
HOUSE BILL 2106

State of Washington 60th Legislature 2007 Regular Session

By Representatives Kenney, Sells, Conway, Clibborn, Hunt, Santos, Simpson and Ormsby

Read first time 02/08/2007. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to farm labor contractors; amending RCW 19.30.010,
2 19.30.030, 19.30.040, 19.30.050, 19.30.060, 19.30.070, 19.30.081,
3 19.30.110, 19.30.120, 19.30.160, 19.30.170, and 19.30.190; adding new
4 sections to chapter 19.30 RCW; creating new sections; repealing RCW
5 19.30.090; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 19.30.010 and 1985 c 280 s 1 are each amended to read
8 as follows:

9 DEFINITIONS. As used in this chapter:

10 (1) "Person" includes any individual, firm, partnership,
11 association, corporation, or unit or agency of state or local
12 government.

13 (2) "Applicant" means any person who has submitted a written
14 application to operate as a farm labor contractor, but who has not yet
15 been issued a license to operate as a farm labor contractor, as
16 specified in RCW 19.30.030.

17 (3) "Farm labor contractor" means any person, or his or her agent
18 or subcontractor, who, for a fee, performs any farm labor contracting
19 activity.

1 ~~((3))~~ (4) "Farm labor contracting activity" means recruiting,
2 soliciting, employing, supplying, transporting, or hiring agricultural
3 ~~((employees))~~ workers.

4 ~~((4))~~ (5) "Agricultural employer" means any person engaged in
5 agricultural activity, including but not limited to: The growing,
6 producing, or harvesting of farm or nursery products~~((, or engaged~~
7 ~~in));~~ the forestation or reforestation of lands, ~~((which includes but~~
8 ~~is))~~ including but not limited to the planting, transplanting, tubing,
9 precommercial thinning, and thinning of trees and seedlings, the
10 clearing, piling, and disposal of brush and slash, and the harvest of
11 Christmas trees~~(())~~; and other related activities.

12 ~~((5))~~ (6) "Agricultural ~~((employee))~~ worker" means any person who
13 seeks to render~~((s))~~ personal services to~~((r))~~ or is under the
14 direction of~~((r))~~ an agricultural employer in connection with the
15 employer's agricultural activity.

16 ~~((6))~~ (7) "Agricultural guest worker" is an agricultural worker
17 who is temporarily present in the United States as a nonimmigrant under
18 federal law, including but not limited to subparagraph (H)(ii) of
19 section 101(a)(15) of the federal immigration and naturalization act.

20 (8) This chapter shall not apply to the following:

21 (a) Employees of the employment security department acting in their
22 official capacity or their agents~~((, nor to));~~ or

23 (b) Any common carrier or full time regular employees thereof while
24 transporting agricultural ~~((employees))~~ workers, nor to any person who
25 performs any of the services enumerated in subsection ~~((3))~~ (4) of
26 this section only within the scope of his or her regular employment for
27 one agricultural employer on whose behalf he or she is so acting,
28 unless he or she is receiving a commission or fee, which commission or
29 fee is determined by the number of workers recruited~~((, or to a~~
30 ~~nonprofit corporation or organization which performs the same functions~~
31 ~~for its members. Such nonprofit corporation or organization shall be~~
32 ~~one in which:~~

33 ~~((a))~~ ~~None of its directors, officers, or employees are deriving any~~
34 ~~profit beyond a reasonable salary for services performed in its behalf.~~

35 ~~((b))~~ ~~Membership dues and fees are used solely for the maintenance of~~
36 ~~the association or corporation)).~~

37 ~~((7))~~ (9) "Fee" means:

1 (a) Any money or other valuable consideration paid or promised to
2 be paid for services rendered or to be rendered by a farm labor
3 contractor.

4 (b) Any valuable consideration received or to be received by a farm
5 labor contractor for or in connection with any of the services
6 described in subsection ~~((+3))~~ (4) of this section, and shall include
7 the difference between any amount received or to be received by him or
8 her, and the amount paid out by him or her for or in connection with
9 the rendering of such services.

10 ~~((+8))~~ (10) "Director" as used in this chapter means the director
11 of the department of labor and industries of the state of Washington.

12 **Sec. 2.** RCW 19.30.030 and 1985 c 280 s 3 are each amended to read
13 as follows:

14 LICENSE--REQUIREMENTS FOR ISSUING. The director shall not issue to
15 any person a license to ~~((act))~~ operate as a farm labor contractor
16 until:

17 (1) Such person has executed a written application for each year
18 that the applicant seeks to operate as a farm labor contractor. The
19 written application shall be on a form prescribed by the director, be
20 subscribed and sworn to by the applicant, and contain~~((ing))~~: (a) A
21 statement by the applicant of all facts required by the director
22 concerning the applicant's character, competency, responsibility, and
23 the manner and method by which he or she proposes to conduct operations
24 as a farm labor contractor if such license is issued~~((r))~~i; and (b) the
25 names and addresses of all persons financially interested, either as
26 partners, stockholders, associates, profit sharers, or providers of
27 board or lodging to agricultural ~~((employees))~~ workers in the proposed
28 operation as a labor contractor, together with the amount of their
29 respective interests;

30 (2) Such person demonstrates to the director that he or she is in
31 full compliance with all applicable state and federal laws;

32 (3) The director, after investigation, is satisfied as to the
33 character, competency, and responsibility of the applicant;

34 ~~((+3))~~ (4) The applicant has paid to the director a license fee
35 ~~((of: (1) Thirty five dollars in the case of a farm labor contractor~~
36 ~~not engaged in forestation or reforestation, or (2) one hundred dollars~~
37 ~~in the case of a farm labor contractor engaged in forestation or~~

1 ~~reforestation or such other sum as the director finds necessary, and~~
2 ~~adopts by rule, for the administrative costs of evaluating~~
3 ~~applications)).~~ The director shall determine the appropriate amount of
4 the license fee, not to exceed one hundred dollars for a farm labor
5 contractor not engaged in forestation or reforestation, and two hundred
6 dollars for a farm labor contractor engaged in forestation or
7 reforestation;

8 ~~((+4))~~ (5) The applicant has successfully passed a qualifying
9 examination designed to test the applicant's ability, knowledge, and
10 proficiency to conduct and manage the business of a farm labor
11 contractor in compliance with applicable laws and regulations. The
12 director shall prescribe the requirements for and the manner of testing
13 the competency of license applicants;

14 (6) The applicant has filed proof satisfactory to the director of
15 the existence of a policy of insurance with any insurance carrier
16 authorized to do business in the state of Washington in an amount
17 satisfactory to the director, which insures the contractor against
18 liability for damage to persons or property arising out of the
19 contractor's operation of, or ownership of, any vehicle or vehicles for
20 the transportation of individuals in connection with the contractor's
21 business, activities, or operations as a farm labor contractor;

22 ~~((+5))~~ (7) The applicant has filed a surety bond or other security
23 which meets the requirements set forth in RCW 19.30.040;

24 ~~((+6))~~ (8) The applicant executes a written statement which shall
25 be subscribed and sworn to and shall contain the following declaration:

26 "With regards to any action filed against me concerning my
27 activities as a farm labor contractor, I appoint the director of the
28 Washington department of labor and industries as my lawful agent to
29 accept service of summons when I am not present in the jurisdiction in
30 which the action is commenced or have in any other way become
31 unavailable to accept service"; and

32 ~~((+7))~~ (9) The applicant has stated on his or her application
33 whether or not ~~((his or her contractor's license or the license of))~~
34 the applicant or any of ~~((his or her))~~ the applicant's agents,
35 partners, associates, stockholders, or profit sharers;

36 (a) Has ever ~~((been))~~ had his or her license suspended, revoked, or
37 denied by any state or federal agency(~~(, and whether or not there are~~

1 ~~any outstanding judgments against him or her or any of his or her~~
2 ~~agents, partners, associates, stockholders, or profit sharers));~~

3 (b) Has any outstanding debts against him or her from final state
4 or federal administrative determinations or judgments in any state or
5 federal court arising out of activities as a farm labor contractor in
6 any state or country; and

7 (c) Is not in compliance with the payment terms of a settlement
8 agreement arising out of activities as a farm labor contractor in any
9 state or country.

10 **Sec. 3.** RCW 19.30.040 and 1987 c 216 s 1 are each amended to read
11 as follows:

12 SURETY BOND--SECURITY. (1) The director shall require the deposit
13 of a surety bond, or cash or other security as described in subsection
14 (6) of this section, by any person acting as a farm labor contractor
15 under this chapter to insure compliance with the provisions of this
16 chapter, including payment to workers of all sums owing in the event
17 that a license is revoked. (~~Such bond shall be in an amount specified~~
18 ~~by the director in accordance with such criteria as the director adopts~~
19 ~~by rule but shall not be less than five thousand dollars.~~) The amount
20 of the bond or other security shall be based on such criteria as the
21 director adopts by rule, subsections (2) and (3) of this section, and
22 the maximum number of employees the contractor employs at any time
23 during the year. The bond or security shall be:

24 (a) Not less than ten thousand dollars if the contractor employs no
25 more than twenty agricultural workers;

26 (b) Not less than twenty thousand dollars if the contractor employs
27 twenty-one to fifty agricultural workers;

28 (c) Not less than thirty thousand dollars if the contractor employs
29 fifty-one or more agricultural workers.

30 The bond shall be payable to the state of Washington and be
31 conditioned on payment of sums legally owing under contract and under
32 RCW 19.30.170 to ~~((an))~~ any agricultural ~~((employee))~~ workers. The
33 aggregate liability of the surety upon such bond for all claims which
34 may arise thereunder shall not exceed the face amount of the bond.

35 (2) For purposes of this subsection, "repatriation costs" include
36 travel expenses for returning agricultural guest workers to their home
37 in their country of origin, and room, board, and other living expenses

1 for agricultural guest workers while they await repatriation if the
2 farm labor contractor fails to make timely repatriation of agricultural
3 guest workers.

4 (a) The director shall raise the amount of the bond or require
5 additional security to be deposited by a farm labor contractor for the
6 first year that the contractor is participating or applying to
7 participate in an agricultural guest worker program and is liable under
8 law or contract for the repatriation costs for the agricultural guest
9 worker unless the contractor demonstrates to the director that it has
10 the financial capacity to return workers to their homes in their
11 country of origin and a record of operating in the state as a farm
12 labor contractor for at least two years in compliance with applicable
13 laws.

14 (b) The director is authorized to raise the amount of the surety
15 bond or require additional security to be deposited by a farm labor
16 contractor for the second and any subsequent year that a farm labor
17 contractor is participating or applying to participate in an
18 agricultural guest worker program, and is liable under law or contract
19 for the repatriation costs for the agricultural guest workers. In
20 deciding whether to raise the amount of the surety bond or require
21 additional security, the director shall consider the farm labor
22 contractor's character, competency, and responsibility, and the farm
23 labor contractor's record of compliance with this chapter and other
24 federal and state laws relating to farm labor contracting activities.

25 (c) The director's decision to raise the amount of the bond or
26 require additional security, but not the director's decision as to the
27 increased amount, is final and not subject to appeal.

28 (3) The amount of the bond may be raised or additional security
29 required by the director, upon his or her own motion or upon petition
30 to the director by any person, when it is shown that the security or
31 bond is insufficient to satisfy the contractor's potential liability
32 for the licensed period.

33 ((+3+)) (4) No surety insurer may provide any bond, undertaking,
34 recognizance, or other obligation for the purpose of securing or
35 guaranteeing any act, duty, or obligation, or the refraining from any
36 act with respect to a contract using the services of a farm labor
37 contractor unless the farm labor contractor has made application for or

1 has a valid license issued under RCW 19.30.030 at the time of issuance
2 of the bond, undertaking, recognizance, or other obligation.

3 ~~((+4))~~ (5) Surety bonds may not be canceled or terminated during
4 the period in which the bond is executed unless thirty days' notice is
5 provided by the surety to the department. The bond is written for a
6 one-year term and may be renewed or extended by continuation
7 certification at the option of the surety.

8 ~~((+5))~~ (6) In lieu of the surety bond required by this section,
9 the contractor may file with the director a deposit consisting of cash
10 or other security acceptable to the director. The deposit shall not be
11 less than ~~((five))~~ ten thousand dollars in value. The security
12 deposited with the director in lieu of the surety bond shall be
13 returned to the contractor at the expiration of three years after the
14 farm labor contractor's license has expired or been revoked if no legal
15 action has been instituted against the contractor or on the security
16 deposit at the expiration of the three years.

17 ~~((+6))~~ (7) If a contractor has deposited a bond with the director
18 and has failed to comply with the conditions of the bond as provided by
19 this section, and has departed from this state, service may be made
20 upon the surety as prescribed in RCW 4.28.090.

21 **Sec. 4.** RCW 19.30.050 and 1985 c 280 s 5 are each amended to read
22 as follows:

23 LICENSE--GROUNDS FOR DENYING. (1) Any person may protest the
24 issuance or renewal of a license under this section.

25 (2) The director shall deny an application for a license to operate
26 as a farm labor contractor ~~((shall be denied))~~ if the director
27 determines that:

28 ~~((+1) To any person who))~~ (a) The applicant has made any material
29 misrepresentations or material false statements in his or her
30 application for a license;

31 (b) The applicant has failed to fully satisfy any outstanding debts
32 owing against him or her from final state or federal administrative
33 determinations or judgments in any state or federal court or to comply
34 with any payment terms of settlement agreements arising out of
35 activities as a farm labor contractor in any state or country,
36 including final determinations and settlement agreements involving the

1 applicant or any of his or her agents, partners, associates,
2 stockholders, or profit sharers. The director shall make this
3 determination with reasonable and practicable efforts;

4 (c) A final administrative or judicial determination shows that the
5 applicant engaged in, or willfully aided or abetted, the violation of
6 one or more civil or criminal laws that, for one or more employees,
7 either resulted in serious financial harm or created the danger of
8 serious physical harm;

9 (d) The applicant sells or proposes to sell intoxicating liquors in
10 a building or on premises where he or she operates or proposes to
11 operate as a farm labor contractor((~~τ~~)); or

12 ~~((~~2~~) To a person whose)) (e) The applicant's farm labor contractor
13 license ((has been)) issued under this chapter or federal law was
14 revoked within three years from the date of application.~~

15 (3) The director may deny an application for a license to operate
16 as a farm labor contractor if the director determines that the
17 applicant's farm labor contractor license issued in another state was
18 revoked within three years from the date of application.

19 **Sec. 5.** RCW 19.30.060 and 1997 c 58 s 846 are each amended to read
20 as follows:

21 LICENSE--REVOCATION, SUSPENSION. (1) Any person may protest the
22 grant, continuation, or renewal of a license under this section.

23 (2) The director may immediately revoke((~~τ~~)) or suspend((~~τ~~—or
24 refuse to issue or renew any)) a license ((when it is shown)) to
25 operate as a farm labor contractor if the director determines that:

26 ~~((~~1~~) The farm labor contractor or any agent of the contractor has~~
27 ~~violated or failed to comply with any of the provisions of this~~
28 ~~chapter;~~

29 ~~(2)) (a) The farm labor contractor ((has made any~~
30 ~~misrepresentations or false statements in his or her application for a~~
31 ~~license;~~

32 ~~(3)) or any agent of the contractor has engaged in actions that~~
33 ~~would result in the denial or refusal of a license under RCW 19.30.050;~~

34 (b) The farm labor contractor's character, competency, or
35 responsibility are not satisfactory;

36 (c) The conditions under which the license was issued have changed
37 or no longer exist;

1 ~~((4))~~ (d) The farm labor contractor, or any agent of the
2 contractor, has violated or willfully aided or abetted any person in
3 the violation of, or failed to comply with, any law of the state of
4 Washington regulating employment in agriculture, the payment of wages
5 to farm employees, or the conditions, terms, or places of employment
6 affecting the health and safety of farm employees, which is applicable
7 to the business activities, or operations of the contractor in his or
8 her capacity as a farm labor contractor;

9 ~~((5))~~ (e) The farm labor contractor or any agent of the
10 contractor has in recruiting ~~((farm labor))~~ agricultural workers
11 solicited or induced the violation of any then existing contract of
12 employment of such ~~((laborers; or~~

13 ~~(6) The farm labor contractor or any agent of the contractor has an~~
14 ~~unsatisfied judgment against him or her in any state or federal court,~~
15 ~~arising out of his or her farm labor contracting activities))~~ workers;
16 or

17 (f) There is a danger to the public health, safety, or welfare from
18 the continued operations of the farm labor contractor.

19 (3)(a) If the director revokes or suspends a license, the director
20 may permit the farm labor contractor to continue to operate within the
21 period of licensure solely to complete an existing contract period for
22 which agricultural workers have commenced work.

23 (b) If the director allows continuation of an existing contract
24 after revocation or suspension of a license, the farm labor contractor
25 may not represent that it is licensed as a farm labor contractor for
26 any purpose other than completing an existing contract as permitted by
27 the director.

28 (c) If the director does not permit the farm labor contractor to
29 continue to operate to complete an existing contract period under (b)
30 of this subsection, the farm labor contractor may appeal under RCW
31 34.05.479.

32 (d) The director shall monitor the contractor's compliance with
33 this chapter while the contractor completes any contracts under this
34 subsection (3).

35 (4) The director shall immediately suspend the license or
36 certificate of a person who has been certified pursuant to RCW
37 74.20A.320 by the department of social and health services as a person
38 who is not in compliance with a support order ~~((or a residential or~~

1 ~~visitation order~~). If the person has continued to meet all other
2 requirements for reinstatement during the suspension, reissuance of the
3 license or certificate shall be automatic upon the director's receipt
4 of a release issued by the department of social and health services
5 stating that the licensee is in compliance with the order.

6 **Sec. 6.** RCW 19.30.070 and 1985 c 280 s 7 are each amended to read
7 as follows:

8 LICENSE--CONTENTS. Each license shall contain, on the face
9 thereof:

10 (1) The name and address of the licensee and the fact that he or
11 she is licensed to ~~((act))~~ operate as a farm labor contractor for the
12 period upon the face of the license only;

13 (2) The number, date of issuance, and date of expiration of the
14 license;

15 (3) The amount of the surety bond deposited by the licensee;

16 (4) The fact that the license may not be transferred or assigned;
17 and

18 (5) A statement that the licensee is or is not licensed to
19 transport workers.

20 **Sec. 7.** RCW 19.30.081 and 1987 c 216 s 3 are each amended to read
21 as follows:

22 LICENSE--DURATION. ~~((Farm labor contractors may hold either))~~ The
23 director may issue a one-year license ~~((or a two-year license))~~ to
24 operate as a farm labor contractor, at the director's discretion. The
25 one-year license ~~((shall run to and include the 31st day of December~~
26 ~~next following the date thereof unless sooner revoked by the director.~~
27 ~~A license may be renewed each year upon the payment of the annual~~
28 ~~license fee, but the director shall require that evidence of a renewed~~
29 ~~bond be submitted and that the contractor have a bond in full force and~~
30 ~~effect.~~

31 ~~The two-year license shall run to and include the 31st day of~~
32 ~~December of the year following the year of issuance unless sooner~~
33 ~~revoked by the director. This license may be renewed every two years~~
34 ~~under the same terms as the one-year license, except that a farm labor~~
35 ~~contractor possessing a two-year license shall have evidence of a bond~~

1 ~~in full force and effect, and file an application on which he or she~~
2 ~~shall disclose all information required by RCW 19.30.030 (1)(b), (4),~~
3 ~~and (7))~~ expires one year from the date of approval of the license.

4 **Sec. 8.** RCW 19.30.110 and 1985 c 280 s 9 are each amended to read
5 as follows:

6 FARM LABOR CONTRACTOR--DUTIES. Every person acting as a farm labor
7 contractor shall:

8 (1) Carry a current farm labor contractor's license at all times
9 and exhibit it to all persons with whom the contractor intends to deal
10 in the capacity of a farm labor contractor prior to so dealing.

11 (2) Disclose to every person with whom he or she deals in the
12 capacity of a farm labor contractor the amount of his or her bond and
13 the existence and amount of any claims against the bond.

14 (3) File at the United States post office serving the address of
15 the contractor, as noted on the face of the farm labor contractor's
16 license, a correct change of address immediately upon each occasion the
17 contractor permanently moves his or her address, and notify the
18 director within ten days after an address change is made.

19 (4) Promptly when due, pay or distribute to the individuals
20 entitled thereto all moneys or other things of value entrusted to the
21 contractor by any third person for such purpose.

22 (5) Comply with the terms and provisions of all legal and valid
23 agreements (~~and~~), contracts, and conditions of employment entered
24 into between the contractor in the capacity of a farm labor contractor
25 and third persons.

26 (6) File information regarding work offers with the nearest
27 employment service office, such information to include wages and work
28 to be performed and any other information prescribed by the director.

29 (7) On a form prescribed by the director, furnish to each worker,
30 at the time of hiring, recruiting, soliciting, or supplying, whichever
31 occurs first, a written statement in English and any other language
32 common to workers who are not fluent or literate in English that
33 contains a description of:

34 (a) The compensation to be paid and the method of computing the
35 rate of compensation;

36 (b) The terms and conditions of any bonus offered, including the
37 manner of determining when the bonus is earned;

1 (c) The terms and conditions of any loan made to the worker;

2 (d) The amount of all fees charged or to be charged the worker, not
3 to exceed the amount allowed under RCW 19.30.120, and the method of
4 such payment or reimbursement;

5 (e) The conditions of any transportation, housing, board, health,
6 and day care services or any other employee benefit to be provided by
7 the farm labor contractor (~~or by his or her agents~~), and the costs to
8 be charged for each of them;

9 ~~((e))~~ (f) The terms and conditions of employment, including the
10 approximate length of season or period of employment and the
11 approximate starting and ending dates thereof, and the crops on which
12 and kinds of activities in which the worker may be employed;

13 ~~((f))~~ (g) The terms and conditions under which the worker is
14 furnished clothing or equipment;

15 ~~((g))~~ (h) The place of employment;

16 ~~((h))~~ (i) The name and address of the owner of all operations, or
17 the owner's agent, where the worker will be working as a result of
18 being recruited, solicited, supplied, or employed by the farm labor
19 contractor;

20 ~~((i))~~ (j) The existence of a labor dispute at the worksite;

21 ~~((j))~~ (k) The name and address of the farm labor contractor;

22 ~~((k))~~ (l) The existence of any arrangements with any owner or
23 agent of any establishment at the place of employment under which the
24 farm labor contractor is to receive a fee or any other benefit
25 resulting from any sales by such establishment to the workers; ~~(and~~

26 ~~(l))~~ (m) The name and address of the surety on the contractor's
27 bond and the workers' right to claim against the bond; and

28 (n) A statement that section 15 of this act prohibits farm labor
29 contractors, agricultural employers, and agricultural workers from
30 exempting themselves from the burdens or waiving the benefits of this
31 chapter by any agreement, and that section 15 of this act provides that
32 any such agreement is void to the extent it allows for such exemptions
33 or waivers.

34 (8) Furnish to the worker each time the worker receives a
35 compensation payment from the farm labor contractor, a written
36 statement itemizing the total payment and the amount and purpose of
37 each deduction therefrom, hours worked, rate of pay, and pieces done if
38 the work is done on a piece rate basis, and if the work is done under

1 the Service Contract Act (41 U.S.C. Secs. 351 through 401) or related
2 federal or state law, a written statement of any applicable prevailing
3 wage.

4 (9) With respect to each worker recruited, solicited, employed,
5 supplied, or hired by the farm labor contractor:

6 (a) Make, keep, and preserve for three years a record of the
7 following information:

8 (i) The basis on which wages are paid;

9 (ii) The number of piecework units earned, if paid on a piecework
10 basis;

11 (iii) The number of hours worked;

12 (iv) The total pay period earnings;

13 (v) The specific sums withheld and the purpose of each sum
14 withheld; and

15 (vi) The net pay; and

16 (b) Provide to any other farm labor contractor and to any user of
17 farm labor for whom he or she recruits, solicits, supplies, hires, or
18 employs workers copies of all records, with respect to each such
19 worker, which the contractor is required by this chapter to make, keep,
20 and preserve. The recipient of such records shall keep them for a
21 period of three years from the end of the period of employment. When
22 necessary to administer this chapter, the director may require that any
23 farm labor contractor provide the director with certified copies of his
24 or her payroll records for any payment period.

25 The record-keeping requirements of this chapter shall be met if
26 either the farm labor contractor or any user of the contractor's
27 services makes, keeps, and preserves for the requisite time period the
28 records required under this section, and so long as each worker
29 receives the written statements specified in subsection (8) of this
30 section.

31 **Sec. 9.** RCW 19.30.120 and 1985 c 280 s 10 are each amended to read
32 as follows:

33 FARM LABOR CONTRACTOR--PROHIBITED ACTS. No person acting as a farm
34 labor contractor shall:

35 (1) Make any misrepresentation or false statement in an application
36 for a license.

1 (2) Make or cause to be made, to any person, any false, fraudulent,
2 or misleading representation, or publish or circulate or cause to be
3 published or circulated any false, fraudulent, or misleading
4 information concerning the terms or conditions or existence of
5 employment at any place or places, or by any person or persons, or of
6 any individual or individuals.

7 (3) Charge, or allow his or her agent, partner, associate, or any
8 person with whom the farm labor contractor has an agreement to provide
9 labor to charge, any fees to an agricultural worker that in total
10 exceed twenty-five percent of gross wages to be paid to the worker for
11 his or her first one hundred eighty hours of work, such wages to be
12 calculated pursuant to the wage disclosure in the written statement
13 provided under RCW 19.30.110(7).

14 (4) Send or transport any worker to any place where the farm labor
15 contractor knows a strike or lockout exists.

16 ((+4)) (5) Do any act in the capacity of a farm labor contractor,
17 or cause any act to be done, which constitutes a crime involving moral
18 turpitude under any law of the state of Washington.

19 **Sec. 10.** RCW 19.30.160 and 1987 c 216 s 4 are each amended to read
20 as follows:

21 CIVIL PENALTY--HEARING--COURT ACTION. (1) In addition to any
22 criminal penalty imposed under RCW 19.30.150, the director may assess
23 against any person who violates this chapter, or who violates any rule
24 adopted under this chapter, a civil penalty of not more than ((one))
25 two thousand dollars for each violation.

26 (2) The person shall be afforded the opportunity for a hearing,
27 upon request to the director made within thirty days after the date of
28 issuance of the notice of assessment. The hearing shall be conducted
29 in accordance with chapter 34.05 RCW.

30 (3) If any person fails to pay an assessment after it has become a
31 final and unappealable order, or after the court has entered final
32 judgment in favor of the agency, the director shall refer the matter to
33 the state attorney general, who shall recover the amount assessed by
34 action in the appropriate superior court. In such action, the validity
35 and appropriateness of the final order imposing the penalty shall not
36 be subject to review.

1 (4) Without regard to other remedies provided in this chapter, the
2 department may bring suit upon the surety bond filed by the farm labor
3 contractor on behalf of a worker whose rights under this chapter have
4 been violated by the contractor. The action may be commenced in any
5 court of competent jurisdiction. In any such action, there shall be
6 compliance with the notice and service requirements set forth in RCW
7 19.30.170. The director shall also give notice of any such action to
8 agricultural employers for whom the farm labor contractor is known to
9 have performed any farm labor contracting activity during the current
10 year. The failure of the department to give notice of any such action
11 to any agricultural employers, however, does not bar the action.

12 **Sec. 11.** RCW 19.30.170 and 1987 c 216 s 5 are each amended to read
13 as follows:

14 CIVIL ACTIONS. (1) After filing a notice of a claim with the
15 director, in addition to any other penalty provided by law, any person
16 aggrieved by a violation of this chapter or any rule adopted under this
17 chapter may bring suit in any court of competent jurisdiction of the
18 county in which the claim arose, or in which either the plaintiff or
19 respondent resides, without regard to the amount in controversy and
20 without regard to exhaustion of any alternative administrative remedies
21 provided in this chapter. No such action may be commenced later than
22 three years after the date of the violation giving rise to the right of
23 action. In any such action the court may award to the prevailing
24 party, in addition to costs and disbursements, reasonable attorneys'
25 fees at trial and appeal.

26 (2) In any action under subsection (1) of this section, if the
27 court finds that the respondent has violated this chapter or any rule
28 adopted under this chapter, it may award damages up to and including an
29 amount equal to the amount of actual damages, or statutory damages of
30 five hundred dollars per plaintiff per violation, whichever is greater,
31 or other equitable relief.

32 (3) Without regard to other remedies provided in this chapter, a
33 person having a claim against the farm labor contractor for any
34 violation of this chapter may bring suit against the farm labor
35 contractor and the surety bond or security deposit filed by the
36 contractor pursuant to RCW 19.30.040, in any court of competent

1 jurisdiction of the county in which the claim arose, or in which either
2 the claimant or contractor resides.

3 (4) An action upon the bond or security deposit shall be commenced
4 by serving and filing the summons and complaint within three years from
5 the date of expiration or cancellation of the bond or expiration or
6 cancellation of the license, whichever is sooner, or in the case of a
7 security deposit, within three years of the date of expiration or
8 revocation of the license.

9 (5) A copy of the summons and complaint in any such action shall be
10 served upon the director at the time of commencement of the action and
11 the director shall maintain a record, available for public inspection,
12 of all suits so commenced. Such service shall constitute service on
13 the farm labor contractor and the surety for suit upon the bond and the
14 director shall transmit the complaint or a copy thereof to the
15 contractor at the address listed in his or her application and to the
16 surety within forty-eight hours after it has been received. The
17 director shall also give notice of any such action to agricultural
18 employers for whom the farm labor contractor is known to have performed
19 any farm labor contracting activity during the current year. The
20 failure of the department to give notice of any such action to any
21 agricultural employers, however, does not bar the action.

22 (6) The surety upon the bond may, upon notice to the director and
23 the parties, tender to the clerk of the court having jurisdiction of
24 the action an amount equal to the claims or the amount of the bond less
25 the amount of judgments, if any, previously satisfied therefrom and to
26 the extent of such tender the surety upon the bond shall be exonerated.

27 (7) If the actions commenced and pending at any one time exceed the
28 amount of the bond then unimpaired, the claims shall be satisfied from
29 the bond in the following order:

30 (a) Wages, including employee benefits;

31 (b) Other contractual damage owed to the ((employee)) worker;

32 (c) Any costs and attorneys' fees the claimant may be entitled to
33 recover by contract or statute.

34 (8) If any final judgment impairs the bond so furnished so that
35 there is not in effect a bond undertaking in the full amount prescribed
36 by the director, the director shall suspend the license of the
37 contractor until the bond liability in the required amount unimpaired

1 by unsatisfied judgment claims has been furnished. If such bond
2 becomes fully impaired, a new bond must be furnished.

3 (9) A claimant against a security deposit shall be entitled to
4 damages under subsection (2) of this section. If the farm labor
5 contractor has filed other security with the director in lieu of a
6 surety bond, any person having an unsatisfied final judgment against
7 the contractor for any violation of this chapter may execute upon the
8 security deposit held by the director by serving a certified copy of
9 the unsatisfied final judgment by registered or certified mail upon the
10 director. Upon the receipt of service of such certified copy, the
11 director shall pay or order paid from the deposit, through the registry
12 of the court which rendered judgment, towards the amount of the
13 unsatisfied judgment. The priority of payment by the director shall be
14 the order of receipt by the director, but the director shall have no
15 liability for payment in excess of the amount of the deposit.

16 **Sec. 12.** RCW 19.30.190 and 1985 c 280 s 13 are each amended to
17 read as follows:

18 NONDISCRIMINATION. No farm labor contractor or agricultural
19 employer or any agent acting on his or her behalf may intimidate,
20 threaten, restrain, coerce, blacklist, discharge, or in any other
21 manner discriminate against any ~~((employee))~~ agricultural worker
22 because:

23 (1) The ~~((employee))~~ worker has made a claim against the farm labor
24 contractor or agricultural employer for compensation for the
25 ~~((employee's))~~ worker's personal services.

26 (2) The ~~((employee))~~ worker has caused to be instituted any
27 proceedings under ~~((or related to RCW 19.30.180))~~ this chapter.

28 (3) The ~~((employee))~~ worker has testified or is about to testify in
29 any ~~((such))~~ proceedings under this chapter.

30 (4) The ~~((employee))~~ worker has discussed or consulted with anyone
31 concerning the ~~((employee's))~~ worker's rights under this chapter.

32 NEW SECTION. **Sec. 13.** A new section is added to chapter 19.30 RCW
33 to read as follows:

34 COMPLAINTS. (1) Any agricultural worker, or representative of such
35 worker, who in good faith believes that a violation of this chapter
36 occurred, may request a compliance investigation by giving notice to

1 the director or his or her authorized representative of such violation.
2 Any such notice shall be reduced to writing by the worker, worker's
3 representative, or director's representative, and shall set forth with
4 reasonable particularity the grounds for the notice. A copy of the
5 notice shall be provided to the party who is the subject of the
6 complaint or his or her agent no later than at the time of
7 investigation, except that, upon the request of the person giving such
8 notice, his personal identifying information and such information for
9 individual workers referred to therein shall not appear in such copy or
10 on any record published, released, or made available pursuant to any
11 provision of this chapter or under chapter 42.17 RCW. If upon receipt
12 of such notification the director determines that there are reasonable
13 grounds to believe that such violation occurred, he or she shall
14 conduct an investigation as soon as practicable, to determine if such
15 violation occurred. If the written complaint lacks sufficient clarity
16 or detail to provide reasonable grounds to believe that a violation
17 occurred, the director's representative shall contact the complainant
18 for further information. If the director determines there are no
19 reasonable grounds to believe that a violation occurred, he or she
20 shall notify the party who is the subject of the complaint and the
21 worker or worker's representative in writing of such determination.

22 (2) The director shall, by rule, establish procedures for informal
23 review of any refusal by a representative of the director to issue a
24 citation with respect to any such alleged violation, and shall furnish
25 the worker or worker's representative requesting such a review a
26 written statement of the reasons for the director's final disposition
27 of the case.

28 (3) The director may issue a citation under this chapter only if
29 the director or the director's representative has a sufficient basis,
30 without relying on information provided by a person whose identity is
31 protected from disclosure under this section, to determine that a
32 violation has occurred. In any appeal of a citation issued under this
33 chapter, the director may not rely on evidence provided by a person
34 whose identity is protected from disclosure under this section. Any
35 person whose identity is protected from disclosure under this section
36 may agree to release his or her identity in order to provide evidence
37 in support of a citation.

1 NEW SECTION. **Sec. 14.** A new section is added to chapter 19.30 RCW
2 to read as follows:

3 TRANSPORTATION SAFETY STANDARDS. (1) When using, or causing to be
4 used, any vehicle for the transportation of any agricultural worker for
5 a fee, a farm labor contractor shall:

6 (a) Ensure that the vehicle conforms to applicable federal and
7 state safety standards;

8 (b) Ensure that the driver of each vehicle used by the contractor
9 to transport agricultural workers has a valid license to operate the
10 vehicle;

11 (c) Ensure that the farm labor contractor has a valid farm labor
12 contractor's license specifying that the contractor is authorized to
13 transport agricultural workers;

14 (d) Ensure that each occupant has a seat that is properly secured
15 to the vehicle pursuant to the manufacturer's specifications or design;

16 (e) Ensure that there is a properly functioning seat belt for each
17 occupant of the vehicle; and

18 (f) Have an insurance policy or a liability bond that is in effect
19 and that insures the farm labor contractor against liability for damage
20 to persons or property arising from the ownership, operation, or the
21 causing to be operated of any vehicle used to transport any
22 agricultural worker.

23 (2) The farm labor contractor shall demonstrate compliance with
24 this section at the time of application for issuance or renewal of a
25 license under this chapter and as required by the director pursuant to
26 a compliance review or inspection pursuant to a complaint.

27 (3) The director shall, to the extent possible, allow farm labor
28 contractors to demonstrate compliance with this section using the same
29 documents used to demonstrate compliance with the motor vehicle safety
30 provisions in section 401 of the federal migrant and seasonal
31 agricultural worker protection act (29 U.S.C. Sec. 1841). Such
32 documents shall include, but not be limited to, vehicle identification
33 and mechanical inspection reports, vehicle operators' licenses, and
34 proof of automobile liability insurance.

35 (4) This section applies to the transportation of any agricultural
36 worker by a farm labor contractor, but not to the transportation of any
37 agricultural worker on a tractor, combine, harvester, picker, or other
38 similar machinery and equipment while such worker is actually engaged

1 in the planting, cultivating, or harvesting of any agricultural
2 commodity or the care of livestock or poultry. Also excluded from this
3 section are private vehicles that are not registered to, or owned or
4 controlled by, the agricultural employer or farm labor contractor, that
5 are used by employees to travel from home to the job site or from one
6 job site to another in the course of employment.

7 NEW SECTION. **Sec. 15.** A new section is added to chapter 19.30 RCW
8 to read as follows:

9 NO EVASION OF BENEFITS OR BURDENS. Farm labor contractors,
10 agricultural employers, and agricultural workers may not exempt
11 themselves from the burdens or waive the benefits of this chapter by
12 any agreement, and any such agreement is void to the extent it allows
13 for such exemptions or waivers.

14 NEW SECTION. **Sec. 16.** This act applies to all transactions, acts,
15 and omissions of farm labor contractors and users of farm labor
16 contractors that are within the constitutional power of the state to
17 regulate, and not preempted by federal law, including but not limited
18 to the recruitment of workers in this state to perform work outside
19 this state, the recruitment of workers outside this state to perform
20 work in whole or in part in this state, the housing of workers in this
21 state for work in another state, the housing of workers from another
22 state in connection with work to be performed in this state, the
23 transportation of workers through this state, and the payment, terms
24 and conditions, disclosure, and recordkeeping required with respect to
25 work performed outside this state by workers recruited in this state.

26 NEW SECTION. **Sec. 17.** RCW 19.30.090 (License--Application for
27 renewal) and 1955 c 392 s 9 are each repealed.

28 NEW SECTION. **Sec. 18.** CAPTIONS. Captions used in this act are
29 not any part of the law.

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