

● 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.*