

level of the insurance required by paragraph (1)(C) shall be at least the amount currently required for common carriers of passengers under part II of the Interstate Commerce Act, and any successor provision of subtitle IV of title 49, and regulations prescribed thereunder.”

#### EFFECTIVE DATE OF 1995 AMENDMENTS

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

Pub. L. 104-49, §5(c), Nov. 15, 1995, 109 Stat. 435, provided that: “The amendment made by subsection (a) [amending this section] takes effect upon the expiration of 180 days after the date of enactment of this Act [Nov. 15, 1995] or upon the issuance of final regulations under subsection (b) [set out below], whichever occurs first.”

#### REGULATIONS

Pub. L. 104-49, §5(b), Nov. 15, 1995, 109 Stat. 435, provided that: “Within 180 days of the date of the enactment of this Act [Nov. 15, 1995], the Secretary of Labor shall promulgate regulations establishing insurance levels under section 401(b)(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)(3)) as amended by subsection (a).” [Final regulations implementing Pub. L. 104-49 were signed May 13, 1996, published May 16, 1996, 61 F.R. 24858, and effective the same day.]

### § 1842. Confirmation of registration

No person shall utilize the services of any farm labor contractor to supply any migrant or seasonal agricultural worker unless the person first takes reasonable steps to determine that the farm labor contractor possesses a certificate of registration which is valid and which authorizes the activity for which the contractor is utilized. In making that determination, the person may rely upon either possession of a certificate of registration, or confirmation of such registration by the Department of Labor. The Secretary shall maintain a central public registry of all persons issued a certificate of registration.

(Pub. L. 97-470, title IV, §402, Jan. 14, 1983, 96 Stat. 2595.)

### § 1843. Information on employment conditions

Each farm labor contractor, without regard to any other provisions of this chapter, shall obtain at each place of employment and make available for inspection to every worker he furnishes for employment, a written statement of the conditions of such employment as described in sections 1821(b) and 1831(b) of this title.

(Pub. L. 97-470, title IV, §403, Jan. 14, 1983, 96 Stat. 2595.)

### § 1844. Compliance with written agreements

#### (a) Applicability to contracting activity or worker protection

No farm labor contractor shall violate, without justification, the terms of any written agreements made with an agricultural employer or an agricultural association pertaining to any contracting activity or worker protection under this chapter.

#### (b) Statutory liability

Written agreements under this section do not relieve a person of any responsibility that such person would otherwise have under this chapter.

(Pub. L. 97-470, title IV, §404, Jan. 14, 1983, 96 Stat. 2596.)

## SUBCHAPTER V—GENERAL PROVISIONS

### PART A—ENFORCEMENT PROVISIONS

### § 1851. Criminal sanctions

#### (a) Violations of chapter or regulations

Any person who willfully and knowingly violates this chapter or any regulation under this chapter shall be fined not more than \$1,000 or sentenced to prison for a term not to exceed one year, or both. Upon conviction for any subsequent violation of this chapter or any regulation under this chapter, the defendant shall be fined not more than \$10,000 or sentenced to prison for a term not to exceed three years, or both.

#### (b) Violations of section 1324a(a) of title 8

If a farm labor contractor who commits a violation of paragraph (1) or (2) of section 1324a(a) of title 8 has been refused issuance or renewal of, or has failed to obtain, a certificate of registration or is a farm labor contractor whose certificate has been suspended or revoked, the contractor shall, upon conviction, be fined not more than \$10,000 or sentenced to prison for a term not to exceed three years, or both.

(Pub. L. 97-470, title V, §501, Jan. 14, 1983, 96 Stat. 2596; Pub. L. 99-603, title I, §101(b)(1)(D), Nov. 6, 1986, 100 Stat. 3372.)

#### AMENDMENTS

1986—Subsec. (b). Pub. L. 99-603 substituted “paragraph (1) or (2) of section 1324a(a) of title 8” for “section 1816 of this title”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-603 applicable to employment, recruitment, referral, or utilization of services of an individual occurring on or after first day of seventh month beginning after Nov. 6, 1986, see section 101(b)(2) of Pub. L. 99-603, as amended, set out as a note under section 1802 of this title.

### § 1852. Judicial enforcement

#### (a) Injunctive relief

The Secretary may petition any appropriate district court of the United States for temporary or permanent injunctive relief if the Secretary determines that this chapter, or any regulation under this chapter, has been violated.

#### (b) Control of civil litigation

Except as provided in section 518(a) of title 28, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this chapter, but all such litigation shall be subject to the direction and control of the Attorney General.

(Pub. L. 97-470, title V, §502, Jan. 14, 1983, 96 Stat. 2596.)

### § 1853. Administrative sanctions

#### (a) Civil money penalties for violations; criteria for assessment

(1) Subject to paragraph (2), any person who commits a violation of this chapter or any regu-

lation under this chapter, may be assessed a civil money penalty of not more than \$1,000 for each violation.

(2) In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account (A) the previous record of the person in terms of compliance with this chapter and with comparable requirements of the Farm Labor Contractor Registration Act of 1963 [7 U.S.C. 2041 et seq.], and with regulations promulgated under this chapter and such Act, and (B) the gravity of the violation.

**(b) Administrative review**

(1) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c) of this section.

**(c) Judicial review**

Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28.

**(d) Failure to pay assessment; maintenance of action**

If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

**(e) Payment of penalties into Treasury of United States**

All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(Pub. L. 97-470, title V, §503, Jan. 14, 1983, 96 Stat. 2596.)

REFERENCES IN TEXT

The Farm Labor Contractor Registration Act of 1963, referred to in subsec. (a)(2), is Pub. L. 88-582, Sept. 7, 1964, 78 Stat. 920, as amended, which was classified generally to chapter 52 (§2041 et seq.) of Title 7, Agriculture, and was repealed by Pub. L. 97-470, title V, §523, Jan. 14, 1983, 96 Stat. 2600. See section 1801 et seq. of this title.

**§ 1854. Private right of action**

**(a) Maintenance of civil action in district court by aggrieved person**

Any person aggrieved by a violation of this chapter or any regulation under this chapter by a farm labor contractor, agricultural employer, agricultural association, or other person may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

**(b) Appointment of attorney and commencement of action**

Upon application by a complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action.

**(c) Award of damages or other equitable relief; amount; criteria; appeal**

(1) If the court finds that the respondent has intentionally violated any provision of this chapter or any regulation under this chapter, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of up to \$500 per plaintiff per violation, or other equitable relief, except that (A) multiple infractions of a single provision of this chapter or of regulations under this chapter shall constitute only one violation for purposes of determining the amount of statutory damages due a plaintiff; and (B) if such complaint is certified as a class action, the court shall award no more than the lesser of up to \$500 per plaintiff per violation, or up to \$500,000 or other equitable relief.

(2) In determining the amount of damages to be awarded under paragraph (1), the court is authorized to consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

(3) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28.

**(d) Workers' compensation benefits; exclusive remedy**

(1) Notwithstanding any other provision of this chapter, where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this chapter in the case of bodily injury or death in accordance with such State's workers' compensation law.