

103^D CONGRESS
1ST SESSION

H. R. 1173

To amend the Migrant and Seasonal Agricultural Worker Protection Act to make such Act applicable to all agricultural workers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 1993

Mr. MILLER of California (for himself, Mr. FORD of Michigan, Mr. BERMAN, and Mr. COLEMAN) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Migrant and Seasonal Agricultural Worker Protection Act to make such Act applicable to all agricultural workers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Agricultural Worker Protection Reform Act of 1993”.

6 (b) REFERENCE.—Whenever in this Act an amend-
7 ment or repeal is expressed in terms of an amendment
8 to, or repeal of, a section or other provision, the reference
9 shall be considered to be made to a section or other provi-

1 sion of the Migrant and Seasonal Agricultural Worker
2 Protection Act.

3 **SEC. 2. DEFINITIONS.**

4 Section 3 (29 U.S.C. 1802) is amended—

5 (1) in paragraph (1), by striking out “or trans-
6 ports any migrant or seasonal agricultural worker”
7 and inserting in lieu thereof “transports or houses
8 any agricultural worker, or uses, retains, or benefits
9 from the services of a farm labor contractor”.

10 (2) in paragraph (2), by striking out “or trans-
11 ports any migrant or seasonal agricultural worker”
12 and inserting in lieu thereof “transports or houses
13 any agricultural worker, or uses, retains, or benefits
14 from the services of a farm labor contractor”,

15 (3) by striking out paragraphs (4), (8), and
16 (10), by redesignating paragraphs (9), (11), and
17 (12) as paragraphs (8) through (10), respectively,
18 and by inserting after paragraph (3) the following:

19 “(4) The term ‘agricultural worker’ means an
20 individual who is engaged in agricultural employ-
21 ment. The term does not include any immediate
22 family member of an agricultural employer or a farm
23 labor contractor while that person is employed by
24 that specific agricultural employer or farm labor
25 contractor.”,

1 (4) by adding at the end of paragraph (5) the
2 following: “An agricultural worker shall not be
3 deemed to be self-employed and a farm labor con-
4 tractor shall not be deemed to be the sole employer
5 of an agricultural worker. Any person who owns or
6 operates a farm, ranch, processing establishment,
7 cannery, gin, packing shed, or nursery or who pro-
8 duces or conditions seed and who uses, retains, or
9 benefits from, the services of a farm labor contractor
10 with respect to the employment of an agricultural
11 worker shall be deemed the employer of such worker
12 for purposes of this Act.”,

13 (5) in paragraph (6), by striking out “or trans-
14 porting” and inserting in lieu thereof “transporting,
15 housing, or causing to be transported or housed”.

16 **SEC. 3. APPLICABILITY OF ACT.**

17 Section 4(a) (29 U.S.C. 1803(a)) is amended—

18 (1) by striking out paragraphs (1) and (2),

19 (2) by striking out paragraph (3) and inserting
20 in lieu thereof the following:

21 “(1) COMMON CARRIER.—Any common carrier
22 which would be a farm labor contractor solely be-
23 cause the carrier is engaged in the farm labor con-
24 tracting activity of transporting any agricultural
25 worker and any employee of such carrier when per-

1 forming farm labor contracting activities exclusively
2 for such carrier.

3 “(2) LABOR ORGANIZATION.—Any labor organi-
4 zation, as defined in section 2(5) of the National
5 Labor Relations Act (29 U.S.C. 152(5) but without
6 regard to the exclusion of agricultural employees in
7 such Act or as defined under applicable State labor
8 relations law.

9 “(3) NONPROFIT ORGANIZATION OR INSTITU-
10 TION.—Any nonprofit charitable or public or private
11 nonprofit educational institution.

12 “(4) EMPLOYEES OF EXEMPT PERSONS.—Any
13 employee of a person described in paragraph (1),
14 (2), or (3) when performing farm labor contracting
15 activities exclusively for such person.”.

16 **SEC. 4. ISSUANCE OF CERTIFICATE OF REGISTRATION.**

17 Section 102 (29 U.S.C. 1812) is amended by striking
18 out “and” at the end of paragraph (4), by striking out
19 the period at the end of paragraph (5) and inserting in
20 lieu thereof “; and”, and by adding after paragraph (5)
21 the following:

22 “(6) proof that the applicant has, for the past
23 4 years, fully discharged any obligation to pay the
24 taxes imposed under sections 1401(a), 3101(a), and

1 3111(a) and chapter 23 of the Internal Revenue
2 Code of 1986,

3 “(7) a declaration that affirms that the appli-
4 cant will pay the taxes and file the forms required
5 by sections 1401(a), 3101(a), and 3111(a) and
6 chapter 23 of the Internal Revenue Code of 1986
7 within the time period required by law, and

8 “(8) a listing of all litigation, prosecution, en-
9 forcement actions, or other administrative com-
10 plaints completed or pending in which the applicant
11 is participating (or has participated) as a party or
12 is (or was) the real party in interest and a statement
13 as to the disposition of each such action together
14 with proof that all civil money penalties, civil money
15 judgments, and injunctions have been paid and fully
16 complied with.

17 If an applicant fails to provide the information described
18 in paragraphs (6) through (8) or provides false or mislead-
19 ing information under such paragraphs, the Secretary
20 shall revoke any certificate of registration issued to such
21 applicant.”.

22 **SEC. 5. BONDING OF FARM LABOR CONTRACTORS.**

23 (a) AMENDMENT.—Title I is amended by adding at
24 the end the following:

1 “BONDING OF FARM LABOR CONTRACTORS

2 “SEC. 106. (a) IN GENERAL.—Each farm labor con-
3 tractor applying for a certificate of registration under sec-
4 tion 102 shall, as a condition to the granting of the certifi-
5 cate, execute and file with the Secretary a good and suffi-
6 cient bond to secure the faithful performance of—

7 “(1) the obligations of such contractor as a
8 farm labor contractor under this Act and the regula-
9 tions in effect under this Act, and

10 “(2) such additional obligations as a farm labor
11 contractor as may be assumed by such contractor
12 under agreements with agricultural workers, agricul-
13 tural employers, and agriculture associations.

14 Such bond shall be in such form and amount (but not less
15 than \$50,000), shall have such surety or sureties, shall
16 be subject to the service of process in suits on the bond
17 within the State or judicial district in which the farm labor
18 contractor does business or resides, and shall contain such
19 terms and conditions as the Secretary may prescribe to
20 carry out this Act. The aggregate liability of the surety
21 upon such bond for all claims which may arise under the
22 bond shall not exceed the face amount of the bond.

23 “(b) AMOUNT.—The amount of the bond required by
24 subsection (a) may be raised or additional security may
25 be required by the Secretary upon the Secretary’s own mo-

1 tion or upon petition to the Secretary by any person when
2 it is shown that the security or the bond is insufficient
3 to satisfy the farm labor contractor's potential liability for
4 the registration period.

5 “(c) SURETY INSURER.—No surety insurer may pro-
6 vide any bond, undertaking, recognizance, or other obliga-
7 tion under subsection (a) for the purpose of securing or
8 guaranteeing any act, duty, or obligation or the refraining
9 from any act with respect to the services of a farm labor
10 contractor unless the farm labor contractor has made ap-
11 plication for, or has a valid certificate of, registration is-
12 sued under section 102 at the time of the issuance of the
13 bond, undertaking, recognizance, or other obligation.

14 “(d) CANCELLATION OR TERMINATION.—A surety
15 bond under subsection (a) may not be canceled or termi-
16 nated during the period in which the bond is executed un-
17 less 30 day's notice is provided by the surety to the Sec-
18 retary.

19 “(e) DEPOSITS.—In lieu of the surety bond required
20 by subsection (a), the farm labor contractor may file with
21 the Secretary a deposit consisting of cash or other security
22 acceptable to the Secretary, except that a deposit shall not
23 be less than \$50,000 in value. The security deposited with
24 the Secretary in lieu of a surety bond shall be returned
25 to the farm labor contractor at the expiration of 4 years

1 after the farm labor contractor's certificate of registration
2 has expired or has been revoked if no legal action has been
3 instituted against the farm labor contractor or on the se-
4 curity deposit at the expiration of such 4 years.

5 “(f) CLAIMS.—

6 “(1) IN GENERAL.—Any person having a claim
7 under this Act may bring a civil action upon the sur-
8 ety bond or security deposit filed by the farm labor
9 contractor pursuant to this section in any court of
10 competent jurisdiction. The right of action is assign-
11 able in the name of the Secretary or any other per-
12 son.

13 “(2) CLAIMS AGAINST CONTRACTOR.—Without
14 regard to the remedies provided in this Act, a person
15 having a claim against a farm labor contractor for
16 any violation of this Act may bring a civil action in
17 any court of competent jurisdiction against such
18 contractor and the surety bond or security deposit
19 filed by such contractor under this section.

20 “(g) FILING OF ACTIONS.—A civil action on a surety
21 bond shall be commenced by serving and filing the sum-
22 mons and complaint—

23 “(1) within 4 years from the date of the expira-
24 tion or the cancellation of the bond, or

1 “(2) the expiration or the revocation of the cer-
2 tificate of registration of the farm labor contractor
3 against which such action is brought,
4 whichever is sooner. A civil action on a security deposit
5 shall be commenced within 4 years of the date of the expi-
6 ration or revocation of the certificate of registration of the
7 farm labor contractor against which such action is
8 brought.

9 “(h) PROCEDURE.—A copy of the summons and com-
10 plaint in any civil action filed under subsection (g) shall
11 be served upon the Secretary at the time of the commence-
12 ment of such action. The Secretary shall maintain a
13 record, available for public inspection, of all civil actions
14 commenced under subsection (g). Service of the summons
15 and complaint shall constitute service on the farm labor
16 contractor against whom the action is brought and the
17 surety for the action upon the surety bond of such contrac-
18 tor. The Secretary shall transmit the complaint, or a copy
19 of the complaint, to—

20 “(1) such contractor at the address listed on
21 the contractor’s application for a certificate of reg-
22 istration under section 102, and

23 “(2) the surety bond,
24 within 48 hours after it has been received.

1 “(i) TENDER.—In the case of a civil action brought
2 under subsection (g), a surety insurer in the case of a sur-
3 ety bond may, upon notice to the Secretary and the parties
4 to such action tender to the clerk of the court in which
5 such action is brought an amount equal to the claim or
6 the amount of the bond less the amount of judgments (if
7 any) previously satisfied from the bond and to the extent
8 the tender of such surety shall exonerate the farm labor
9 contractor for whom such surety was tendered.

10 “(j) SATISFACTION OF CLAIMS.—If the claim or
11 claims in a civil action or civil actions under subsection
12 (g) pending at any one time exceed the amount of the sur-
13 ety bond of the farm labor contractor against whom the
14 action or actions were brought, such claim or claims shall
15 be satisfied from such bond in the following order:

16 “(1) Wages, including employee benefits.

17 “(2) Other damages, including statutory dam-
18 ages, owed to the employee.

19 “(3) Any costs and attorneys’ fees the claimant
20 may be entitled to recover.

21 “(k) BOND IMPAIRMENT.—If any final judgment in
22 a civil action brought under subsection (g) impairs the
23 surety bond furnished by the farm labor contractor
24 against whom the action was brought so that there is not
25 in effect, a surety bond undertaking in the full amount

1 prescribed by the Secretary, the Secretary shall suspend
2 the certificate of registration of such contractor until the
3 bond liability in the required amount unimpaired by
4 unsatisfied judgment claims has been furnished by such
5 contractor, if such bond becomes fully impaired, such con-
6 tractor shall furnish a new surety bond.

7 “(l) SECURITY DEPOSITS.—A claimant against a se-
8 curity deposit filed by a farm labor contractor shall be en-
9 titled to damages. If such contractor has filed other secu-
10 rity with the Secretary in lieu of a surety bond, any person
11 having an unsatisfied final judgment against such contrac-
12 tor for any violation of this Act may execute upon the se-
13 curity deposit held by the Secretary by serving a certified
14 copy of the unsatisfied final judgment by registered or cer-
15 tified mail upon the Secretary. Upon receipt of service of
16 such certified copy, the Secretary shall pay or order paid
17 from the security deposit, through the registry of the court
18 which rendered judgment, towards the amount of the
19 unsatisfied judgment. The priority of payment by the Sec-
20 retary shall be the order of receipt by the Secretary, but
21 the Secretary shall have no liability for payment in excess
22 of the amount of the deposit.”.

23 (b) CONFORMING AMENDMENT.—The title to section
24 102 (29 U.S.C. 1812) is amended by adding at the end

1 the following: “AND BONDING OF FARM LABOR CONTRAC-
2 TORS”.

3 **SEC. 6. REGISTRATION DETERMINATIONS.**

4 Section 103(a) (29 U.S.C. 1813(a)) is amended—

5 (1) by striking out “may refuse to issue or
6 renew, or may suspend or revoke” and inserting in
7 lieu thereof “shall refuse to issue or renew, or shall
8 suspend or revoke”,

9 (2) in paragraph (5), by striking out “within
10 the preceding five years” before subparagraph (A),

11 (3) in paragraph (5)(A), by inserting “assault,”
12 after “gambling,”, by inserting “narcotics,” before
13 “alcoholic”, and by inserting “, or weapons” after
14 “beverages”, and

15 (4) in paragraph (5)(B), by striking out “fel-
16 ony” and inserting in lieu thereof “crime”.

17 **SEC. 7. SUSPENSION AND REVOCATION OF REGISTRATION.**

18 (a) IN GENERAL.—Section 103 (29 U.S.C. 1813) is
19 amended by redesignating subsections (b) and (c) as sub-
20 sections (c) and (d), respectively, and by adding after sub-
21 section (a) the following:

22 “(b) The Secretary may suspend or revoke a certifi-
23 cate of registration of a farm labor contractor or employee
24 of a farm labor contractor who is engaged in farm labor
25 contracting activities if the holder—

1 “(1) has violated this Act or any regulation
2 under this Act or has violated the Fair Labor Stand-
3 ards Act of 1938 or any regulation under such Act,
4 or

5 “(2) has charged unreasonable or exorbitant
6 charges for goods provided or services rendered.”.

7 (b) HEARING.—Section 103(c) (29 U.S.C. 1813(c))
8 (as so redesignated) is amended—

9 (1) in paragraph (1), by striking out “thirty
10 days” and inserting in lieu thereof “5 days”,

11 (2) in paragraph (1), by adding the following
12 after the first sentence: “The administrative law
13 judge shall render a final decision within 10 days of
14 the hearing.”,

15 (3) in paragraph (1), by adding at the end the
16 following: “The Secretary, when the Secretary deems
17 it necessary to protect the public health, may sus-
18 pend a certificate of registration temporarily without
19 a hearing.”, and

20 (4) in paragraph (2), by adding after the first
21 sentence the following: “The administrative law
22 judge shall render a final decision within 10 days of
23 the hearing.”.

1 **SEC. 8. INFORMATION AND RECORDKEEPING.**

2 (a) CAUSE TO BE RECRUITED.—Section 201(a) (29
3 U.S.C. 1821(a)) is amended by inserting after “which re-
4 cruits” the following: “, either directly or through an
5 agent,”.

6 (b) PLACE OF EMPLOYMENT.—Section 201(a)(1) (29
7 U.S.C. 1821(a)(1)) is amended by inserting before the
8 semicolon the following: “(with as much specificity as
9 practical), including the name and address of each em-
10 ployer at such place of employment”.

11 (c) BONUS.—Section 201(a)(2) (29 U.S.C.
12 1821(a)(2)) is amended by inserting after “wage rates to
13 be paid” the following: “, including the amount of any
14 bonus and conditions for its receipt, a definite minimum
15 hourly rate, and, if applicable, a definite minimum piece
16 rate”.

17 (d) WORKERS’ COMPENSATION COVERAGE.—Section
18 201(a) (29 U.S.C. 1821(a)) is amended by striking out
19 “and” at the end of paragraph (6), by striking out the
20 period at the end of paragraph (7) and inserting in lieu
21 thereof a semicolon, and by adding at the end the
22 following:

23 “(8) whether or not workers’ compensation is
24 provided and—

25 “(A) the terms and conditions of the work-
26 ers’ compensation coverage,

1 “(B) the name of the workers’ compensa-
2 tion carrier, and

3 “(C) the name of each insured employer;

4 “(9) whether or not unemployment insurance is
5 provided and the identity of the employer paying the
6 taxes and reporting the earnings;

7 “(10) the name and address of the bond issuer,
8 if applicable; and

9 “(11) the name of the person providing the in-
10 formation in paragraphs (1) through (10).”.

11 (e) RECORDKEEPING.—Section 201(d) (29 U.S.C.
12 1821(d)) is amended—

13 (1) by striking out “and” at the end of sub-
14 paragraph (E) of paragraph (1) and by adding at
15 the end of paragraph (1) the following:

16 “(G) the day of the week on which the pay
17 period begins;”, and

18 (2) by striking out the period at end of para-
19 graph (2) inserting in lieu thereof “; and” and by
20 adding after such paragraph (2) the following:

21 “(3) with respect to each such worker keep and
22 preserve for 4 years a copy of each dated and signed
23 disclosure statement required by subsection (g).”.

24 (f) RECORDS.—The last sentence of section 201(e)
25 (29 U.S.C. 1821(e)) is amended to read as follows: “Any

1 farm labor contractor, agricultural employer, or agricul-
2 tural association which uses the services of a farm labor
3 contractor to supply any agricultural worker shall obtain,
4 maintain, and keep such records for 4 years from the end
5 of the period of employment.”.

6 (g) FORM AND LANGUAGE REQUIREMENTS.—

7 (1) IN GENERAL.—Section 201(g) (29 U.S.C.
8 1821(g)) is amended by inserting after the first sen-
9 tence the following: “Such disclosure statement shall
10 be dated and signed by the agricultural worker and
11 the person providing the information. Each agricul-
12 tural worker shall be given a copy of the disclosure
13 statement.”.

14 (2) HAITIAN CREOLE.—The second sentence of
15 section 201(g) (29 U.S.C. 1821(g)) is amended by
16 inserting “, Haitian Creole, Mixtec, Hmong,” after
17 “Spanish” and the third sentence of such section is
18 amended by inserting “Haitian Creole, Mixtec,
19 Hmong,” after “Spanish,”.

20 **SEC. 9. WAGES, SUPPLIES, AND OTHER WORKING AR-**
21 **RANGEMENTS.**

22 Section 202 (29 U.S.C. 1822) is amended by adding
23 at the end the following:

24 “(d) Each farm labor contractor, agricultural em-
25 ployer, or agricultural association which recruits any agri-

1 cultural worker shall, in disclosing the period of employ-
2 ment offered to each agricultural worker, clearly state the
3 days, weeks, and months in which employment will occur.
4 Unless otherwise specifically stated, a work day shall be
5 assumed to constitute a minimum of 8 hours of work per
6 day, a work week shall be assumed to constitute of 40
7 hours over a 7 consecutive day period, and a month shall
8 be assumed to consist of at least 4 weeks.

9 “(e) The period of employment disclosed in the disclo-
10 sure statement required by section 201(a) may not be
11 made conditional upon any contingency such as weather
12 or market conditions. In addition, failure to comply with
13 the working arrangements because of any such contin-
14 gency is justified within the meaning of subsection (c) only
15 if it was directly attributable to acts of God which are
16 due to conditions beyond the control of the farm labor con-
17 tractor, agricultural employer, or agricultural association
18 involved and which are due to conditions which such per-
19 son could not reasonably foresee. Nothing in the disclosure
20 statement may be construed to eliminate the requirement
21 under subsection (c) that there be adequate justification
22 to terminate or otherwise violate the terms of the working
23 arrangement made with an agricultural worker.

24 “(f) Disclosure of terms and conditions of employ-
25 ment in the written disclosure statement required under

1 section 201(a) shall not excuse any other oral or written
2 misrepresentation made to an agricultural worker by a
3 farm labor contractor, agricultural employer, or agricul-
4 tural association.

5 “(g) Each farm labor contractor, agricultural em-
6 ployer, or agricultural association which employs any agri-
7 cultural worker shall comply with all local, State, and Fed-
8 eral laws and regulations designed to protect the health
9 and safety of agricultural workers, including pesticide laws
10 and regulations.”.

11 **SEC. 10. HOUSING.**

12 (a) STANDARDS.—Section 203(a) (29 U.S.C.
13 1823(a)) is amended by adding at the end the following:
14 “For purposes of this subsection, the term ‘substantive
15 Federal and State safety and health standards’ means
16 standards which are designed to protect the health or well
17 being of the occupants of housing.”.

18 (b) TIME.—The fourth sentence of section 203(b) (29
19 U.S.C. 1823(b)) is amended by striking out “three years”
20 and inserting in lieu thereof “4 years”.

21 (c) EXTENT OF PROTECTION.—Section 203 (29
22 U.S.C. 1823) is amended by adding at the end the
23 following:

1 “(d) The protections of this section shall extend both
2 to agricultural workers covered under this section and to
3 family members who accompany such workers.”.

4 **SEC. 11. MOTOR VEHICLE SAFETY.**

5 (a) APPLICATION.—Section 401(a) (29 U.S.C.
6 1841(a)) is amended—

7 (1) by striking out “Except as provided in para-
8 graph (2), this” and inserting in lieu thereof “This”,
9 and

10 (2) by amending paragraph (2) to read as fol-
11 lows:

12 “(2) The protections of this section shall extend both
13 to agricultural workers covered under this section and to
14 family members who accompany such workers.”.

15 (b) REQUIREMENTS.—Section 401(b)(1) (29 U.S.C.
16 1841(b)(1)) is amended by striking out “and” at the end
17 of subparagraph (B), by striking out the period at the end
18 of subparagraph (C) and inserting in lieu thereof a
19 comma, and by adding at the end the following:

20 “(D) ensure that no such vehicle is operated by
21 a person under the influence of alcohol or a con-
22 trolled substance, and

23 “(E) ensure that no such vehicle is operated
24 when any safety equipment or device is missing, has
25 been removed or disabled, or is inoperable.”.

1 (c) REGULATIONS.—Section 401(b)(2)(A) (29 U.S.C.
2 1841(b)(2)(A)) is amended by adding at the end the fol-
3 lowing: “Regulations prescribed under this subparagraph
4 shall be no less protective of the health and safety of agri-
5 cultural workers than the regulations of the Secretary of
6 Transportation published as part 398 of title 49 of the
7 Code of Federal Regulations, as in effect on the date of
8 the enactment of the Agricultural Worker Protection Re-
9 form Act of 1993, irrespective of whether transportation
10 is, at any particular point in time, subject to such regula-
11 tions.”.

12 (d) DEFINITION.—Section 401(b) (29 U.S.C.
13 1841(b)) is amended by adding at the end the following:
14 “(4) For purposes of paragraph (1), the term ‘caus-
15 ing to be’ means requesting, directing, providing, or ar-
16 ranging for or benefiting from the use of. Such term also
17 includes hiring, recruiting, or employing agricultural
18 workers where such transportation is customary or an es-
19 sential part of the working arrangement. Such term does
20 not include carpooling arrangements.”.

21 **SEC. 12. CONFIRMATION OF REGISTRATION.**

22 Section 402 is repealed (29 U.S.C. 1842) and sec-
23 tions 403 and 404 are redesignated as sections 402 and
24 403, respectively.

1 **SEC. 13. OBLIGATIONS OF USERS OF FARM LABOR CON-**
2 **TRACTORS.**

3 Title IV is amended by adding at the end the
4 following:

5 “OBLIGATIONS OF USERS OF FARM LABOR CONTRACTORS

6 “SEC. 404. (a) IN GENERAL.—No person shall use
7 the services of any farm labor contractor to supply any
8 agricultural worker unless the person first takes reason-
9 able steps to determine that the farm labor contractor pos-
10 sesses a certificate of registration under section 102 which
11 is valid and which authorizes the activity for which the
12 contractor is used. In making that determination, the per-
13 son may rely upon either possession of a certificate of reg-
14 istration or confirmation of such registration by the De-
15 partment of Labor. The Secretary shall maintain a central
16 public registry of all persons issued a certificate of reg-
17 istration under section 102.

18 “(b) COMPLIANCE.—Each agricultural employer or
19 agricultural association which uses, retains, or benefits
20 from the services of a farm labor contractor shall ensure
21 that such contractor complies with all obligations imposed
22 by this Act and any State or Federal child labor laws or
23 regulations.

24 “(c) LIABILITY.—Where an agricultural employer or
25 agricultural association uses, retains, or benefits from the
26 services of a farm labor contractor with respect to the em-

1 ployment of an agricultural worker, the agricultural em-
2 ployer or agricultural association shall be deemed strictly
3 liable for any violation of this Act suffered by such worker
4 or an immediate family member of such worker in relation
5 to any farm labor contracting activity connected with that
6 employment.”.

7 **SEC. 14. ADMINISTRATIVE SANCTIONS.**

8 Section 503(a)(1) (29 U.S.C. 1853(a)(1)) is amended
9 by striking out “\$1,000” and inserting in lieu thereof
10 “\$7,000” and by adding at the end the following: “In the
11 case of violations of provisions of 201, 203, and 401, a
12 person shall be deemed to have committed a separate vio-
13 lation of such a provision with respect to each agricultural
14 worker subjected to the unlawful practice. The Secretary
15 shall insure that the primary focus of administrative en-
16 forcement of this Act is the fixed situs employer.”.

17 **SEC. 15. PRIVATE RIGHT OF ACTION.**

18 (a) ACTION ON A BOND.—Section 504(a) (29 U.S.C.
19 1854(a)) is amended by inserting “(1)” after “(a)” and
20 by adding at the end the following:

21 “(2) Any person who is injured because of the breach
22 of an obligation for which a bond has been secured under
23 this Act or regulations under this Act may bring an action
24 on the bond in the name of such person in any court of

1 competent jurisdiction to recover the damages sustained
2 by such breach.”.

3 (b) COSTS.—Section 504(b) (29 U.S.C. 1854(b)) is
4 amended by adding at the end the following: “The court
5 shall pay the costs of such actions from its administrative
6 budget and may apply to the Secretary for reimbursement.
7 Upon application, the Secretary shall pay such costs.”.

8 (c) AWARD OF DAMAGES.—Section 504(c) (29
9 U.S.C. 1854(c)) is amended—

10 (1) in paragraph (1), by striking out “up to
11 \$500” and inserting in lieu thereof “not less than
12 \$200 and up to \$2,000 (or the enhanced damages
13 prescribed by paragraphs (4) and (5))”,

14 (2) in paragraph (1), by striking out “(A)” and
15 “; and (B)” and all that follows up to the period,

16 (3) by adding at the end of paragraph (2) the
17 following: “In awarding actual damages for physical
18 injury or death resulting from a violation of this Act,
19 the court may consider any workers’ compensation
20 benefits received for such injury or death up to the
21 amount of the workers’ compensation award.”, and

22 (4) by adding after paragraph (3) the following:
23 “(4) The amount of statutory damages to be awarded
24 under paragraph (1) may be up to \$25,000 but not less
25 than \$1,000 for—

1 “(A) violations of subsection (a) or (b) of sec-
2 tion 101,

3 “(B) violations of section 402, and

4 “(C) regular or repeated violations of this Act
5 or any regulation issued under this Act.

6 “(5) The amount of statutory damages to be awarded
7 under paragraph (1) may be up to \$250,000 per plaintiff
8 per violation for—

9 “(A) violations of section 203,

10 “(B) violations of section 401, and

11 “(C) violations resulting in physical injuries or
12 death.

13 “(6) If an agricultural worker has been injured as
14 a result of a violation of this Act and if the employer of
15 such worker did not provide coverage under workers’ com-
16 pensation for such employee, the worker shall be awarded
17 \$1,000 in liquidated damages in addition to any other
18 damages available under this Act.

19 “(7) In any action brought under subsection (a), the
20 court shall allow an agricultural worker who is the prevail-
21 ing party in such action a reasonable attorney’s fee and
22 fees for expert witnesses as part of the costs of such
23 action.

24 “(8) The statute of limitations applicable to any ac-
25 tion brought under subsection (a) is 4 years from the date

1 the cause of action accrued. For purposes of this para-
2 graph and paragraph (9), a cause of action accrues when
3 the last element constituting the cause of action occurs.
4 The statute of limitations established by this paragraph
5 or paragraph (9) shall be tolled in any case in which the
6 agricultural employer, farm labor contractor, or agricul-
7 tural association against which relief is sought fails to
8 comply with the posting requirements in subsections (b)
9 and (c) of section 201 and section 403.

10 “(9) Any action taken by the Secretary under sec-
11 tions 501 or 502 of this Act shall be barred if not com-
12 menced within 10 years after the cause of action
13 accrued.”.

14 (d) WORKERS’ COMPENSATION.—Subsection (d) of
15 section 504 (29 U.S.C. 1854) is repealed. Any action
16 which was barred or stayed as the result of the enactment
17 of such subsection is revived and shall be treated as if
18 the applicable statute of limitations was equitably tolled
19 while such subsection was in effect.

20 (e) ARISING OF CAUSES OF ACTIONS.—Section 504
21 (29 U.S.C. 1854) is amended by adding after subsection
22 (c) the following:

23 “(d) In any action to enforce the requirements of sec-
24 tion 201(a), the cause of action shall be deemed to arise
25 in each place or places where a disclosure statement actu-

1 ally was provided or should have been provided to the agri-
2 cultural worker. In an action to enforce the requirements
3 of section 201(f), the cause of action shall be deemed to
4 arise in each place or places where the false and mislead-
5 ing information was provided to the agricultural worker
6 and where the resulting injury occurred. In an action to
7 enforce section 202(c), the cause of action shall be deemed
8 to arise in each place or places where the working arrange-
9 ment was entered into and where the breach of the work-
10 ing arrangement occurred.”.

11 **SEC. 16. DISCRIMINATION.**

12 Section 505(a) (29 U.S.C. 1855(a)) is amended by
13 striking out “because such worker has” and inserting in
14 lieu thereof “because such worker or a member of the fam-
15 ily of such worker has discussed or consulted with anyone,
16 including representatives of a religious, medical, humani-
17 tarian, social services, or legal assistance organization con-
18 cerning the worker’s rights under this Act, or has”.

19 **SEC. 17. COMPLAINTS BY AGRICULTURAL WORKERS.**

20 Part A of title V is amended by adding at the end
21 the following:

22 “COMPLAINTS

23 “SEC. 507. (a) IN GENERAL.—An agricultural work-
24 er or a representative of an agricultural worker may file
25 a complaint with the Secretary alleging a violation of this
26 Act. If an agricultural worker is killed as a result of a

1 work-related injury or illness which allegedly resulted from
2 a violation of this Act, a member of the family of such
3 worker may file such a complaint. Upon receipt of such
4 a complaint, the Secretary shall promptly cause such in-
5 vestigation to be made as the Secretary deems appro-
6 priate.

7 “(b) COMPLAINANT RIGHTS.—On request, a com-
8 plainant under a complaint filed under subsection (a) shall
9 be afforded the right to—

10 “(1) meet with the Secretary or the Secretary’s
11 authorized representative respecting any investiga-
12 tion conducted under section 512(a) before the deci-
13 sion of the Secretary to take an enforcement action
14 or to take no action;

15 “(2) receive at no cost a copy of the report of
16 the investigation of the complaint and, at the time
17 of issuance, a copy of any notice of assessment of a
18 civil money penalty resulting from such investiga-
19 tion; and

20 “(3) be informed of any request for a hearing
21 made under section 503(b)(1) and participate as a
22 party in any hearing or other proceeding contesting
23 a civil money penalty assessment under section
24 503(a)(1) resulting from the investigation of such
25 complaint.

1 “(c) WITHDRAWAL OR MODIFICATION OF CIVIL
2 MONEY PAYMENT.—

3 “(1) NOTICE.—If the Secretary intends to with-
4 draw or modify a civil money penalty assessment for
5 the violation alleged in a complaint filed under sub-
6 section (a) as a result of any agreement with the
7 person assessed such penalty which resulted, in
8 whole or in part, from an investigation of such a
9 complaint, the Secretary shall provide prompt notice
10 to the complainant which shall include the terms of
11 the proposed agreement.

12 “(2) RESPONSE NOTICE.—Not later than 15
13 working days after the receipt of the notice required
14 by paragraph (1), the complainant or the represent-
15 ative of such complainant shall have the right to file
16 a notice with the Secretary stating that the proposed
17 agreement with respect to which the notice was pro-
18 vided fails to effectuate the purposes of this Act.
19 Such notice shall state the respects in which the
20 agreement fails to effectuate such purposes.

21 “(3) SECRETARIAL RESPONSE.—Upon receipt
22 of a notice under paragraph (2), the Secretary shall
23 consider the matter and if the Secretary determines
24 to carry out the proposed agreement with respect to
25 which such notice was given, the Secretary shall re-

1 spond with particularity to the statements presented
2 in such notice.

3 “(4) RIGHT TO HEARING.—Not later than 15
4 working days after the response of the Secretary
5 under paragraph (3), the complainant or representa-
6 tive of the complainant shall have the right to an
7 agency hearing as to whether the adoption of the
8 proposed agreement would effectuate the purposes of
9 this Act.

10 “(5) ADMINISTRATIVE LAW JUDGE DETERMINA-
11 TION.—If, as a result of a hearing under paragraph
12 (4), the administrative law judge determines that a
13 proposed agreement fails to effectuate the purposes
14 of this Act, the Secretary shall not enter into the
15 proposed agreement and shall not withdraw or mod-
16 ify the civil money penalty assessment in accordance
17 with the agreement.

18 “(d) REMEDIES.—In addition to all other remedies
19 that might be available to a complainant under Federal
20 or State law, for a violation of this section a complainant
21 shall be entitled to—

22 “(1) declaratory relief,

23 “(2) injunctive relief,

1 “(3) any costs incurred by the complainant in
2 securing the documents referred to in subsection
3 (b)(2), and

4 “(4) reasonable attorney’s fees and costs.

5 “(e) INFORMATION.—The Secretary shall take rea-
6 sonable steps to inform complainants of their rights under
7 this section.”.

8 **SEC. 18. NEW PROTECTIONS.**

9 Title IV is amended by adding at the end the follow-
10 ing:

11 “ADDITIONAL PROTECTIONS

12 “SEC. 405. (a) CHILD CARE.—Each agricultural em-
13 ployer who employs at least 25 agricultural workers shall
14 provide for such workers child care.

15 “(b) SANITATION.—Each agricultural employer shall
16 provide its agricultural employees field sanitation, includ-
17 ing drinking water, water for handwashing, and such other
18 components as may be required by regulations under the
19 Occupational Safety and Health Act of 1970.

20 “(c) HEAT STRESS.—Each agricultural employer
21 shall provide for its agricultural employees protection
22 against heat stress.

23 **SEC. 19. GENERAL AMENDMENTS.**

24 (a) TITLES.—Section 1 is amended by striking out
25 “Migrant and Seasonal”, the heading for title II is amend-
26 ed by striking out “MIGRANT”, the title for title IV is

1 amended by striking out “MIGRANT AND SEA-
2 SONAL”, and title III is repealed.

3 (b) REDESIGNATIONS.—Titles IV and V are redesi-
4 gned as titles III and IV, respectively, and sections 401
5 through 405 are redesignated as sections 301 through
6 305, respectively, sections 501 through 507, sections 511
7 through 513, and sections 521 through 524 are redesi-
8 gnated as sections 401 through 407, 411 through 413, and
9 421 through 424, respectively.

10 (c) MIGRANT AND SEASONAL.—The Act is amended
11 by—

12 (1) striking out “migrant and seasonal” and
13 “migrant or seasonal” each place it appears, and

14 (2) by striking out “migrant agricultural” and
15 “seasonal agricultural” each place it appears and in-
16 sserting in lieu thereof “agricultural”.

17 (d) TABLE OF CONTENTS.—The table of contents is
18 amended—

19 (1) by striking out “Migrant” in the heading
20 for title II,

21 (2) by striking out references to title III,

22 (3) by striking out “Migrant and Seasonal” in
23 the heading for title IV,

1 (4) by redesignating title IV as title III and by
2 redesignating sections 401 through 404 as sections
3 301 through 304, respectively, and

4 (5) by redesignating title V as title IV and by
5 redesignating sections 501 through 507, 511
6 through 513, and 521 through 524 as sections 401
7 through 407, 411 through 413, and 421 through
8 424, respectively.

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HR 1173 IH—2

HR 1173 IH—3