

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MAY 5, 2014

AMENDED IN SENATE APRIL 21, 2014

SENATE BILL

No. 1087

Introduced by Senator Monning

(Coauthors: Assembly Members Gonzalez and Medina)

February 19, 2014

An act to amend Sections 1684, 1685, 1690, 1690.1, 1694, 1695, 1695.5, 1695.55, 1696.2, 1696.5, and 1697 of the Labor Code, relating to farm labor contractors, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1087, as amended, Monning. Farm labor contractors.

Existing law requires farm labor contractors to be licensed by the Labor Commissioner and to comply with specified employment laws applicable to farm labor contractors. Existing law requires farm labor contractors to pay license fees to the Labor Commissioner, and continuously appropriates a portion of the fee revenues for enforcement and verification purposes. Under existing law, a person who violates farm labor contractor requirements is guilty of a misdemeanor.

This bill would prohibit a license to operate as a farm labor contractor from being granted to a person who, within the preceding 3 years, has been found by a court or an administrative agency to have committed sexual harassment of an employee, or who, within the preceding 3 years, employed any supervisory employee whom he or she knew or should have known has been found by a court or an administrative agency, within the preceding 3 years of his or her employment with the applicant, to have committed sexual harassment of an employee.

Existing law authorizes the Labor Commissioner to revoke, suspend, or refuse to renew a farm labor contractor's license under specified circumstances, including that the licensee or an agent of the licensee violated or failed to comply with certain laws.

This bill would additionally authorize the Labor Commissioner to revoke, suspend, or refuse to renew a farm labor contractor's license if the licensee has been found by a court or an administrative agency to have committed sexual harassment of an employee, or has employed a supervisory employee whom he or she knew or should have known has been found by a court or an administrative agency, within the preceding 3 years, to have committed sexual harassment of an employee.

This bill would increase the license fee paid by an applicant from \$500 to \$600, thereby making an appropriation. The bill would require the amount attributable to the fee increase to be expended by the Labor Commissioner to fund the Farm Labor Contractor Enforcement Unit and the Farm Labor Contractor License Verification Unit. The bill would require an applicant to provide the names and addresses of all persons who performed specified services for him or her in the previous year, in order to be issued a license to act as a farm labor contractor. The bill would require each employee of an applicant for licensure as a farm labor contractor to register as a farm labor contractor employee pursuant to federal law, if that registration is required under federal law. The bill would require an applicant for licensure as a farm labor contractor to execute a written statement attesting that the person's supervisory employees have been trained in the prevention of sexual harassment, as provided. The bill would also increase the amount of the surety bond that is required to be deposited with the Labor Commissioner in order to be issued a license to act as a farm labor contractor by \$25,000 or \$50,000 based upon the size of the person's annual payroll, and require documentation of the payroll size. The bill would require that the bond be conditioned upon compliance with, and payment of all damages occasioned by failure to comply with, provisions prohibiting unlawful workplace harassment, as specified. The bill would also authorize certain license fees in the Farmworker Remedial Account which are continuously appropriated, to be used to satisfy claims for damages for violations of provisions prohibiting unlawful workplace harassment, as specified.

Existing law requires an applicant for licensure as a farm labor contractor to have taken a written examination that demonstrates an essential degree of knowledge of current laws and regulations

concerning farm labor contractors and authorizes the Labor Commissioner to charge a fee of not more than \$100 to cover the cost of administering the examination.

This bill would require that examination to cover laws and regulations concerning sexual harassment in the workplace. The bill would authorize the Labor Commissioner to consult with the Department of Fair Employment and Housing in preparing the examination. The bill would also increase the maximum amount the Labor Commissioner may charge for developing and administering the examination to \$200.

Existing law authorizes the Labor Commissioner to renew a license without requiring the applicant to take the examination if during the previous year the applicant has not been found to be in violation of specified laws and regulations, and meets other criteria.

This bill would include among those laws that the applicant must not have violated laws and regulations related to workplace harassment.

Existing law requires an applicant for a license to act as a farm labor contractor to participate in at least 8 hours of educational classes each year.

This bill would increase the requirement to ~~12~~ 10 hours of classes and require that those classes include *at least 2 hours of* sexual harassment prevention training.

Existing law provides that it is a crime for an employer who has made withholdings from an employee's wages willfully or with intent to defraud to fail to remit the withholdings to the proper agency or to fail to make any required payments required.

This bill would authorize the Labor Commissioner to refuse to issue or renew the license until the amount of any delinquency under these provisions is fully paid.

Existing law requires every licensee to have a written statement ready for inspection stating the rate of compensation he or she receives from the grower and that he or she is paying to employees, as specified.

This bill would require that this statement be provided to a current or former employee or the grower within 21 calendar days of a written request. The bill would make a licensee who fails to comply with this requirement subject to a civil penalty of \$750 recoverable by the employee or grower. ~~The bill would further require a licensee to reduce to writing and maintain for 3 years a copy of any agreement with a grower or other farm labor contractor concerning the amount of the commission or payment made to the licensee for services and produce~~

~~that agreement in response to a discovery request or subpoena, as specified.~~

~~Existing law requires a farm labor contractor to furnish, immediately upon request of any agricultural grower with whom the farm labor contractor has a contract to supply farmworkers, a payroll list of all the contractor's employees working for the grower, as specified.~~

~~This bill would additionally require the farm labor contractor to make the payroll list available to employees of the Division of Labor Standards Enforcement, as specified, and produce that payroll list in response to a discovery request or subpoena in any civil action or claim for unpaid wages or penalties brought by a current or former employee, as provided.~~

~~Existing law provides that any farm labor contractor who engages in farm labor contracting activities after his or her license has been suspended or revoked is punishable by a fine of not less than \$1,000 but not exceeding \$5,000, or by imprisonment for not less than 6 months and not more than one year, or both.~~

~~This bill would instead provide that any farm labor contractor who engages in farm labor contracting activities after his or her license has been suspended, revoked, or denied reissuance is punishable by a fine of not less than \$10,000, or by imprisonment for not less than 6 months and not more than one year, or both.~~

~~Existing law provides that any violation of these provisions is a misdemeanor. Because this bill would change various provisions, the violation of which are misdemeanors, this bill would impose a state-mandated local program.~~

~~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.~~

~~Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.~~

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

- 1 SECTION 1. Section 1684 of the Labor Code is amended to
- 2 read:
- 3 1684. (a) The Labor Commissioner shall not issue to any
- 4 person a license to act as a farm labor contractor, nor shall the

1 Labor Commissioner renew that license, until all of the following
2 conditions are satisfied:

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

6 (A) A statement by the person of all facts required by the Labor
7 Commissioner concerning the applicant's character, competency,
8 responsibility, and the manner and method by which the person
9 proposes to conduct operations as a farm labor contractor if the
10 license is issued.

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

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

21 (D) The names and addresses of all persons who in the previous
22 calendar year performed any services described in subdivision (b)
23 of Section 1682 within the scope of his or her employment by the
24 licensee on whose behalf he or she was acting, unless the person
25 was employed as an independent contractor.

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

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

31 (i) For payrolls up to five hundred thousand dollars (\$500,000),
32 a fifty-thousand-dollar (\$50,000) bond.

33 (ii) For payrolls of five hundred thousand dollars (\$500,000) to
34 two million dollars (\$2,000,000), a one-hundred-thousand-dollar
35 (\$100,000) bond.

36 (iii) For payrolls greater than two million dollars (\$2,000,000),
37 a one-hundred-fifty-thousand-dollar (\$150,000) bond.

38 (B) For purposes of this paragraph, the Labor Commissioner
39 shall require documentation of the size of the person's annual
40 payroll which may include, but is not limited to, information

1 provided by the person to the Employment Development
2 Department, the Franchise Tax Board, the Division of Workers'
3 Compensation, the insurer providing the licensee's workers'
4 compensation insurance, or the Internal Revenue Service.

5 (C) If the contractor has been the subject of a final judgment in
6 a year in an amount equal to or greater than the amount of the bond
7 required, he or she shall be required to deposit an additional bond
8 within 60 days.

9 (D) All bonds required under this chapter shall be payable to
10 the people of the State of California and shall be conditioned upon
11 the farm labor contractor's compliance with all the terms and
12 provisions of this chapter and subdivisions (j) and (k) of Section
13 12940 of, and Sections 12950 and 12950.1 of, the Government
14 Code, and payment of all damages occasioned to any person by
15 failure to do so, or by any violation of this chapter or of subdivision
16 (j) or (k) of Section 12940 of, or of Section 12950 or 12950.1 of,
17 the Government Code, or any violation of Title VII of the Civil
18 Rights Act of 1964 (Public Law 88-352), or false statements or
19 misrepresentations made in the procurement of the license. The
20 bond shall also be payable for interest on wages and for any
21 damages arising from violation of orders of the Industrial Welfare
22 Commission, and for any other monetary relief awarded to an
23 agricultural worker as a result of a violation of this code or of
24 subdivision (j) or (k) of Section 12940 of, or Section 12950 or
25 12950.1 of, the Government Code, or any violation of Title VII
26 of the Civil Rights Act of 1964 (Public Law 88-352).

27 (4) The person has paid to the Labor Commissioner a license
28 fee of five hundred dollars (\$500) plus a filing fee of ten dollars
29 (\$10). However, when a timely application for renewal is filed,
30 the ten-dollar (\$10) filing fee is not required. The license fee shall
31 increase by one hundred dollars (\$100), to six hundred dollars
32 (\$600), on January 1, 2015. The amount attributable to this increase
33 shall be expended by the Labor Commissioner to fund the Farm
34 Labor Contractor Enforcement Unit and the Farm Labor Contractor
35 License Verification Unit. Notwithstanding Section 1698, no
36 portion of that increase shall be credited to the General Fund. The
37 Labor Commissioner shall deposit one hundred fifty dollars (\$150)
38 of each licensee's annual license fee into the Farmworker Remedial
39 Account. Funds from this account shall be disbursed by the Labor
40 Commissioner only to persons determined by the Labor

Commissioner to have been damaged by any licensee if the damage exceeds the amount of the licensee's bond or the surety fails to pay the full amount 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, for any other monetary relief awarded to an agricultural worker as a result of a violation of this code, and for all damages arising from any violation of subdivision (j) or (k) of Section 12940 of, or of Section 12950 or 12950.1 of, the Government Code, or any violation of Title VII of the Civil Rights Act of 1964 (Public Law 88-352). The Labor Commissioner may disburse funds from the Farmworker Remedial Account to farm labor contractors, for payment of farmworkers, when 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, including the identification and prevention of sexual harassment in the workplace. 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.

1 (C) Employer responsibility for safe working conditions.

2 (D) Symptoms and appropriate treatment of pesticide poisoning.

3 (6) The person has registered as a farm labor contractor pursuant
4 to the federal Migrant and Seasonal Agricultural Worker Protection
5 Act (29 U.S.C. Sec. 1801 et seq.), when registration is required
6 pursuant to federal law, and that information is provided by the
7 person to the Labor Commissioner.

8 (7) Each of the person's employees has registered as a farm
9 labor contractor employee pursuant to the federal Migrant and
10 Seasonal Agricultural Worker Protection Act (29 U.S.C. Sec. 1801
11 et seq.) if that registration is required pursuant to federal law, and
12 that information is provided by the person to the Labor
13 Commissioner.

14 (8) The person has executed a written statement, that has been
15 provided to the Labor Commissioner, attesting that the person's
16 supervisory employees, including any *supervisor*, crewleader,
17 mayordomo, foreperson, or other employee whose duties include
18 the supervision, direction, or control of agricultural employees,
19 have been trained at least once *for at least two hours* each calendar
20 year in the prevention of sexual harassment in the workplace, and
21 that all nonsupervisory employees, including agricultural
22 employees, have been trained in identifying, preventing,
23 documenting, and reporting sexual harassment in the workplace
24 *for at least two hours* within 10 calendar days of being hired by
25 the person *and at least once each calendar year*.

26 (b) The Labor Commissioner shall consult with the Director of
27 Pesticide Regulation, the Department of the California Highway
28 Patrol, the Department of Housing and Community Development,
29 the Employment Development Department, the Department of
30 Fair Employment and Housing, the Department of Food and
31 Agriculture, the Department of Motor Vehicles, and the Division
32 of Occupational Safety and Health in preparing the examination
33 required by paragraph (5) of subdivision (a) and the appropriate
34 educational materials pertaining to the matters included in the
35 examination, and may charge a fee of not more than two hundred
36 dollars (\$200) to cover the cost of administration of the
37 examination.

38 (c) The person shall also enroll and participate in at least ~~12~~ 10
39 hours of relevant educational classes each year. The classes shall
40 include *at least two hours of* sexual harassment prevention training.

1 The classes shall be chosen from a list of approved classes prepared
2 by the Labor Commissioner, in consultation with the persons and
3 entities listed in subdivision (b) and county agricultural
4 commissioners.

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

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

12 (2) Has not during the preceding year been found to be in
13 violation of any applicable laws or regulations including, but not
14 limited to, Division 7 (commencing with Section 12501) of the
15 Food and Agricultural Code, subdivisions (j) and (k) of Section
16 12940 of, and Section 12950 or 12950.1 of, the Government Code,
17 Part 1 (commencing with Section 17000) of Division 13 of the
18 Health and Safety Code, Division 2 (commencing with Section
19 200), Division 4 (commencing with Section 3200), and Division
20 5 (commencing with Section 6300) of this code, and Chapter 1
21 (commencing with Section 12500) of Division 6 of the Vehicle
22 Code.

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

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

28 SEC. 2. Section 1685 of the Labor Code is amended to read:

29 1685. No license to operate as a farm labor contractor shall be
30 granted:

31 (a) To any person who sells or proposes to sell intoxicating
32 liquors in a building or on premises where he or she operates or
33 proposes to operate as a farm labor contractor.

34 (b) To a person whose license has been revoked within three
35 years from the date of application.

36 (c) To a person who, within the preceding three years, has been
37 found by a court or an administrative agency to have committed
38 sexual harassment of an employee, or who, within the preceding
39 three years, employed any *supervisor*, crewleader, mayordomo,
40 foreperson, or any other employee of the applicant whose duties

1 include the supervision, direction, or control of any agricultural
2 worker whom the applicant knew or should have known has been
3 found by a court or an administrative agency, within the preceding
4 three years of his or her employment with the applicant, to have
5 committed sexual harassment of an employee. *A person shall be*
6 *deemed not to have knowledge under this subdivision that any*
7 *supervisor, crewleader, mayordomo, foreperson, or any other*
8 *employee has been found by a court or any administrative agency*
9 *to have committed sexual harassment if that supervisor,*
10 *crewleader, mayordomo, foreperson, or any other employee*
11 *executes a statement on a form provided by the Labor*
12 *Commissioner that person has not been found to have committed*
13 *sexual harassment.*

14 SEC. 3. Section 1690 of the Labor Code is amended to read:

15 1690. The Labor Commissioner may revoke, suspend, or refuse
16 to renew any license if it is shown that any of the following have
17 occurred:

18 (a) The licensee or any agent of the licensee has violated or
19 failed to comply with any of the provisions of this chapter.

20 (b) The licensee has made any misrepresentations or false
21 statements in his or her application for a license.

22 (c) The conditions under which the license was issued have
23 changed or no longer exist.

24 (d) The licensee, or any agent of the licensee, has violated, or
25 has willfully aided or abetted any person in the violation of, or
26 failed to comply with, any law of the State of California regulating
27 the employment of employees in agriculture, the payment of wages
28 to farm employees, or the conditions, terms, or places of
29 employment affecting the health and safety of farm employees,
30 which is applicable to the business, activities, or operations of the
31 licensee in his or her capacity as a farm labor contractor.

32 (e) The licensee, or any agent of the licensee, has failed to
33 comply with any provisions of the Vehicle Code pertaining to a
34 farm labor vehicle, as described in Section 322 of the Vehicle
35 Code, under the licensee's control, or has allowed a farm labor
36 vehicle under his or her control to be operated by a driver without
37 a valid driver's license and certificate required pursuant to Section
38 12519 of the Vehicle Code.

39 (f) The licensee has been found, by a court or the Secretary of
40 Labor, to have violated any provision of the federal Migrant and

Seasonal Agricultural Worker Protection Act (29 U.S.C. Sec. 1801 et seq.), provided that the licensee is required to register as a farm labor contractor pursuant to federal law.

(g) The licensee has been found by a court or an administrative agency to have committed sexual harassment of an employee, or has employed any *supervisor*, crewleader, mayordomo, foreperson, or any other employee of the licensee whose duties include the supervision, direction, or control of any agricultural worker on behalf of the licensee, whom the licensee knew or should have known has been found by a court or an administrative agency, within the preceding three years, to have committed sexual harassment of an employee. *A licensee shall be deemed not to have knowledge under this subdivision that any supervisor, crewleader, mayordomo, foreperson, or any other employee has been found by a court or any other administrative agency to have committed sexual harassment if that supervisor, crewleader, mayordomo, foreperson, or any other employee executes a statement on a form provided by the Labor Commissioner that person has not been found to have committed sexual harassment.*

SEC. 4. Section 1690.1 of the Labor Code is amended to read:

1690.1. (a) (1) If a licensee fails to remit the proper amount of worker contributions required by Chapter 4 (commencing with Section 901) of Part 1 of Division 1 of the Unemployment Insurance Code, or the Employment Development Department has made an assessment for unpaid worker contributions against the licensee that is final, the Labor Commissioner shall, upon written notice by the Employment Development Department, refuse to issue or renew the license of that licensee until the licensee has fully paid the amount of delinquency for the unpaid worker contributions.

(2) The Labor Commissioner shall not, however, refuse to renew the license of a licensee under this section until the assessment for unpaid worker contributions is final and unpaid, and the licensee has exhausted, or failed to seek, his or her right of administrative review of that final assessment, pursuant to Chapter 4 (commencing with Section 901) of Part 1 of Division 1 of the Unemployment Insurance Code.

(b) If any licensee fails to remit the amounts required by Section 227, the Labor Commissioner shall refuse to issue or renew the

1 license of the licensee until the delinquent amount has been paid
2 in full.

3 SEC. 5. Section 1694 of the Labor Code is amended to read:

4 1694. If a licensee has departed from the state or has left the
5 jurisdiction in which a violation of this chapter is alleged to have
6 occurred with intent to defraud creditors or to avoid service of
7 summons in any action brought under this chapter, service shall
8 be made upon the surety as prescribed in the Code of Civil
9 Procedure. A copy of the summons shall be mailed to the licensee
10 at the last known post office address of his or her residence, as
11 shown by the records of the Labor Commissioner. Service is
12 complete as to the licensee, after mailing, at the expiration of the
13 time prescribed by the Code of Civil Procedure for service of
14 summons in the particular court in which suit is brought.

15 SEC. 6. Section 1695 of the Labor Code is amended to read:

16 1695. (a) Every licensee shall do all of the following:

17 (1) Carry his or her license and proof of registration issued
18 pursuant to paragraph (8) with him or her at all times and exhibit
19 the same to all persons with whom he or she intends to deal in his
20 or her capacity as a farm labor contractor prior to so dealing.

21 (2) File at the United States Post Office serving the address of
22 the licensee, as noted on the face of his or her license, with the
23 office of the Labor Commissioner, and with the agricultural
24 commissioner of the county or counties in which the labor
25 contractor has contracted with a grower, a correct change of address
26 immediately upon each occasion the licensee permanently moves
27 his or her address. The address shall also be the mailing address
28 for purposes of notice required by the Labor Code or by any other
29 applicable statute or regulations respecting service by mail.

30 (3) Promptly when due, pay or distribute to the individuals
31 entitled thereto, all moneys or other things of value entrusted to
32 the licensee by any third person for this purpose.

33 (4) Comply on his or her part with the terms and provisions of
34 all legal and valid agreements and contracts entered into between
35 the licensee in his or her capacity as a farm labor contractor and
36 third persons.

37 (5) Have available for inspection by his or her employees and
38 by the grower with whom he or she has contracted a written
39 statement in English and Spanish showing the rate of compensation
40 he or she receives from the grower and the rate of compensation

1 he or she is paying to his or her employees for services rendered
2 to, for, or under the control of the grower. Upon written request,
3 the statement shall be provided to a current or former employee
4 or the grower within 21 calendar days. A licensee who fails to
5 comply with this paragraph is subject to a civil penalty of seven
6 hundred fifty dollars (\$750) recoverable by the employee or the
7 grower.

8 (6) Take out a policy of insurance with any insurance carrier
9 authorized to do business in the State of California in an amount
10 satisfactory to the commissioner, which insures the licensee against
11 liability for damage to persons or property arising out of the
12 licensee's operation of, or ownership of, any vehicle or vehicles
13 for the transportation of individuals in connection with his or her
14 business, activities, or operations as a farm labor contractor.

15 (7) Have displayed prominently at the site where the work is to
16 be performed and on all vehicles used by the licensee or his or her
17 employees or agents for the transportation of employees the rate
18 of compensation the licensee is paying to his or her employees for
19 their services, printed in both English and Spanish and in lettering
20 of a size to be prescribed by the Department of Industrial Relations.

21 (8) Register annually with the agricultural commissioner of the
22 county or counties in which the labor contractor has contracted
23 with a grower.

24 (9) Provide information and training on applicable laws and
25 regulations governing worker safety, including the requirements
26 of Article 10.5 (commencing with Section 12980) of Chapter 2 of
27 Division 7 of the Food and Agricultural Code, sexual harassment,
28 or regulating the terms and conditions of agricultural employment,
29 to each crewleader, foreperson, or other employee whose duties
30 include the supervision, direction, or control of any agricultural
31 worker on behalf of a licensee, or pursuant to, a contract or
32 agreement for agricultural services entered into with a licensee.

33 ~~(10) (A) Maintain copies of any contract or agreement for labor~~
34 ~~or services entered into with a grower or other labor contractor for~~
35 ~~a period of three years after the completion date of the contract,~~
36 ~~make those contracts or agreements available to employees of the~~
37 ~~Division of Labor Standards Enforcement in accordance with~~
38 ~~subdivision (b) of Section 1174, and produce those contracts or~~
39 ~~agreements in response to a discovery request or subpoena in any~~

1 civil action or any claim for unpaid wages or penalties under
2 Section 98 brought by a current or former employee.

3 (B) For the purposes of complying with this paragraph only,
4 the licensee may, in response to a subpoena or discovery request,
5 produce only the portions of the contract that show the amount of
6 the commission or other payment paid or promised to be paid to
7 the licensee for labor or services provided under the agreement
8 and the manner by which it is calculated.

9 (C) If an oral agreement for labor or services was made with
10 the grower or other farm labor contractor, the licensee shall reduce
11 the elements of the agreement to writing showing the amount of
12 the commission or other payment paid or promised to be paid to
13 the licensee for labor or services provided under the agreement
14 and the manner by which it is calculated. This document shall also
15 be maintained for a period of three years, made available to
16 employees of the Division of Labor Standards Enforcement, and
17 be produced in response to a subpoena or discovery request as
18 otherwise provided in this paragraph for written contracts or
19 agreements.

20 (b) The board of supervisors of a county may establish fees to
21 be charged each licensee for the recovery of the actual costs
22 incurred by commissioners in the administration of registrations
23 and change of address and the issuance of proofs of registration.

24 SEC. 7. Section 1695.5 of the Labor Code is amended to read:

25 1695.5. (a) Every farm labor contractor, upon request of any
26 agricultural grower with whom he or she has a contract to supply
27 farmworkers, shall immediately furnish the grower with a payroll
28 list of all the contractor's employees working for the grower.

29 (b) The payroll list shall be on a uniform form approved by the
30 Labor Commissioner, which shall include, but not be limited to,
31 the employee's name, social security number, permanent and
32 temporary address, telephone number, and length of employment
33 with the grower.

34 (c) The requirements of this section are in addition to any
35 requirements of federal law, including the federal Migrant and
36 Seasonal Agricultural Worker Protection Act (29 U.S.C. Sec. 1801
37 et seq.).

38 (d) A farm labor contractor shall make the payroll list available
39 to employees of the Division of Labor Standards Enforcement in
40 accordance with subdivision (b) of Section 1174 and produce that

1 payroll list in response to a discovery request or subpoena in any
2 civil action or claim for unpaid wages or penalties brought by a
3 current or former employee under Section 98.

4 ~~SEC. 8.~~

5 *SEC. 7.* Section 1695.55 of the Labor Code is amended to read:

6 1695.55. (a) Every person acting in the capacity of a farm
7 labor contractor shall provide any grower with whom he or she
8 has contracted to supply farmworkers a payroll record for each
9 farmworker providing labor under the contract. The payroll record
10 shall include a disclosure of the net and gross wages, total hours
11 worked, and total hourly and piece rate earnings for each
12 farmworker.

13 (b) Each grower entering into a contract with a farm labor
14 contractor shall retain a copy of the payroll record provided by the
15 contractor for a period of three years after the contract has ended.

16 ~~SEC. 9.~~

17 *SEC. 8.* Section 1696.2 of the Labor Code is amended to read:

18 1696.2. All vehicles used by a licensee or his or her employees
19 or agents for the transportation of individuals in his or her
20 operations as a farm labor contractor shall have displayed
21 prominently at the entrance of the vehicle the name of the farm
22 labor contractor and the number of his or her license as issued by
23 the Labor Commissioner pursuant to this chapter.

24 ~~SEC. 10.~~

25 *SEC. 9.* Section 1696.5 of the Labor Code is amended to read:

26 1696.5. Every licensee shall, at the time of each payment of
27 wages, which shall be not less often than once every week as
28 required by Section 205 of this code, furnish each of the workers
29 employed by him or her either as a detachable part of the check,
30 draft, or voucher paying the employee's wages, or separately, an
31 itemized statement in writing that complies with the requirements
32 of subdivision (a) of Section 226 and shows in detail each
33 deduction made from the wages.

34 ~~SEC. 11.~~

35 *SEC. 10.* Section 1697 of the Labor Code is amended to read:

36 1697. (a) Any person who violates this chapter, or who causes
37 or induces another to violate this chapter, is guilty of a
38 misdemeanor punishable by a fine of not more than one thousand
39 dollars (\$1,000), or imprisonment in the county jail for not more
40 than six months, or both.

(b) Any employee aggrieved by any violation of this chapter, other than acts and conduct also proscribed by Sections 1153, 1154, and 1155, may do all of the following:

(1) Bring a civil action for injunctive relief or damages, or both, against a farm labor contractor or unlicensed farm labor contractor who violates this chapter and, upon prevailing, shall recover reasonable attorney's fees and costs, including expert witness fees.

(2) Enforce the liability on the farm labor contractor's bond.

(c) Any farm labor contractor who engages in farm labor contracting activities after his or her license has been suspended, revoked, or denied reissuance is guilty of an offense punishable by a fine of not less than ten thousand dollars (\$10,000), or by imprisonment for not less than six months and not more than one year, or both.

~~SEC. 12.~~

SEC. 11. 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.