

Special Bulletin!



AMERICAN SOD PRODUCERS ASSOCIATION

A National Organization Dedicated to Advancement of the Sod Industry

October 7, 1982

BILLS ON "MIGRANT AND SEASONAL AGRICULTURAL WORKERS PROTECTION ACT" ARE MOVING RAPIDLY ALONG. Identical bills Senate 2930 and House Resolution 7102 are the bills involved. On September 14th the Labor Standards Subcommittee of the House Committee on Education and Labor held a half-day hearing on H.R. 7102. Witnesses included the Deputy Under Secretary of Labor for Employment Standards, representative of the AFL-CIO, Perry Ellsworth of the National Council of Agricultural Employers, and three witnesses for farm workers. All witnesses testified in favor of the bill as written.

On September 23rd the bill was reported out and it was voted to ask that it go to the House floor under rules suspension, meaning no amendments. Once passed by the House, it was anticipated that the Senate will vote on the bill under a unanimous consent agreement. Because the bill is "consensus" legislation, there should be little or no opposition, and the bill would replace the Farm Labor Contractor Registration Act effective December 1, 1982 and should pass by a comfortable margin.

A brief summary of the bill as outlined by NCAE is as follows:

(Note: What follows is an admittedly brief summary of the content of H.R. 7102 and S. 2930 the consensus bills presently working their way through Congress. For a copy of the bill itself, write to Document Room, U.S. House of Representatives, Washington, D.C., 20515 and ask for H.R. 7102. Enclose a gummed label with your address on it.)

Workers Covered: Migrant workers. Non-migrant field workers. Day haul seasonal workers.

Employers Covered: Farmers, ranchers, canners, processors, ginners, packing shed operators, nurserymen, seed conditioners and seed producers.

Exemptions: Small businesses (Employed less than 500 mandays of labor in any calendar quarter of the previous year.)

Family businesses (Owned or operated by members of the same immediate family provided member of same family does recruiting and hiring, regardless of whether such individual has incorporated or otherwise organized for business.)



(OVER)

Individual who engages in FLC activity solely within 25 mile radius of his permanent residence for not more than 13 weeks per year.

Special exemptions (combine crews, etc. Same as present law.)

Certain persons providing full-time students for seed and shade tobacco production.

Registration: Traditional farm labor contractors (crew leaders) must register, be fingerprinted and have housing or transportation authorization if applicable. All agricultural employers, agricultural associations and all employees thereof are exempt.

Illegal Aliens: Prohibition against knowingly recruiting, employing or utilizing illegal aliens applies only to farm labor contractors--not to growers, processors, associations or employees thereof.

Recruiting Migrant Workers: FLCs, agricultural employers (AE) and agricultural associations (AA) required to disclose, in writing, terms and conditions of employment at time worker is recruited.

Employing Local Workers: FLC, AE and AA required to disclose, in writing, to a worker, upon request, terms and conditions of employment.

Day Haul Workers: FLC, AE and AA required to disclose job terms and conditions in writing at place of recruitment.

Posting: FLC, AE and AA required to post USDL-furnished general poster setting forth rights and protections afforded under the Act.

Pay Records: Whoever pays workers is required to furnish each worker, for each pay period, an itemized written statement of basis for pay, gross pay, deductions (if any) and net pay. "Disclosure" of money paid to FLC on account of worker's labor is not required.

Motor Vehicle Safety: FLC, AE and AA must ensure that vehicles used to transport workers meet applicable State and Federal safety standards. Workers Compensation is the exclusive remedy where applicable--otherwise ICC insurance standards apply.

Housing: Must comply with applicable substantive Federal and State safety and health standards.

Payroll Records Retention: Three years.

Confirmation of Registration: Employer must take "reasonable steps" to determine that FLC possesses a certificate of registration that is valid (See certificate or check with USDL) before utilizing the services of an FLC.

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Criminal Sanctions: Any person who willfully and knowingly violates the Act: Up to \$1,000 or not to exceed one year in prison or both. Subsequent violations: Up to \$10,000 or not to exceed three years or both.

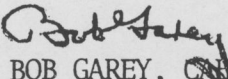
Administrative Sanctions: Any person who violates Act or regulations: Civil money penalty of not more than \$1,000 per violation.

Private Right of Action: Anyone aggrieved by violation of Act or regulation by an FLC, AE, AA or other person, may sue without regard to amount in controversy, citizenship of parties, or exhaustion of alternative administrative remedies provided in the Act.

Liquidated (statutory) damages up to \$500 per plaintiff per violation. (Multiple infractions of a single provision of this Act or regulations shall constitute only one violation.)

If class action suit, damages limited to lesser of up to \$500 per plaintiff per violation or up to \$500,000 "cap".

When determining amount of damages, court is authorized to consider whether attempt was made to resolve issues before resort to litigation.


BOB GAREY, 
Executive Director

*Note: Information in this bulletin
from National Council of Agricultural
Employers (NCAE) Newsletter of Sept. 27,
1982. ASPA is a member of NCAE.*

Late Update

CONGRESS CALLED IT QUILTS IN THE EARLY MORNING HOURS OF SATURDAY, OCTOBER 2nd. A "lame duck" session will convene on November 29, 1982.

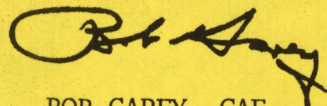
The Migrant and Seasonal Agricultural Worker Protection Act, which is discussed in some detail in the enclosed SPECIAL BULLETIN, did not make it to Senate passage prior to the adjournment of Congress.

House passage was swift and sure. The Labor Standards Subcommittee held a half-day hearing on September 14th; the Committee on Education and Labor reported out H.R. 7102 on September 24th; and the House passed the bill under suspension of the rules on September 29th with no objections. The bill went to the Senate on the same day.

On September 30, in an effort to move Senate-passed S.1785 (union racketeering) which has been bottled up by Congressman Phillip Burton's (D-CA) Labor Management Subcommittee in the House, Senator Sam Nunn (D-GA) announced his intention to add S.1785 to H.R.7102 as a rider. Both Congressman Burton and Congressman George Miller (D-CA) let it be known with no uncertainty that they would act to kill the Migrant and Seasonal Agricultural Worker Protection Act, which they co-sponsored, if any bill were attached in the Senate. After three days of attempting to break the deadlock time ran out and Congress went home.

Every effort will be made to obtain passage when Congress meets in "lame duck" session on November 29th.

If Congress does pass the legislation, such action will not occur until after December 1, 1982. As a result FLCRA will still be in effect, probably for all of this year. Those who are required to register as farm labor contractors under FLCRA must be sure to file papers for their 1983 registration prior to November 30, 1982!



BOB GAREY, CAE
Executive Director

Note: This late update from the National Council of Agricultural Employers (NCAE) Special Edition of October 4, 1982.