

HOUSE BILL REPORT

HB 2432

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to the Washington agricultural workers protection act.

Brief Description: Providing for agricultural workers protection.

Sponsor(s): Representatives Prentice, Heavey, G. Cole, R. King, Franklin, Jones and Anderson.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 6, 1992, DP.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *Do pass.* Signed by 7 members:
Representatives Heavey, Chair; G. Cole, Vice Chair;
Franklin; Jones; R. King; O'Brien; and Prentice.

Minority Report: *Do not pass.* Signed by 4 members:
Representatives Fuhrman, Ranking Minority Member; Lisk,
Assistant Ranking Minority Member; Vance; and Wilson.

Staff: Chris Cordes (786-7117).

Background: Both federal and state law regulate activities of farm labor contractors.

Washington Farm Labor Contractor Act

Under Washington law, persons engaging in farm labor contracting activities are required to be licensed and bonded by the Department of Labor and Industries. The farm labor contractor act does not apply to nonprofit corporations performing farm labor contracting activities for their members if the corporation does not derive a profit for the directors or employees and if it uses membership dues solely for maintenance of the association.

A person acting as a farm labor contractor must disclose in writing to employees, at hiring or recruiting, the compensation to be paid and other terms and conditions of

the employment being offered. The person acting as a contractor is also prohibited from making false or misleading representations concerning the terms and conditions of employment.

If a person knowingly uses the services of an unlicensed farm labor contractor, that person is personally, jointly, and severally liable with the contractor for violations.

Persons violating the farm labor contractor requirements are subject to criminal and civil penalties. A civil cause of action is also authorized, with damages up to the amount of actual damages or statutory damages of \$500, whichever is greater.

Federal Migrant and Seasonal Agricultural Worker Protection Act

Federal law requires farm labor contractors to obtain certificates of registration and comply with specified worker protection provisions, including disclosure of working conditions to employees. Agricultural employers and agricultural associations subject to the federal law must also comply with the worker protection provisions when recruiting or hiring employees. In a joint employment relationship, the joint employers are both responsible for these requirements.

Summary of Bill: The provisions of the farm labor contractor act are amended and the act is renamed the Washington Agricultural Workers Protection Act.

Coverage of agricultural employers and associations

Agricultural employers and agricultural associations that hire, recruit, or solicit agricultural employees are required to comply with specified requirements applying to farm labor contractors. However, agricultural employers, agricultural associations, or their employees acting within the scope of the regular employment for the employer or association, are excluded from the definition of a farm labor contractor. Only farm labor contractors must be bonded and licensed.

Agricultural associations are defined to include nonprofit or cooperative associations of growers, including those that are formed for promoting agricultural commodities. The exemption from the farm labor contractor act is deleted for nonprofit corporations that do not derive a profit for the directors or employees and that use membership dues solely for maintenance of the association.

Disclosure requirements

The requirement for farm labor contractors to furnish written information about the offered employment, including compensation and other terms and conditions of employment, also applies to agricultural employers and agricultural associations that hire, recruit, or solicit agricultural employees.

Prohibited activities

Agricultural employers and agricultural associations, as well as farm labor contractors, may not make false or misleading representations concerning the terms and conditions of employment. Employers, associations, and contractors may not violate the terms of the working arrangement made with an employee, require the employee to purchase goods or services solely from the employer, association, or contractor, or offer housing that does not meet the standards required under the Washington Industrial Safety and Health Act.

Recruiting and employment requirements

If an agricultural employee is recruited prior to the availability of the employment, the employee must be provided, at no charge, with lodging and food until employment begins. If work does not begin within 30 days of the date that employment was represented to become available, the employee must be provided transportation, including meals and lodging in transit, to return to the place from which the employee was induced to travel or to another worksite, whichever costs less.

The requirement for farm labor contractors to furnish employees with a statement itemizing the payment and deductions each time the employee receives compensation is also applicable to agricultural employers or associations. On termination of employment, agricultural employees must be paid any wages owed to the employee within 24 hours. Bonuses are due when the employee has fulfilled the conditions of the bonus arrangement, when working conditions are inconsistent with the working conditions disclosed to the employee, or when working conditions violate state or federal law.

Liability and remedies

A person who employs agricultural employees jointly with a farm labor contractor is also personally, jointly, and severally liable for violations of the act.

Claims against a farm labor contractor's surety bond or security deposit may also include claims for employee benefits and contract damages. The damages that a court may order in a civil lawsuit brought because of violations of the farm labor contractor law must equal either actual damages or statutory damages, whichever is greater. The statutory damages are increased from \$500 to \$1,000.

Other provisions

The act applies to all transactions, acts, or omissions that are constitutionally within the power of the state to regulate, including recruiting workers in the state to work outside the state, or recruiting workers outside the state to work in the state.

Fiscal Note: Requested February 1, 1992.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Washington law should be updated to reflect current practices in the recruiting and hiring of agricultural workers. Agricultural employers and associations that recruit or hire workers should be required to give the same disclosure that is required from farm labor contractors. Although federal law already covers employers and associations, the federal law has many exemptions. This bill is not intended to burden employers, but to protect workers against the "bad apples." Providing for workers who are recruited too early should be the responsibility of the employer or contractor, not the state social service agencies.

Testimony Against: Growers are not able to predict exactly when crops will be ready for harvest. The cost of providing food and lodging is a cost that cannot be factored into the grower's overhead. If employers are made jointly liable with a contractor for violations, then there will be no reason to use contractors.

Witnesses: (In favor) Dan Ford, Evergreen Legal Services; Allagracia Moreno; Tomas Villanueva, United Farm Workers; and Bill Nacacio, Centro Campesino.

(Opposed) Curtis Parrish and Ray Schindler, Washington Asparagus Growers Association.