

■ MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

TERMS: The Migrant and Seasonal Agricultural Worker Protection Act provides for the registration of farm labor contractors, establishes 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.

Exception — This law *does not apply* to those who engage in farm labor contracting activity only within 25 miles of their permanent place of residence, only within their home state, and for not more than 13 weeks a year.

Registration — In general, anyone who charges a fee to recruit, hire, furnish or transport any migrant or seasonal agricultural worker must have a certificate of registration issued by the U.S. Department of Labor, specifying which farm labor contracting activities the person is authorized to perform. Registered farm labor contractors and their registered assistants must carry their certificates at all times while performing contracting activities and must, when requested, show the certificate to everyone they deal with 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 would be utilized.

Migrant 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 here:

Disclosure of Information — Any 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 the worker may be involved in, (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 activity at the workplace, (7) whether or not the contractor or the employer will receive a commission or other benefit from any store or other business that may provide goods or services to the workers, and (8) any workers' compensation coverage to be provided.

Posting — Contractors, employers and associations that employ migrant workers must post in plain sight at the place of employment a poster outlining the rights and protections afforded by this law. 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 migrant workers 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 twice a month. At the time of payment, each migrant worker employed must receive an itemized written pay statement for the period covered, showing the worker's pay rate, piecework units earned (if paid on a piecework basis), hours worked, total earnings for the pay period, the purpose and amount of each deduction made from the worker's pay, and the net amount of pay.

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 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 information, posting and wage payment requirements, and observe the ban on forced purchases, that apply to the employment of migrant farmworkers, as outlined above.

False or Misleading Information — No contractor, employer or association 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 this law 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 must comply with safety standards prescribed in the Act, including requirements for insurance coverage (*see entry, U.S. — Transportation — Farmworker Transportation Safety*).

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072)*. Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

Apart from any enforcement action by the Department, a worker who has been harmed as a result of a violation of

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this law may take legal action against the contractor, employer or other person responsible for the violation directly, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Any such act of retaliation should be reported to the Wage and Hour Division within 180 days after it occurs.