

(3)(A)(i) the defendant willfully disabled or removed a safety device prescribed by the Secretary under section 1841(b) of this title, or

(ii) the defendant in conscious disregard of the requirements of section 1841(b) of this title failed to provide a safety device required under such section, and

(B) such disablement, removal, or failure to provide a safety device resulted in an injury or death described in paragraph (1)(B), or

(4)(A) the defendant violated a safety standard prescribed by the Secretary under section 1841(b) of this title,

(B) such safety violation resulted in an injury or death described in paragraph (1)(B), and

(C) the defendant at the time of the violation of section 1841(b) of this title also was—

(i) an unregistered farm labor contractor in violation of section 1811(a) of this title, or

(ii) a person who utilized the services of a farm labor contractor of the type specified in clause (i) without taking reasonable steps to determine that the farm labor contractor possessed a valid certificate of registration authorizing the performance of the farm labor contracting activities which the contractor was requested or permitted to perform with the knowledge of such person,

the court shall award not more than \$10,000 per plaintiff per violation with respect to whom the court made the finding described in paragraph (1), (2), (3), or (4), except that multiple infractions of a single provision of this chapter shall constitute only one violation for purposes of determining the amount of statutory damages due to a plaintiff under this subsection and in the case of a class action, the court shall award not more than the lesser of up to \$10,000 per plaintiff or up to \$500,000 for all plaintiffs in such class action.

(f) Tolling of statute of limitations

If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of a migrant or seasonal agricultural worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (a) of this section shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for other actual damages, statutory damages, or equitable relief arising out of the same transaction or occurrence as the injury or death of the migrant or seasonal agricultural worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

(Pub. L. 97-470, title V, §504, Jan. 14, 1983, 96 Stat. 2597; Pub. L. 102-392, title III, §325(a), Oct. 6, 1992, 106 Stat. 1728; Pub. L. 104-49, §§1(a)(2), 2(a), 3, Nov. 15, 1995, 109 Stat. 432, 433.)

AMENDMENTS

1995—Subsec. (d). Pub. L. 104-49, §1(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

“(d)(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.

“(2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (c) of this section of actual damages for loss from an injury or death but does not preclude recovery under subsection (c) of this section for statutory damages or an injunction.”

Subsec. (e). Pub. L. 104-49, §2(a), added subsec. (e).

Subsec. (f). Pub. L. 104-49, §3, added subsec. (f).

1992—Subsec. (d). Pub. L. 102-392 added subsec. (d).

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-49, §1(b), Nov. 15, 1995, 109 Stat. 432, provided that: “The amendment made by subsection (a)(2) [amending this section] shall apply to all cases in which a final judgment has not been entered.”

Pub. L. 104-49, §2(b), Nov. 15, 1995, 109 Stat. 433, provided that: “The amendment made by subsection (a) [amending this section] shall apply to all cases in which a final judgment has not been entered.”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-392, title III, §325(c), Oct. 6, 1992, 106 Stat. 1728, provided that the amendment of this section by section 325(a) of Pub. L. 102-392 would apply to actions commenced after Oct. 6, 1992, but not after the expiration of 9 months after such date, with waiver and extension provisions for certain actions, prior to repeal by Pub. L. 104-49, §1(a)(1), Nov. 15, 1995, 109 Stat. 432.

§ 1855. Discrimination prohibited

(a) Prohibited activities

No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant or seasonal agricultural worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this chapter, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this chapter.

(b) Proceedings for redress of violations

A migrant or seasonal agricultural worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within 180 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, the Secretary shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) of this section and order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

(Pub. L. 97-470, title V, §505, Jan. 14, 1983, 96 Stat. 2598.)

§ 1856. Waiver of rights

Agreements by employees purporting to waive or to modify their rights under this chapter

shall be void as contrary to public policy, except that a waiver or modification of rights in favor of the Secretary shall be valid for purposes of enforcement of this chapter.

(Pub. L. 97-470, title V, §506, Jan. 14, 1983, 96 Stat. 2598.)

PART B—ADMINISTRATIVE PROVISIONS

§ 1861. Rules and regulations

The Secretary may issue such rules and regulations as are necessary to carry out this chapter, consistent with the requirements of chapter 5 of title 5.

(Pub. L. 97-470, title V, §511, Jan. 14, 1983, 96 Stat. 2598.)

§ 1862. Authority to obtain information

(a) Investigation and inspection authority concerning places, records, etc.

To carry out this chapter the Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate, and in connection therewith, enter and inspect such places (including housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such information to determine compliance with this chapter, or regulations prescribed under this chapter.

(b) Attendance and testimony of witnesses, and production of evidence; subpoena authority

The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this chapter, the authority contained in sections 49 and 50 of title 15, relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(c) Prohibited activities

It shall be a violation of this chapter for any person to unlawfully resist, oppose, impede, intimidate, or interfere with any official of the Department of Labor assigned to perform an investigation, inspection, or law enforcement function pursuant to this chapter during the performance of such duties.

(Pub. L. 97-470, title V, §512, Jan. 14, 1983, 96 Stat. 2598.)

§ 1863. Agreements with Federal and State agencies

(a) Scope of agreements

The Secretary may enter into agreements with Federal and State agencies (1) to use their facilities and services, (2) to delegate, subject to subsection (b) of this section, to Federal and State agencies such authority, other than rule-making, as may be useful in carrying out this chapter, and (3) to allocate or transfer funds to,

or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreements under clause (1) or (2) of this section.

(b) Delegation of authority pursuant to written State plan

Any delegation to a State agency pursuant to subsection (a)(2) of this section shall be made only pursuant to a written State plan which—

(1) shall include a description of the functions to be performed, the methods of performing such functions, and the resources to be devoted to the performance of such functions; and

(2) provides assurances satisfactory to the Secretary that the State agency will comply with its description under paragraph (1) and that the State agency's performance of functions so delegated will be at least comparable to the performance of such functions by the Department of Labor.

(Pub. L. 97-470, title V, §513, Jan. 14, 1983, 96 Stat. 2599.)

PART C—MISCELLANEOUS PROVISIONS

§ 1871. State laws and regulations

This chapter is intended to supplement State law, and compliance with this chapter shall not excuse any person from compliance with appropriate State law and regulation.

(Pub. L. 97-470, title V, §521, Jan. 14, 1983, 96 Stat. 2599.)

§ 1872. Transition provision

The Secretary may deny a certificate of registration to any farm labor contractor, as defined in this chapter, who has a judgment outstanding against him under the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.), or is subject to a final order of the Secretary under that Act assessing a civil money penalty which has not been paid. Any findings under the Farm Labor Contractor Registration Act of 1963 may also be applicable to determinations of willful and knowing violations under this chapter.

(Pub. L. 97-470, title V, §522, Jan. 14, 1983, 96 Stat. 2599.)

REFERENCES IN TEXT

The Farm Labor Contractor Registration Act of 1963, referred to in text, 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.

CHAPTER 21—HELEN KELLER NATIONAL CENTER FOR YOUTHS AND ADULTS WHO ARE DEAF-BLIND

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