

**Assembly Bill No. 1338**

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Passed the Assembly    September 1, 2000

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*Chief Clerk of the Assembly*

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Passed the Senate    August 31, 2000

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2000, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Sections 1684, 1684.5, 1687, 1698, and 1698.1 of, and to add Sections 1682.8 and 1695.55 to, the Labor Code, relating to farm labor contractors.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1338, Reyes. Farm labor contractors: licenses.

Existing law prescribes various fines and penalties for farm labor contractors who violate provisions of the law applicable to farm labor contractors.

This bill would authorize the Labor Commissioner to establish and maintain a Farm Labor Contractor Special Enforcement Unit, as specified, to enforce provisions of law relating to farm workers, as provided.

Existing law requires farm labor contractors to deposit a surety bond in the sum of \$10,000, as a condition to obtain a license from the Labor Commissioner. The contractor is permitted to give a deposit in lieu of a bond.

This bill would require a farm labor contractor to deposit a surety bond in specified amounts based on the size of the person's payroll, as provided. Farm labor contractors would no longer be permitted to give a deposit instead of a bond.

Existing law requires farm labor contractors to pay a \$350 annual license fee.

This bill would increase the licensing fee to \$500.

Existing law provides that \$25 of the annual licensing fee be deposited into a separate account, funds from which are to be disbursed by the Labor Commissioner to persons damaged by licensees.

This bill would designate the Farmworker Remedial Account as the separate account, make an appropriation by increasing to \$50 the amount of the licensing fee deposited into that account, provide that all other license fees be deposited in the State Treasury and credited to the General Fund.



Existing law requires the Labor Commissioner to annually submit a list of licensees to the Department of the California Highway Patrol.

This bill would require that lists of licensees be submitted on a quarterly basis.

Existing law requires contractors to furnish growers with a payroll list of all of all the contractor's employees working for the grower.

This bill would require contractors to furnish growers with additional payroll records reflecting the hours worked by employees and the wage paid.

Existing law requires that applicants for a farm labor contractor's license take an oral or written examination or both.

This bill would require applicants to take only a written examination and answer 85% of the questions correctly in order to obtain a license. This bill would further require that licensees participate annually in 8 hours of continuing education courses approved by the Labor Commissioner, in consultation with specified public officers and agencies.

Appropriation: yes.

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

SECTION 1. Section 1682.8 is added to the Labor Code, to read:

1682.8. The Labor Commissioner may establish and maintain a Farm Labor Contractor Special Enforcement Unit within the Division of Labor Standards Enforcement office in Fresno of the Department of Industrial Relations for the hiring of additional agents to enforce the provisions of this chapter by revoking, suspending, or refusing to renew farm labor contractors' licenses pursuant to Section 1690.

SEC. 2. Section 1684 of the Labor Code is amended to read:

1684. 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:

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

(1) 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.

(2) 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.

(3) 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.

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

(c) 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:

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

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

(3) 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, but shall not be payable for penalties on nonpayment or late payment of wages pursuant to Section 203.

(d) 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, but shall not include penalties on nonpayment or late payment of wages pursuant to Section 203. 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.

(e) 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:

- (1) Field reentry regulations.
- (2) Worker pesticide safety training.
- (3) Employer responsibility for safe working conditions.
- (4) Symptoms and appropriate treatment of pesticide poisoning.

(f) (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 subdivision (e) 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.

(g) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in subdivision (e) 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.

(h) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act, when registration is required pursuant to federal law.

SEC. 3. Section 1684.5 of the Labor Code is amended to read:

1684.5. The Labor Commissioner shall quarterly submit to the Department of the California Highway Patrol a list of all licensees.

SEC. 4. Section 1687 of the Labor Code is amended to read:

1687. (a) Each laminated license shall contain, on the face thereof, all of the following:



(1) The name and address of the licensee and the fact that the licensee is licensed to act as a farm labor contractor for the period upon the face of the license only.

(2) The number, date of issuance, and date of expiration of the license.

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

(4) The fact that the license may not be transferred or assigned.

(5) A picture of the licensee taken at the time of application.

(b) The license shall be similar in size and format to a driver's license issued by the Department of Motor Vehicles, and shall contain a hologram and a signature to verify authenticity. The cost of the hologrammed license shall be appropriated from the license fee.

(c) The license shall contain on the back thereof the definition of a farm labor contractor, as defined by subdivision (b) of Section 1682.

SEC. 5. Section 1695.55 is added to the Labor Code, to read:

1695.55. (a) Every person acting in the capacity of a farm labor contractor shall provide any grower with whom he or she has contracted to supply farmworkers a payroll record for each farmworker providing labor under the contract. The payroll record shall include a disclosure of the wages and hours worked for each farmworker.

(b) Each grower entering into a contract with a farm labor contractor shall retain a copy of the payroll record provided by the contractor for the duration of the contract.

SEC. 6. Section 1698 of the Labor Code is amended to read:

1698. All moneys collected for fines collected for violations of the provisions of this chapter shall be paid into the Farmworker Remedial Account and shall be available, upon appropriation, for purposes of this chapter. Except as provided in Section 1684, all moneys collected for licenses issued pursuant to this chapter shall



be paid into the State Treasury and credited to the General Fund.

SEC. 7. Section 1698.1 of the Labor Code is amended to read:

1698.1. No licensee shall sell, transfer or give away any interest in or the right to participate in the profits of said licensee's business without the written consent of the Labor Commissioner. A violation of this section shall constitute a misdemeanor, and shall be punishable by a fine of not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000), or imprisonment for not more than 60 days, or both.



Approved \_\_\_\_\_, 2000

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*Governor*

