worker Protection Act to the Maine labor department. The filing must include in-state contact information for the contractor or the contractor's representative.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Maryland

● FARM LABOR CONTRACTORS LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 7-101 – 7-507

RELATED REGULATIONS: Md. Code Regs. 09.12.45

GENERAL SUMMARY: Title 7 of the state labor statutes regulates the recruitment, employment and related business activities of farm labor contractors in Maryland, by requiring such persons to obtain a license from the state and by imposing certain responsibilities on contractors and those who use their services. The law generally applies only to individuals who perform farm labor contracting services (1) beyond a 25-mile radius of their permanent place of residence, or (2) both within and outside the state of Maryland, or (3) for more than 13 weeks a year.

SPECIFIC TERMS AND CONDITIONS

LICENSING — Except for agricultural employers, agricultural associations and their employees, no person may recruit, solicit, hire, employ, furnish, transport or house migrant agricultural workers in Maryland for compensation unless the person obtains a license to do so from the state. A farm labor contractor must carry the license at all times while engaging in farm labor contracting activities in the state and must exhibit the license to all those with whom the contractor intends to deal in that capacity.

DUTIES AND RESPONSIBILITIES —

Disclosures — Before entering Maryland with migrant agricultural workers for purposes of employment, or before recruiting migrant farmworkers within the state, every farm labor contractor must disclose to each worker in writing (1) the place or places where employment will take place and a description of the crops and crop operations involved, (2) the terms and conditions of employment at each location, including what wage rates will be paid, who will be making payment, and when wages will be paid, (3) the transportation, housing and insurance, if any, to be provided and the costs to be charged for each such service or benefit, and (4) the existence of any known labor dispute at each worksite.

Housing — If a farm labor contractor furnishes any housing for migrant agricultural workers, the contractor must ensure that the terms and conditions of occupancy are posted conspicuously throughout the duration of the stay.

Form of Disclosure — All information required to be provided to the workers by a labor contractor must be given in writing, in English or, as necessary and reasonable, in Spanish or any other language understandable by those workers not fluent or literate in English.

Compliance with Agreements — Unless there is just cause for non-compliance, farm labor contractors must adhere to the terms of all written agreements made with agricultural employers and agricultural associations pertaining to contracting activity or worker protections, and must comply with all agreements made with the workers, including those described above relating to job conditions, transportation and housing.

Vehicles — Farm labor contractors who use vehicles for transporting migrant agricultural workers in Maryland, or who cause vehicles to be used for that purpose, must (1) assure that each such vehicle conforms to applicable federal and state safety standards, (2) ensure that each driver has a valid and appropriate class of license to operate the vehicle, and (3) have the required level of insurance coverage against liability for injury to persons or property arising from the ownership or operation of any such vehicle.

VERIFICATION OF LICENSE — No farm operator or any other person may use the services of a farm labor contractor to supply migrant agricultural workers unless the person first verifies that the contractor is licensed. Furthermore, no one may engage or continue to use the services of a contractor once he or she is notified by the state enforcement agency or otherwise becomes aware that the contractor is not licensed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357)*. This agency is responsible for issuing farm labor contractor licenses in Maryland and for assuring compliance by contractors and agricultural employers with the terms of this law. The agency has authority to investigate complaints involving farm labor contracting activity and may enter any place of employment, migratory labor camp or other migrant worker housing facility to do so.

Farm labor contractors operating without a required license are subject to cease-and-desist action by the agency, and any violation of the law and the associated regulations may result in assessment of a civil money penalty by the agency. The state attorney general, at the agency's request, is authorized to enforce any such order or penalty. In addition, criminal charges may be brought against any contractor who willfully or repeatedly violates the farm labor contractor provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Michigan

● STATE AGRICULTURE LAWS (*EMIGRANT AGENTS*)

STATUTORY CITATION: Mich. Comp. Laws §§ 286.651 – 286.657

GENERAL SUMMARY: Chapter 286 of the state statutes includes provisions requiring the licensing and regulation of emigrant agents, defined as persons engaged in recruiting, hiring, soliciting or enticing laborers in Michigan to work in farm labor outside the state.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With few exceptions, no one may operate as an emigrant agent without first having obtained an annual license from the state to do so. An application for an emigrant agent's license must be accompanied by a \$75 license fee and a \$2,000 surety bond, payable to the state and conditioned on compliance with provisions applicable to the licensee's operations as an emigrant agent. A licensed agent must carry the license at all times while engaged in labor recruitment activities.

REPORTING — Every licensed emigrant agent is required to submit a report to the state enforcement agency covering each week in which the agent conducts recruitment activity in the state. The report must include (1) identifying information on each worker recruited for employment outside the state, (2) the name and address of the prospective employer of each such worker, (3) the type of work to be performed, (4) the place each worker will be employed, (5) the expected duration of employment, (6) the wages to be paid and benefits to be provided, and (7) a statement as to whether or not transportation is to be arranged for the worker, upon either leaving or returning to Michigan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-373-1820)*. The Department is responsible for licensing of emigrant agents operating in Michigan, and for monitoring the business activities of licensees. The law prescribes a penalty only for operation as an emigrant agent without a license, which is defined as a misdemeanor.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Nebraska

● FARM LABOR CONTRACTORS ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1701 – 48-1714

RELATED REGULATIONS: 227 Neb. Admin. Code, Ch. 1 – 20

GENERAL SUMMARY: The Farm Labor Contractors Act regulates the activities of most individuals, firms and associations that, for a fee or other compensation, recruit, solicit, furnish, hire, employ or transport migrant or seasonal agricultural workers.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With the exception of agricultural employers, agricultural associations and their employees, no one may engage in farm labor contracting activities (as described in brief above) without having a valid farm labor contractor's license issued by the state. Any contractor that has a workforce 80 percent or more of whom are 17 years of age or younger may apply to the state agency for a certificate exempting the contractor from these requirements.

BONDING — Before a contractor's license can be issued, the applicant must obtain a surety bond in an amount not less than \$5,000. The bond is conditioned, in part, on full payment of any wage claims filed by workers. Every farm labor contractor covered by the Act must post a notice at each workplace advising the workers of the terms of the bond and showing the name and address of the bonding agent.

DISCLOSURES — At the time of recruitment, hiring or assignment to the job, each worker employed through a licensed farm labor contractor must be given a written statement specifying (1) the rate of compensation to be paid and the method of computing pay, (2) the terms and conditions of any bonus to be paid, (3) the terms and conditions of any housing, health or daycare services to be provided, (4) the approximate duration and estimated start and end dates of employment, (5) the terms and conditions under which the worker will be provided with clothing or equipment, (6) the name and address of the owner of all operations where the worker will be working, and (7) the worker's rights and remedies in plain and simple language.

PAY STATEMENTS — With each payment of wages, workers must receive a written statement showing total earnings, the amount and purpose of each deduction from wages, the number of hours worked, and the amount of production (if paid on a piecework basis).

BILINGUAL ASSISTANCE — A farm labor contractor who has a workforce of 10 or more non-English-speaking workers who speak the same language is required to provide a bilingual employee at the worksite for each shift during which a non-English-speaking worker is employed.

PROHIBITED ACTS — It is illegal for a contractor, or an applicant for a contractor license, to (1) make any false statement or misrepresentation on the license application or in dealing with workers, (2) violate an existing employment contract, (3) assist anyone in the violation of the Act, or (4) use force, intimidation or a threat to induce a worker under the contractor's control or authority to give up any part of the compensation to which the worker is entitled.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239).* The Department is responsible for the licensing and certification of farm labor contractors in the state and for monitoring their compliance with these provisions. The Department may cancel the license of any contractor found to have violated the terms of the license and may institute criminal proceedings to enforce prescribed penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

New Jersey

● FARM LABOR CREW LEADER LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:8A-7 – 34:8A-17

GENERAL SUMMARY: Chapter 8A of the New Jersey labor laws regulates the business activities of farm labor crew leaders, in part by requiring such entities to register with the state and by prescribing specific obligations crew leaders must meet as a condition for issuance, maintenance and renewal of the registration certificate.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — No person may recruit, supply or hire farm or food processing laborers, or transport and direct any part of the work of such laborers, for direct or indirect compensation by any farm operator or worker, unless the person has a valid certificate of registration issued by the state. The farm labor crew leader registration requirement does not apply to the owner or operator of a farm or food processing plant who recruits or hires laborers solely for work in his or her own operation.

USE OF CREW LEADERS — It is unlawful for a farm operator to employ or use the services of a crew leader in New Jersey who is not in possession of a valid registration certificate.

CREW LEADER DUTIES — Among other responsibilities imposed by this law, crew leaders are obliged to observe the following duties:

Disclosure — At the time of recruitment, the crew leader must inform each worker regarding the location of employment, the crops and operations involved, the transportation, housing and insurance to be provided, the wage rates to be paid, and the charges to be assessed the worker for the crew leader's services.

Posting — Crew leaders are required to conspicuously display, and offer a copy thereof to each farmworker or head of a farmworker household under their supervision, a notice in Spanish and English summarizing the disclosure information mentioned above, as well as the name and address of the crew leader, the name and address of the farm operator where the work is to be performed, the anticipated duration of the job, and a schedule of the minimum pay for each hour of employment.

Payment — Whenever a crew leader is party to the disbursement of wages, he or she must pay all compensation due any migrant or seasonal farmworker on the same premises where the work was performed, and immediately upon termination of the period of employment.

Payroll Recordkeeping — Every crew leader who is involved in the disbursement of wages to any migrant or seasonal farmworker must keep a record of the place of work, gross pay, deductions, and the name and address of the worker. For each worker employed on a time basis, the record must include the number of hours worked daily and weekly and the wage rate per hour; for workers paid on a piece-rate basis, the crew leader must record the number of units of work performed, the wage rate per unit, and the total hours worked daily and weekly.

AUTHORIZATION TO TRANSPORT — A registration certificate cannot be issued to any applicant transporting migrant or seasonal farmworkers unless the applicant furnishes satisfactory proof of compliance with state motor vehicle regulatory requirements applicable to such transportation. If, however, the applicant affirms in writing the intention not to transport any such workers, a registration certificate bearing the words "Not Authorized To Transport" may be granted, at the discretion of the enforcement agency.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A crew leader may not discharge, discipline or discriminate in any manner against a migrant or seasonal farmworker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded under state or federal law. The anti-retaliation protection is enforceable through private civil action.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004)*. The Department is charged with issuing farm labor crew leader registration certificates to eligible applicants and is authorized to investigate any complaint regarding a violation of the crew leader law. In connection with any such investigation, the Department may subpoena witnesses and documentary evidence. The statute expressly directs the Department to annually conduct random fact-finding compliance interviews with farmworkers employed by or under the supervision of a crew leader, and to perform inspections of crew leader records. In addition to the revocation or suspension of the registration certificate, a crew leader or anyone else who violates any provision of the law or its associated regulations is liable to both criminal prosecution and civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — Any seasonal farmworker aggrieved by an apparent violation of these provisions may take civil court action against the crew leader, using a private attorney or public legal service provider.

New York

● MIGRANT REGISTRATION LAW

STATUTORY CITATION: N.Y. Labor Law § 212-A

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 197

GENERAL SUMMARY: The Migrant Registration Law regulates the recruitment and employment of farmworkers and food processing workers in New York, by imposing certain duties on farm labor contractors and on operators of farms and food processing plants.

SPECIFIC TERMS AND CONDITIONS

FARM LABOR CONTRACTORS — In general, any person who (1) for a fee, recruits, transports, supplies or hires farm or food processing workers for a third party, or (2) recruits, transports, supplies or hires such workers and, for a fee, directs, supervises or controls their work, is subject to the following requirements:

Registration — No one may act as a farm labor contractor, as defined in brief above, without a valid certificate of registration issued by the state. On the registration application, the contractor must provide information on wages, working conditions, housing and other aspects of the agricultural services to be performed, and the application must be countersigned by each grower or food processor who utilizes those services.

Disclosure to Workers — A registered labor contractor is required to give a copy of the registration application, or a summary of the employment specifications included in the application, to each worker recruited or employed. This must be done no later than the worker's time of arrival in New York or, if the worker is not from out of state, no later than the time the job begins. A copy must also be kept posted at any camp in which the workers are housed.

Payroll Records — For each worker employed or supervised, contractors must keep a record of wage rates, wages earned, hours worked, units of production (for pieceworkers), deductions from earnings, and net pay.

Wage Statements — Each worker employed, supervised or paid by a farm labor contractor is entitled to receive a written statement from the contractor with every payment of wages, showing the employer's name and address, the worker's name, the wage rate, the wages earned, the number of hours worked, units of production, all deductions fully itemized and explained, and net pay.

GROWERS AND PROCESSORS — The owner or lessee of any farm or food processing plant in New York is prohibited from utilizing the services of a farm labor contractor unless the grower or processor has a certificate for that purpose issued by the state and the contractor is registered as described above. If the labor contractor fails to comply with the disclosure, recordkeeping, and wage statement requirements applicable to such operations, the state enforcement agency will notify the grower or processor, who will then be responsible for compliance. Furthermore, a farm operator or food processor may use the services of a farm labor contractor for not more than 5 days, and must countersign the contractor's registration application and forward it to the state agency within 24 hours after utilization of such services begins.

Any grower or processor who, without assistance from a farm labor contractor, brings 5 or more migrant farmworkers or food processing workers into New York must register with the state and comply with essentially the same disclosure, recordkeeping, and wage statement provisions applicable to registered labor contractors.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).* Through its district offices, the Department is responsible for the registration of farm labor contractors, growers and food processors subject to the Migrant Registration Law, and for monitoring compliance with the statute's procedural requirements. If the Department finds that a contractor, grower or food processor has failed to comply with any applicable provision, has made a false statement in the registration application, or has given false or misleading employment information to a worker recruited or hired, the agency may revoke, suspend or refuse to issue or renew the party's certificate.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Oregon

● LABOR CONTRACTOR LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 658.405 – 658.511

RELATED REGULATIONS: Or. Admin. R. 839-015-0000 – 839-015-0610

GENERAL SUMMARY: Chapter 658 of the state statutes contains provisions regulating the operations of farm and construction labor contractors in Oregon, in part by requiring them to obtain a license from the state, imposing certain duties on and prohibiting certain conduct by persons acting as labor contractors, and making parties who utilize the services of an unlicensed contractor legally liable for the contractor's misconduct.

PROVISIONS APPLICABLE TO AGRICULTURE

LICENSING — It is unlawful for anyone, for a fee, (1) to recruit, solicit, supply or employ workers to perform labor for another in the production or harvesting of farm products, or (2) to engage in such activities on behalf of a farm employer, or (3) to furnish board or lodging as an adjunct to recruitment or employment of farmworkers, without possessing a valid license from the state to do so.

INSURANCE AND BONDING — Among other prerequisites for receipt of a license, the applicant must (1) submit proof of adequate insurance for any vehicles to be used to transport workers, (2) submit proof of workers' compensation insurance, and (3) provide a surety bond or equivalent security of up to \$30,000 evidencing financial ability to promptly pay workers' wages and other specified obligations. The contractor must thereafter post a notice on the premises where employees working under the contractor are employed, specifying the name and address of the bonding company or the agency holding the equivalent security.

DUTIES — Among other responsibilities, each person acting as a farm labor contractor must:

(1) Carry the contractor's license at all times when acting in that capacity.

(2) Pay or distribute promptly to the individuals entitled thereto all money or other things of value entrusted to the contractor by anyone for that purpose.

(3) At the time of recruitment or hiring, furnish to each worker a written statement, in English and any other language used by the contractor to communicate with the workers, describing (a) the method for computing compensation, (b) the terms and conditions of any bonus offered, (c) the terms of any loans made to the worker, (d) the conditions on any housing, health or daycare services to be provided, (e) the terms and conditions of employment, including the approximate start and end dates, (f) the terms of any clothing or equipment to be furnished to the worker, (g) the name and address of the owner of all operations where the worker will be working, (h) the existence of any labor dispute at the worksite, and (i) the worker's employment rights and remedies under state and federal law.

(4) Each time the contractor makes a payment of wages, furnish each worker with a written statement itemizing total wages, the amount and purpose of each deduction from wages, and the hours worked (or piecework production) and rate of pay.

(5) Immediately notify the U.S. Postal Service and the state enforcement agency whenever there is a change in the contractor's permanent address.

PROHIBITED ACTIVITIES — Among other unlawful acts, no one acting as a farm labor contractor may willfully make any false, fraudulent or misleading statement to any person, or circulate any false information concerning employment. It is also illegal for a farm labor contractor to use force, intimidation, or threats of dismissal or deportation to induce a worker to give up any part of the compensation to which the worker is entitled.

USE OF CONTRACTOR'S SERVICES — A farm operator or anyone else who uses the services of an unlicensed labor contractor is personally, jointly and severally liable with the contractor for any damages awarded to a worker who prevails in a civil suit against the contractor for non-compliance or retaliation.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A farm labor contractor may not discharge or discriminate in any other manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Labor Contracting Unit, Wage and Hour Division, Oregon Bureau of Labor and Industries, Salem, Oregon 97305 (503-373-1463)*. The Bureau is responsible for enforcing compliance with the duties and restrictions imposed on contractors by the labor contractor law. Any worker who has evidence of a violation may submit a complaint to the Bureau, which may suspend, revoke or refuse to renew the license of the contractor if the ensuing investigation supports the allegations. The Bureau also has authority to impose a civil money penalty of up to \$2,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — After filing a complaint with the Bureau, a worker has a right to civil action against a contractor for most violations directly affecting the worker, but any such suit must be filed no later than 2 years after the date of the infraction. For each violation, the worker is entitled to recover actual damages or \$1,000, whichever is greater, plus court costs and attorney's fees.

Pennsylvania

● SEASONAL FARM LABOR ACT (*FARM LABOR CONTRACTOR REGISTRATION*)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.501 – 1301.506

RELATED REGULATIONS: 34 Pa. Code §§ 31.51 – 31.58

GENERAL SUMMARY: The Seasonal Farm Labor Act includes provisions regulating the operation of farm labor contractors in Pennsylvania, by requiring that contractors register each year with the state and observe certain limitations on their business activities. In brief, the Act defines a farm labor contractor as any person who, for compensation, recruits, solicits, hires, furnishes or transports 5 or more seasonal farmworkers in any calendar year for employment in agriculture or in an agriculture-related industry.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — No one may act as a farm labor contractor unless he or she possesses or has applied for a certificate of registration from the state. Similarly, individuals who are employed by and act as agents of a registered farm labor contractor must carry identification indicating their status as contractor agents and are subject to the Act and its associated regulations to the same extent as if they were registered contractors.

RECORDKEEPING — Every farm labor contractor must make and preserve prescribed payroll records on each worker recruited, employed or supervised, including such data as the worker's name and Social Security number, total wages earned, the number of hours worked, and hourly or piecework wage rates.

PROHIBITED ACTIVITIES — Among other prohibitions enumerated in the Act, it is forbidden for anyone engaged in activities as a farm labor contractor:

- (1) To knowingly give a seasonal farmworker or prospective farmworker any false or misleading information, or fail to fully disclose pertinent information, concerning the availability of work, wages, any arrangements for the furnishing of meals, housing and transportation, or other terms of employment, in order to induce the worker to accept or reject a job offer.
- (2) To receive, disburse or withhold any wages or other compensation for the services of a worker except in conformity with the Act's wage payment provisions (*see entry, Pennsylvania — Wages & Hours — Wage Payment and Collection*).
- (3) To charge or collect from a worker any money or other thing of value for goods or services provided by the contractor, except (a) a reasonable charge for transportation of the worker, the worker's family and their possessions between the place of residence or recruitment and a job site, or from one job site to another, and (b) a reasonable charge for meals during the term of employment or during travel periods.
- (4) To fail to correctly disclose to the worker, at the time of recruitment or negotiation of any contract, the reasonable charges for transportation and meals.
- (5) To sell or dispense any alcoholic beverage without a state license or permit.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665)*. In addition to administering the farm labor contractor registration process, the Department is responsible for monitoring contractors' compliance with the restrictions imposed on their conduct. In response to a complaint or other evidence of a violation of the Act, the Department may enter public or private property, inspect records, question any person, and take other investigatory action necessary to determine if a violation has, in fact, occurred. Contractors who fail to comply with any provision of the Act or the associated rules may have their registration certificate suspended or revoked and are also subject to criminal action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Washington

● FARM LABOR CONTRACTOR LAW

STATUTORY CITATION: Wash. Rev. Code §§ 19.30.010 – 19.30.902

RELATED REGULATIONS: Wash. Admin. Code Ch. 296.310

GENERAL SUMMARY: Chapter 19.30 of the Washington statutes regulates the business activities of farm labor contractors, defined as any individual, firm, association or other entity that, for a fee, recruits, solicits, employs, supplies, transports or hires agricultural workers.

SPECIFIC TERMS AND CONDITIONS

LICENSING — With few exceptions, no one may act as a farm labor contractor in Washington until a license authorizing such activity has been issued to the applicant by the state. The licensee must have the license in possession at all times while engaged in contracting services.

BONDING AND INSURANCE — Among other prerequisites, the state licensing agency may not issue a license unless the applicant (1) posts a surety bond or equivalent security to ensure compliance with the farm labor contractor law, and (2) obtains and maintains a liability insurance policy covering potential damage to persons and property arising from the contractor's business activities and ownership or operation of any vehicles used to transport farmworkers.

DISCLOSURES TO WORKERS — At the time of hiring, recruiting, soliciting or supplying any worker (whichever occurs first), a farm labor contractor is obligated to furnish the worker with a written statement containing all of the following information:

- (1) The rate of compensation to be paid and the method for computing earnings.
- (2) The terms and conditions of any bonus to be paid.
- (3) The terms and conditions of any loan made to the worker.
- (4) The conditions and costs of any transportation, housing, board, health or daycare services, or other employee benefits to be provided by the contractor.
- (5) The anticipated duration of employment, the approximate start and end dates, and the crops and crop operations involved.
- (6) The terms and conditions under which the worker will be furnished clothing or equipment.
- (7) The location or locations of the job.
- (8) The name and address of the owner of all operations where the worker will be working.
- (9) The existence of any labor dispute at the worksite.
- (10) The name and address of the farm labor contractor.
- (11) The existence of any arrangement with any store or other establishment at the place of employment under which the contractor is to receive a fee or other benefit from any sales by such establishment to the workers.
- (12) The name and address of the surety on the contractor's bond, and a statement explaining the worker's right to claim against the bond.

This disclosure must be in English and in any other language understood by the worker if the worker is not fluent or literate in English.

PAY STATEMENTS — Each time a worker is paid by or through a farm labor contractor, the contractor must provide the worker with a written statement itemizing the worker's total earnings, the amount and purpose of each deduction from pay, the number of hours worked, the rate of pay, and the number of units of production if work was done on a piece-rate basis.

RECORDKEEPING — With respect to each worker recruited, solicited, employed, supplied or hired, every farm labor contractor is required to keep a record for each pay period showing the basis on which wages are paid, the number of piecework units produced (if applicable), the number of hours worked, the total earnings, the specific sums withheld from wages and the purpose of each such deduction, and the amount of net pay. A copy of the record must be given to each farm operator or other user of the worker's labor, who in turn is required to preserve the record for no less than 3 years after the end of the period of employment.

PROHIBITED ACTS — It is illegal for anyone acting as a farm labor contractor to engage in any of the following practices:

- (1) To make a misrepresentation or false statement in an application for a license.
- (2) To give false or misleading information concerning the availability, terms or conditions of any employment.
- (3) To send or transport a worker to any job site where the contractor knows a strike or lockout is in progress.
- (4) To commit any act which constitutes a crime of moral turpitude under state law.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

LIABILITY FOR USE OF AN UNLICENSED CONTRACTOR — A farm operator or other establishment that knowingly uses the services of an unlicensed farm labor contractor is personally, jointly and severally liable with the person acting as a contractor for any damages arising from the contractor's operation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).* The Department is responsible for licensing farm labor contractors in the state, and for monitoring their compliance with the farm labor contractor law. Not only

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may the Department revoke, suspend or refuse to renew the license of a contractor who engages in prohibited activities, or fails or refuses to observe the duties imposed on contractors under the law, but the Department is authorized to assess a civil money penalty of up to \$1,000 for each such infraction. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - *None.*

PRIVATE CIVIL ACTION — After filing notice of a claim with the Department, anyone aggrieved by a violation of these provisions may bring suit against the contractor to recover actual losses, plus punitive damages and other relief, provided the suit is filed within 3 years after the violation occurred. A worker with a claim against a contractor may also bring suit against the contractor's surety bond, within 3 years after the date of expiration or cancellation of the bond, or the date of expiration or cancellation of the contractor's license, whichever is sooner.

Wisconsin

● MIGRANT LABOR LAW (*MIGRANT LABOR CONTRACTORS*)

STATUTORY CITATION: Wis. Stat. §§ 103.90 – 103.97

RELATED REGULATIONS: Wis. Admin. Code § DWD 301.05

GENERAL SUMMARY: Among its other provisions, Wisconsin's migrant labor law regulates the activities of migrant labor contractors, generally defined as anyone (other than an employer doing so on his or her own behalf) who, for a fee or other consideration, recruits, solicits, hires or furnishes migrant workers (other than members of the contractor's immediate family) for employment in Wisconsin. In brief, the term "migrant worker" means anyone who temporarily leaves a principal place of residence in another state and comes to Wisconsin for not more than 10 months in a year to accept seasonal agricultural employment.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION — It is illegal for anyone to operate as a migrant labor contractor without first obtaining a registration certificate from the state. Registered labor contractors must carry their certificate at all times while performing contracting activities, and must show the certificate to all parties with whom they intend to deal in that capacity. Likewise, agents employed by registered contractors to assist them in contracting work must carry identification indicating their status as agents of a registrant.

DUTIES — Among other responsibilities, every migrant labor contractor and every contractor's agent is required (1) to file an official change of address within 10 days after each such change, (2) to promptly pay or deliver to the persons entitled thereto all money or things of value entrusted to the contractor by third parties, (3) to comply with all contracts or agreements entered into, and (4) to keep and preserve prescribed records.

PROHIBITED ACTIVITIES — Migrant labor contractors and their agents are forbidden from (1) knowingly giving a worker any false or misleading information, or failing to fully disclose any information, concerning the terms, conditions or existence of employment, (2) receiving, disbursing or withholding a worker's wages, except to distribute a check payable to the worker, (3) charging or collecting from a worker any sum for goods or services furnished to the worker, when such sum exceeds the actual cost of providing the goods or services, or (4) violating the migrant labor law's recruitment and contract provisions (*see next entry*).

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002)*. This agency is responsible for issuing migrant contractor registration certificates and for assuring registrants' compliance with the migrant labor law and the associated rules and regulations. Violation of these provisions, or any material misrepresentation or false statement in a registration application, is grounds for suspension or revocation of a migrant labor contractor's certificate, as well as assessment of a money penalty.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.