

Senate Bill No. 1125

CHAPTER 147

An act to amend Section 1684 of the Labor Code, relating to farm labor.

[Approved by Governor August 6, 2001. Filed with Secretary of State August 6, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1125, Burton. Farm labor contractors: licensing.

Existing law prohibits the Labor Commissioner from issuing to any person, a license to act as a farm labor contractor until specified conditions are satisfied, including that the person has deposited a surety bond with the Labor Commissioner and has paid a license fee of \$500. Existing law provides that the bond and a portion of the license fee are payable and shall be disbursed, among other things, for interest on wages and for any damages arising from a violation of an order of the Industrial Welfare Commission, but shall not be payable or disbursed for penalties on nonpayment or late payment of wages to an employee who is discharged or who quits.

This bill would delete that exception for penalties on nonpayment or late payment of wages to former employees and would specify that the bond and license funds shall also be payable and disbursed for any monetary relief awarded to an agricultural worker as a result of a violation of laws relating to labor.

This bill would become operative only if AB 423 is enacted and becomes effective on or before January 1, 2002.

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

SECTION 1. Section 1684 of the Labor Code is amended to read:

1684. (a) The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor Commissioner renew that license, until all of the following conditions are satisfied:

(1) The person has executed a written application in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing all of the following:

(A) A statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency,



responsibility, and the manner and method by which the person proposes to conduct operations as a farm labor contractor if the license is issued.

(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.

(C) A declaration consenting to the designation by a court of the Labor Commissioner as an agent available to accept service of summons in any action against the licensee if the licensee has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(2) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(3) The person has deposited with the Labor Commissioner a surety bond in an amount based on the size of the person's annual payroll for all employees, as follows:

(A) For payrolls up to five hundred thousand dollars (\$500,000), a twenty-five thousand dollar (\$25,000) bond.

(B) For payrolls of five hundred thousand dollars (\$500,000) to two million dollars (\$2,000,000), a fifty thousand dollar (\$50,000) bond.

(C) For payrolls greater than two million dollars (\$2,000,000), a seventy-five thousand dollar (\$75,000) bond.

Where the contractor has been the subject of a final judgment in a year in an amount equal to that of the bond required, he or she shall be required to deposit an additional bond within 60 days. The bond shall be payable to the people of the State of California and shall be conditioned that the farm labor contractor will comply with all the terms and provisions of this chapter and will pay all damages occasioned to any person by failure to do so, or by any violation of this chapter, or false statements or misrepresentations made in the procurement of the license. The bond shall also be payable for interest on wages and for any damages arising from violation of orders of the Industrial Welfare Commission, and for any other monetary relief awarded to an agricultural worker as a result of a violation of this code.

(4) The person has paid to the Labor Commissioner a license fee of five hundred dollars (\$500) plus a filing fee of ten dollars (\$10). However, where a timely application for renewal is filed, the ten dollar (\$10) filing fee is not required. The Labor Commissioner shall deposit fifty dollars (\$50) of each licensee's annual license fee into the Farmworker Remedial Account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee when the damage exceeds the limits of the licensee's bond, or to persons



determined by the Labor Commissioner to have been damaged by an unlicensed farm labor contractor. In making these determinations, the Labor Commissioner shall disburse funds from the Farmworker Remedial Account to satisfy claims against farm labor contractors or unlicensed farm labor contractors, which shall also include interest on wages and any damages arising from the violation of orders of the Industrial Welfare Commission, and for any other monetary relief awarded to an agricultural worker as a result of a violation of this code. The Labor Commissioner may disburse funds from the Farmworker Remedial Account to farm labor contractors, for payment of farmworkers, where a contractor is unable to pay farmworkers due to the failure of a grower or packer to pay the contractor. Any disbursed funds subsequently recovered by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the Farmworker Remedial Account.

(5) The person has taken a written examination that demonstrates an essential degree of knowledge of the current laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers, and the public. To successfully complete the examinations, the person must correctly answer at least 85 percent of the questions posed. The examination period shall not exceed four hours. The examination may only be taken a maximum of three times in a calendar year. The examinations shall include a demonstration of knowledge of the current laws and regulations regarding wages, hours, and working conditions, penalties, employee housing and transportation, collective bargaining, field sanitation, and safe work practices related to pesticide use, including all of the following subjects:

- (A) Field reentry regulations.
- (B) Worker pesticide safety training.
- (C) Employer responsibility for safe working conditions.
- (D) Symptoms and appropriate treatment of pesticide poisoning.

(6) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), when registration is required pursuant to federal law.

(b) (1) The Labor Commissioner shall consult with the Director of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Housing and Community Development, the Employment Development Department, the Department of Food and Agriculture, the Department of Motor Vehicles, and the Division of Occupational Safety and Health in preparing the examination required by paragraph (5) of subdivision (a) and the appropriate educational



materials pertaining to the matters included in the examination, and may charge a fee of not more than one hundred dollars (\$100) to cover the cost of administration of the examination.

(2) In addition, the person must enroll and participate in at least eight hours of relevant, educational classes each year. The classes shall be chosen from a list of approved classes prepared by the Labor Commissioner, in consultation with the persons and entities listed in paragraph (1) and county agricultural commissioners.

(c) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in paragraph (5) of subdivision (a) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the immediately preceding two years.

(2) Has not during the preceding year been found to be in violation of any applicable laws or regulations including, but not limited to, Division 7 (commencing with Section 12501) of the Food and Agricultural Code, Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code, Division 2 (commencing with Section 200), Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300) of this code, and Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code.

(3) Has, for each year since the license was obtained, enrolled and participated in at least eight hours of relevant, educational classes, chosen from a list of approved classes prepared by the Labor Commissioner.

(4) Has complied with all other requirements of this section.

SEC. 2. This bill shall become operative only if Assembly Bill No. 423 of the 2001–02 Regular Session is enacted and becomes effective on or before January 1, 2002.

