

● **MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (*MOTOR VEHICLE SAFETY*)**

STATUTORY CITATION: 29 USC § 1841

RELATED REGULATIONS: 29 CFR Part 500, Subpt. D

GENERAL SUMMARY: The Migrant and Seasonal Agricultural Worker Protection Act regulates the employment activities of farm labor contractors, and imposes related limitations and obligations on agricultural employers and agricultural associations which employ migrant or seasonal farmworkers. Apart from such other major provisions as contractor registration, notification, recordkeeping, payment of wages, and housing, the Act includes specific requirements relating to worker transportation.

SPECIFIC TERMS AND CONDITIONS: In general, any farm labor contractor, agricultural employer or agricultural association using (or causing to be used) any vehicle to transport a migrant or seasonal agricultural worker must comply with prescribed safety and insurance requirements, key elements of which are summarized below.

Exceptions — These provisions do not apply to (1) transportation of any worker on a tractor, combine, harvester or similar machinery while the worker is engaged in planting, cultivating or harvesting activities, (2) any individual worker carrying only immediate family members, or (3) carpooling arrangements made by the workers themselves, using one of the workers' own vehicles and not directed by an agricultural employer or association or participated in by a farm labor contractor.

PASSENGER CARS AND STATION WAGONS — Passenger cars and station wagons used by a contractor, employer or association to transport workers must meet qualitative standards covering external lights, brakes, tires, steering, horn, mirrors, windshields and windshield wipers, the fuel system, exhaust system, ventilation, safe loading, seats, handles and latches, and the passenger compartment. These same specifications also apply to vehicles other than passenger cars and station wagons, provided the distance traveled on any one trip does not exceed 75 miles (one trip may have numerous intermediate stops). Pickup trucks transporting passengers only within the cab are treated as station wagons.

OTHER VEHICLES ON TRIPS EXCEEDING 75 MILES — When a migrant or seasonal worker is transported by a contractor, employer or association in a vehicle other than a passenger car or station wagon on any trip of more than 75 miles, the vehicle is subject to the U.S. Department of Transportation's migrant worker transportation safety standards (*described in the preceding entry*), but without regard to the mileage and state-line limitations mentioned in those provisions. In brief, these standards include:

Driver Qualifications — Drivers must meet minimum prescribed physical requirements, obtain a certificate of physical examination from a licensed medical doctor, meet specified age and experience requirements, possess a valid driver's license for the type of vehicle being used to transport workers, and meet other related standards.

Driver and Vehicle Compliance — The driver must comply with prescribed rules for passenger and cargo loading, driving, meal and rest stops, fueling and other operational functions. The vehicle must meet standards related to parts and accessories, seating capacity, passenger safety, and other equipment specifications.

INSURANCE — A farm labor contractor, agricultural employer or agricultural association may not transport migrant or seasonal farmworkers in any vehicle owned, controlled or operated by the contractor, employer or association, unless he or she has an insurance policy or liability bond in effect which insures against liability for damage to persons or property arising from ownership or operation of the vehicle. The liability limit must be no less than \$100,000 for each seat in the vehicle, up to a maximum of \$5,000,000 for any one vehicle. In general, the owner or lessor of the vehicle is responsible for providing the required insurance.

Likewise, when an employer of a migrant or seasonal farmworker provides workers' compensation insurance protecting against bodily injury or death while the worker is being transported, the employer must also obtain property damage insurance with minimum coverage of \$50,000 for loss or damage in any one accident.

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 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)*. The Wage and Hour Division is responsible for investigating complaints or suspected violations under the Act, including those involving the transportation of agricultural workers. Wage and Hour personnel may interview workers, contractors and employers, inspect and copy records, and consult with related compliance agencies in enforcing these provisions. When a violation is confirmed, the agency may suspend or revoke the contractor's certificate of registration and may impose civil penalties against the contractor, employer or association involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

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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.