

## LEGISLATIVE BILL 931

Approved by the Governor April 19, 2002

Introduced by Stuhr, 24

AN ACT relating to labor; to amend sections 48-1702, 48-1703, 48-1706, 48-1710, and 48-1711, Reissue Revised Statutes of Nebraska; to change Farm Labor Contractors Act provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-1702, Reissue Revised Statutes of Nebraska, is amended to read:

48-1702. For purposes of the Farm Labor Contractors Act, unless the context otherwise requires:

- (1) Department ~~shall mean~~ means the Department of Labor;
- (2) Farm labor contractor ~~shall mean~~ means any individual, partnership, limited liability company, corporation, or cooperative association, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who for any money or other valuable consideration paid or promised to be paid performs any farm labor contracting activity;
- (3) Farm labor contracting activity ~~shall mean~~ means recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker; ~~and~~
- (4) Non-English-speaking worker has the same meaning as non-English-speaking employee in section 48-2201; and
- (5) Worker ~~shall mean~~ means a person who is employed or recruited by or who subcontracts with a farm labor contractor.

Sec. 2. Section 48-1703, Reissue Revised Statutes of Nebraska, is amended to read:

48-1703. The following shall be excluded from the Farm Labor Contractors Act:

- (1) Any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, cannery, gin, packing shed, or nursery, which is owned and operated exclusively by such individual or a member of his or her immediate family, if such activities are performed only for such operation and exclusively by such individual or family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes;
- (2) Any common carrier which would be a farm labor contractor solely because it is engaged in transporting any migrant or seasonal agricultural worker. For purposes of this section, a common carrier is one which holds itself out to the general public to engage in transportation of passengers for hire, whether over regular or irregular routes, and which holds a valid certificate or authorization for such purposes from an appropriate local, state, or federal agency;
- (3) Any labor organization as defined under applicable state law;
- (4) Any nonprofit charitable organization or public or private nonprofit educational institution;
- (5) Any custom combine, hay harvesting, sheep shearing, or custom poultry operations;
- (6) Employees of exempt employers; and
- (7) Any operation which has a workforce comprised of eighty percent or more individuals who are seventeen years of age or younger which employs individuals who are all domiciled within fifty miles of the location where the labor is to be performed and which has obtained a local operator's certificate of exemption from the department. Any operator who meets the requirements of this subdivision shall be issued such certificate by the department. The department shall adopt and promulgate rules and regulations necessary to carry out this subdivision.

Sec. 3. Section 48-1706, Reissue Revised Statutes of Nebraska, is amended to read:

48-1706. Each application shall be accompanied by a fee. ~~of seven hundred fifty dollars.~~ The Commissioner of Labor shall establish the amount of the fee, which shall not exceed seven hundred fifty dollars, by rule and regulation. The fee shall be established with due regard for the costs of administering the Farm Labor Contractors Act. All fees so collected shall be deposited in the Farm Labor Contractors Fund.

Sec. 4. Section 48-1710, Reissue Revised Statutes of Nebraska, is

amended to read:

48-1710. (1) The department shall conduct an investigation of each applicant's character, competence, and reliability and any other matters relating to the applicant's operations as a farm labor contractor.

(2) The department shall issue a license within fifteen days of receipt of the application if the department determines that the applicant is of satisfactory character, competence, and reliability.

(3) Any person may protest the issuance of a license to any applicant at any time by filing with the department a written statement detailing such person's reasons for protesting.

(4) The licensing year shall run from April 1 to the following March 31 and each license shall expire on March 31 following the date of its issuance unless sooner revoked by the department.

(5) A license shall be renewed annually upon payment in advance of a ~~fee of seven hundred fifty dollars~~ the required fee, except that the Commissioner of Labor may require any person seeking renewal to file a new application and may conduct a new investigation of the applicant's character, competence, and reliability and any other matters relating to the applicant's operations as a farm labor contractor.

(6) On its own initiative or upon receipt of a complaint or notice that a farm labor contractor is in violation of the Farm Labor Contractors Act, the department shall conduct an investigation of such contractor.

Sec. 5. Section 48-1711, Reissue Revised Statutes of Nebraska, is amended to read:

48-1711. A farm labor contractor shall:

(1) Carry his or her farm labor contractor license at all times and exhibit such license upon request to any person with whom the contractor intends to deal in his or her capacity as a farm labor contractor;

(2) File immediately at the United States post office serving the farm labor contractor's address as noted on the license a correct change of address and notify the department each time an address change is made;

(3) Pay or distribute promptly when due to the individuals entitled all money or other things of value entrusted to the farm labor contractor by any person for that purpose;

(4) Comply with the terms and provisions of all legal and valid agreements or contracts entered into by the farm labor contractor;

(5) Comply with all state laws, rules, and regulations relevant to the activity as a farm labor contractor;

(6) Furnish to each worker at the time of hiring, recruiting, soliciting, or supplying such worker, whichever occurs first, a written statement in both English and Spanish which contains a description of:

(a) The method of computing the rate of compensation and the rate of compensation;

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

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

(d) The conditions of any housing and health and day care to be provided;

(e) The terms and conditions of employment, including the approximate length of season or period of employment and the approximate starting and ending dates;

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

(g) The name and address of the owner of all operations where the worker will be working; and

(h) The worker's rights and remedies in plain and simple language in a form specified by the department; ~~and~~

(7) Furnish to the worker each time the worker receives a compensation payment from the farm labor contractor a written statement itemizing the total payment, the amount and purpose of each deduction therefrom, the hours worked, and, if the work is done on a piece basis, the number of pieces completed; and

(8) Provide a bilingual employee who shall be available at the worksite for each shift a non-English-speaking worker is employed if the farm labor contractor has a workforce of ten or more non-English-speaking workers who speak the same non-English language. The bilingual employee shall be conversant in the non-English language spoken by such workers.

Sec. 6. Original sections 48-1702, 48-1703, 48-1706, 48-1710, and 48-1711, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.