

Assembly Bill No. 325

Passed the Assembly August 30, 2002

Chief Clerk of the Assembly

Passed the Senate August 14, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 1697.1 of the Labor Code, and to amend Section 2400 of the Vehicle Code, relating to protection of farmworkers.

LEGISLATIVE COUNSEL'S DIGEST

AB 325, Reyes. Protection of farmworkers.

Existing law imposes various restrictions and duties on farm labor contractors and other employers of farmworkers that are designed to protect the health, safety, welfare, and rights of farmworkers. Existing law prohibits any person from making false or misleading statements that agricultural employment or any farmworker benefit will be jeopardized unless a worker or his or her family pays a fee or other thing of value for transportation to and from work or an employer's worksite. Existing law makes a violation of this provision a misdemeanor, gives aggrieved individuals and 3rd parties a right to bring a civil action for violations, and specifies the penalties therefor.

This bill would amend existing law to also prohibit farm labor contractors, growers, and other agricultural employers, as defined, from requiring workers to cash their paychecks at designated locations and from charging fees for cashing workers' paychecks. The bill would also increase the specified penalties for violations of this provision and authorize the Labor Commissioner to revoke, suspend, or refuse to renew, for a period of one year the license of any farm labor contractor who is shown to have a violation of this provision. Because violation of the provisions of the bill would constitute a misdemeanor, this bill would impose a state-mandated local program.

Existing law requires the Commissioner of the Department of the California Highway Patrol to enforce all laws regulating the operation of vehicles and the use of the highways, except as provided.

This bill would specify that the Commissioner shall enforce the provisions of the Labor Code that make it a crime to falsely suggest that agricultural employment or any farmworker benefit will be jeopardized unless a fee is paid on behalf of a farmworker for transportation to or from a worksite, as specified.



The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1697.1 of the Labor Code is amended to read:

1697.1. (a) A person may not make, or cause to be made, false, fraudulent, or misleading representations that employment in the growing or producing of farm products, or an employee benefit related to that employment, will be jeopardized unless an individual or his or her family members pay a fee or other thing of value for transportation by that person to or from the business or worksite of an employer.

(b) A farm labor contractor, grower, or other agricultural employer may not require a worker to cash his or her paycheck at a location designated by the farm labor contractor, grower, or agricultural employer or charge a fee for cashing a worker's paycheck.

(c) A farm labor contractor, grower, or agricultural employer shall attach a copy of this section to the first paycheck that each employee receives, and to the first paycheck received by each new hire who begins work, on or after January 1, 2003. Copies shall be in the primary language understood by the employee.

(d) Any person who violates this section, or who causes or induces another to violate this section, is guilty of a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than 90 days, or both. After providing the licensee an opportunity to be heard pursuant to Section 1692, the Labor Commissioner shall revoke, suspend, or refuse to renew, for a period of one year the license of any farm labor contractor who is shown to have violated this section.

(e) Any individual claiming to be aggrieved by a violation of this section may bring a civil action for injunctive relief, damages, or both. If the court finds that the defendant has violated this



section, it shall award actual damages, plus an amount equal to treble the amount of actual damages, or five thousand dollars (\$5,000) per violation, whichever is greater. The court shall also grant a prevailing plaintiff reasonable attorney's fees and costs.

(f) Any other party who, upon information and belief, claims a violation of this section has been committed may bring a civil action for injunctive relief on behalf of the general public and, upon prevailing, shall recover reasonable attorney's fees and costs.

(g) For purposes of this section:

(1) "Farm labor contractor" has the same meaning as that set forth in Section 1682.

(2) "Agricultural employer" has the same meaning as that set forth in subdivision (c) of Section 1140.4.

SEC. 2. Section 2400 of the Vehicle Code is amended to read:

2400. (a) The commissioner shall administer Chapter 4 (commencing with Section 10850) of Division 4, Article 3 (commencing with Section 17300) of Chapter 1 of Division 9, Division 10 (commencing with Section 20000), Division 11 (commencing with Section 21000) except Chapter 11 (commencing with Section 22950), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14 (commencing with Section 31600), Division 14.1 (commencing with Section 32000), Division 14.5 (commencing with Section 33000), Division 14.7 (commencing with Section 34000), Division 14.8 (commencing with Section 34500), Division 15 (commencing with Section 35000), Division 16 (commencing with Section 36000) except Chapter 2 (commencing with Section 36100) and Chapter 3 (commencing with Section 36300), and Division 16.5 (commencing with Section 38000) except Chapter 2 (commencing with Section 38010).

(b) The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways except that, on ways or places to which Section 592 makes reference, the commissioner shall not be required to provide patrol or enforce any provisions of this code other than those provisions applicable to private property. For purposes of this subdivision, subdivision (a) of Section 1697.1 of the Labor Code shall be considered a law regulating the operation of vehicles and the use of the highways.



(c) The commissioner shall not be required to provide patrol for or enforce Division 16.5 (commencing with Section 38000).

(d) The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of the laws, and for the investigation of traffic accidents, on all toll highways and state highways constructed as freeways, including transit-related facilities located on or along the rights-of-way of those toll highways or freeways, except facilities of the San Francisco Bay Area Rapid Transit District. However, city police officers while engaged primarily in general law enforcement duties may incidentally enforce state and local traffic laws and ordinances on toll highways and state freeways within incorporated areas of the state. In any city having either a population in excess of 2,000,000 or an area of more than 300 square miles, city police officers shall have full responsibility and primary jurisdiction for the administration and enforcement of those laws and ordinances, unless the city council of the city by resolution requests administration and enforcement of those laws by the commissioner.

(e) The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of the laws, and for the investigation of traffic accidents, on all highways within a city and county with a population of less than 25,000, if, at the time the city and county government is established, the county contains no municipal corporations.

(f) The commissioner may enter into any interagency agreement with the State Board of Equalization for the purpose of enforcement of statutes requiring commercial vehicles from foreign jurisdictions to have a diesel fuel tax permit and to make payments to the board as required.

(g) The commissioner shall assume those duties and responsibilities of providing protection to state property and employees actually being performed by the California State Police Division on and before July 11, 1995.

(h) The commissioner may provide for the physical security of any current or former constitutional officer of the state and current or former legislator of the state.

(i) Upon request of the Chief Justice of the California Supreme Court, the commissioner may provide appropriate protective



services to any current or former member of the State Court of Appeal or the California Supreme Court.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2002

Governor

