

(b) Posting requirements imposed upon employers

Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded such workers under this chapter, including the right of a seasonal agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a) of this section. Such employer shall provide, upon request, a written statement of the information described in subsection (a) of this section.

(c) Recordkeeping and information requirements imposed upon employers

Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall—

(1) with respect to each such worker, make, keep, and preserve records for three years of the following information:

- (A) the basis on which wages are paid;
- (B) the number of piecework units earned, if paid on a piecework basis;
- (C) the number of hours worked;
- (D) the total pay period earnings;
- (E) the specific sums withheld and the purpose of each sum withheld; and
- (F) the net pay; and

(2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

(d) Furnishing of records by farm labor contractor; maintenance of records by recipient

(1)¹ Each farm labor contractor shall provide to any other farm labor contractor and to any agricultural employer and agricultural association to which such farm labor contractor has furnished seasonal agricultural workers, copies of all records with respect to each such worker which such farm labor contractor is required to retain by subsection (c)(1) of this section. The recipient of these records shall keep them for a period of three years from the end of the period of employment.

(e) Prohibition on knowingly providing false or misleading information to workers

No farm labor contractor, agricultural employer, or agricultural association shall knowingly provide false or misleading information to any seasonal agricultural worker concerning the terms, conditions, or existence of agricultural employment required to be disclosed by subsection (a), (b), or (c) of this section.

(f) Form and language requirements

The information required to be disclosed by subsections (a) and (b) of this section to seasonal agricultural workers shall be provided in written form. Such information shall be provided in English or, as necessary and reasonable,

in Spanish or other language common to seasonal agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

(Pub. L. 97-470, title III, §301, Jan. 14, 1983, 96 Stat. 2592; Pub. L. 104-49, §4(b), Nov. 15, 1995, 109 Stat. 434.)

AMENDMENTS

1995—Subsec. (a)(1). Pub. L. 104-49 added subpar. (H) and concluding provisions.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-49 effective upon expiration of 90 days after the date final regulations are issued by Secretary of Labor to implement such amendment, see section 4(c) of Pub. L. 104-49, set out as a note under section 1821 of this title.

§ 1832. Wages, supplies, and other working arrangements**(a) Payment of wages**

Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall pay the wages owed to such worker when due.

(b) Purchase of goods or services by worker

No farm labor contractor, agricultural employer, or agricultural association shall require any seasonal agricultural worker to purchase any goods or services solely from such farm labor contractor, agricultural employer, or agricultural association.

(c) Violation of terms of working arrangement

No farm labor contractor, agricultural employer, or agricultural association shall, without justification, violate the terms of any working arrangement made by that contractor, employer, or association with any seasonal agricultural worker.

(Pub. L. 97-470, title III, §302, Jan. 14, 1983, 96 Stat. 2593.)

SUBCHAPTER IV—FURTHER PROTECTIONS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS

§ 1841. Motor vehicle safety**(a) Mode of transportation subject to coverage**

(1) Except as provided in paragraph (2), this section applies to the transportation of any migrant or seasonal agricultural worker.

(2) This section does not apply to the transportation of any migrant or seasonal agricultural worker on a tractor, combine, harvester, picker, or other similar machinery and equipment while such worker is actually engaged in the planting, cultivating, or harvesting of any agricultural commodity or the care of livestock or poultry.

(b) Applicability of standards, licensing, and insurance requirements; promulgation of regulations for standards; criteria, etc., for regulations; amount of insurance required

(1) When using, or causing to be used, any vehicle for providing transportation to which this

¹ So in original. No par. (2) has been enacted.

section applies, each agricultural employer, agricultural association, and farm labor contractor shall—

(A) ensure that such vehicle conforms to the standards prescribed by the Secretary under paragraph (2) of this subsection and other applicable Federal and State safety standards,

(B) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle, and

(C) have an insurance policy or a liability bond that is in effect which insures the agricultural employer, the agricultural association, or the farm labor contractor against liability for damage to persons or property arising from the ownership, operation, or the causing to be operated, of any vehicle used to transport any migrant or seasonal agricultural worker.

(2)(A) For purposes of paragraph (1)(A), the Secretary shall prescribe such regulations as may be necessary to protect the health and safety of migrant and seasonal agricultural workers.

(B) To the extent consistent with the protection of the health and safety of migrant and seasonal agricultural workers, the Secretary shall, in promulgating regulations under subparagraph (A), consider, among other factors—

(i) the type of vehicle used,

(ii) the passenger capacity of the vehicle,

(iii) the distance which such workers will be carried in the vehicle,

(iv) the type of roads and highways on which such workers will be carried in the vehicle,

(v) the extent to which a proposed standard would cause an undue burden on agricultural employers, agricultural associations, or farm labor contractors.

(C) Standards prescribed by the Secretary under subparagraph (A) shall be in addition to, and shall not supersede or modify, any standard under part B of subtitle IV of title 49, or regulations issued thereunder, which is independently applicable to transportation to which this section applies. A violation of any such standard shall also constitute a violation under this chapter.

(D) In the event that the Secretary fails for any reason to prescribe standards under subparagraph (A) by the effective date of this chapter, the standards prescribed under section 31502 of title 49, relating to the transportation of migrant workers, shall, for purposes of paragraph (1)(A), be deemed to be the standards prescribed by the Secretary under this paragraph, and shall, as appropriate and reasonable in the circumstances, apply (i) without regard to the mileage and boundary line limitations contained in such section, and (ii) until superseded by standards actually prescribed by the Secretary in accordance with this paragraph.

(3) The level of insurance required under paragraph (1)(C) shall be determined by the Secretary considering at least the factors set forth in paragraph (2)(B) and similar farmworker transportation requirements under State law.

(c) Adjustments of insurance requirements in the event of workers' compensation coverage

If an agricultural employer, agricultural association, or farm labor contractor is the em-

ployer of any migrant or seasonal agricultural worker for purposes of a State workers' compensation law and such employer provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by such State law, the following adjustments in the requirements of subsection (b)(1)(C) of this section relating to having an insurance policy or liability bond apply:

(1) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

(2) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

(d) Time for promulgation of regulations for standards implementing requirements; revision of standards

The Secretary shall, by regulations promulgated in accordance with section 1861 of this title not later than the effective date of this chapter, prescribe the standards required for the purposes of implementing this section. Any subsequent revision of such standards shall also be accomplished by regulation promulgated in accordance with such section.

(Pub. L. 97-470, title IV, §401, Jan. 14, 1983, 96 Stat. 2594; Pub. L. 104-49, §5(a), Nov. 15, 1995, 109 Stat. 434; Pub. L. 104-88, title III, §333, Dec. 29, 1995, 109 Stat. 953.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subs. (b)(2)(D) and (d), is the effective date of Pub. L. 97-470, which is ninety days from the date of enactment of Pub. L. 97-470, which was approved Jan. 14, 1983.

CODIFICATION

In subsec. (b)(2)(D), "section 31502 of title 49" substituted for "section 3102 of title 49" on authority of Pub. L. 103-272, §§1(c), (e), 6(b), July 5, 1994, 108 Stat. 745, 862, 1029, 1378. Previously, "section 3102 of title 49" substituted for "section 204(a)(3a) of the Interstate Commerce Act (49 U.S.C. 304(a)(3a))" on authority of Pub. L. 97-449, §6(b), Jan. 12, 1983, 96 Stat. 2443, the first section of which enacted subtitle I (§101 et seq.) and chapter 31 (§3101 et seq.) of subtitle II of Title 49, Transportation.

AMENDMENTS

1995—Subsec. (b)(2)(C). Pub. L. 104-88 substituted "part B of subtitle IV of title 49" for "part II of the Interstate Commerce Act, or any successor provision of subtitle IV of title 49".

Subsec. (b)(3). Pub. L. 104-49 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The 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 1301 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 regulation 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.