

By Mr. McColgan of Northampton, petition of Edward A. McColgan for legislation to require the registration of farm labor contractors with the Department of Labor and Industries. Commerce and Labor.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Sixty-Nine.

**AN ACT REQUIRING REGISTRATION OF FARM LABOR CONTRACTORS WITH THE DEPARTMENT OF LABOR AND INDUSTRIES.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby amended by in-  
2 serting after chapter 149 the following new chapter:—

3 CHAPTER 149A.

4 REGISTRATION OF FARM LABOR CONTRACTORS.

5 *Section 1.* As used in this chapter the following words  
6 shall have the following meaning unless the context clearly  
7 indicates a different meaning:—

8 (a) "Person" includes any individual, partnership, asso-  
9 ciation, joint stock company, trust, or corporation.

10 (b) "Farm labor contractor" means any person, who, for  
11 a fee, either for himself or on behalf of another person, re-  
12 cruits, solicits, hires, furnishes, or transports ten or more  
13 migrant workers (excluding members of his immediate fam-  
14 ily) at any one time in any calendar year for intrastate  
15 agricultural employment. Such term shall not include (1)  
16 any nonprofit charitable organization, public or nonprofit  
17 private educational institution, or similar organization; (2)  
18 any farmer, processor, canner, ginner, packing shed operator,  
19 or nurseryman who engages in any such activity for the pur-

20 pose of supplying migrant workers solely for his own opera-  
21 tion; (3) any full-time or regular employee of any entity  
22 referred to in (1) or (2) above; or (4) any person who en-  
23 gages in any such activity for the purposes of obtaining mi-  
24 grant workers of any foreign nation for employment in the  
25 United States, if the employment of such workers is subject  
26 to (A) an agreement between the United States and such  
27 foreign nation, or (B) an arrangement with the government  
28 of any foreign nation under which written contracts for the  
29 employment of such workers are provided for and the enforce-  
30 ment thereof is provided for in the United States by an in-  
31 strumentality of such foreign nation.

32 (c) "Fee" includes any money or other valuable considera-  
33 tion paid or promised to be paid to a person for services as  
34 a farm labor contractor.

35 (d) "Commissioner" means the commissioner of labor and  
36 industries.

37 (e) "Migrant worker" means an individual whose primary  
38 employment is in agriculture, or who performs agricultural  
39 labor, on a seasonal or other temporary basis.

40 *Section 2. (a)* No person shall engage in activities as a  
41 farm labor contractor unless he first obtains a certificate of  
42 registration from the commissioner, and unless such certifi-  
43 cate is in full force and effect and is in such person's imme-  
44 diate possession.

45 (b) A full-time or regular employee of any person holding  
46 a valid certificate of registration under the provisions of this  
47 chapter shall not, for the purpose of engaging in activities as  
48 a farm labor contractor solely on behalf of such person, be  
49 required to obtain a certificate of registration hereunder in  
50 his own name. Any such employee shall be required to have  
51 in his immediate personal possession when engaging in such  
52 activities such identification as the commissioner may re-  
53 quire showing such employee to be an employee of, and  
54 duly authorized to engage in activities as a farm labor con-  
55 tractor for, a person holding a valid certificate of registration  
56 under the provisions of this chapter. Except as provided in  
57 the foregoing provisions of this subsection, any such employee  
58 shall be subject to the provisions of this chapter and regula-  
59 tions prescribed hereunder to the same extent as if he were

60 required to obtain a certificate of registration in his own  
61 name.

62 *Section 3. (a)* The commissioner shall, after appropriate  
63 investigation, issue a certificate of registration under this  
64 chapter to any person who—

65 (1) has executed and filed with the commissioner a written  
66 application subscribed and sworn to by the applicant contain-  
67 ing such information (to the best of his knowledge and belief)  
68 concerning his conduct and method of operation as a farm  
69 labor contractor as the commissioner may require in order  
70 effectively to carry out the provisions of this chapter;

71 (2) has filed, within such time as the commissioner may  
72 prescribe, proof satisfactory to the commissioner of the finan-  
73 cial responsibility of the applicant or proof satisfactory to  
74 the commissioner of the existence of a policy of insurance  
75 which insures such applicant against liability for damages to  
76 persons or property arising out of the applicant's ownership  
77 of, operation of, or his causing to be operated any vehicle for  
78 the transportation of migrant workers in connection with his  
79 business, activities, or operations as a farm labor contractor.  
80 The amount of any such policy of insurance shall be not less  
81 than the amount required under the law or regulation of any  
82 state in which such applicant operates a vehicle in connection  
83 with his business, activities, or operations as a farm labor  
84 contractor; but in no event shall the amount of such insur-  
85 ance be less than five thousand dollars for bodily injuries  
86 to or death of one person; ten thousand dollars for bodily  
87 injuries to or death of all persons injured or killed in any  
88 one accident; five thousand dollars for the loss or damage in  
89 any one accident to property of others; and

90 (3) has filed, within such time as the commissioner may  
91 prescribe, a set of his fingerprints.

92 (b) Upon notice and hearing in accordance with regula-  
93 tions prescribed by him, the secretary may refuse to issue,  
94 and may suspend, revoke, or refuse to renew a certificate of  
95 registration to any farm labor contractor if he finds that such  
96 contractor:

97 (1) knowingly has made any misrepresentations or false  
98 statements in his application for a certificate of registration  
99 or any renewal thereof;

100 (2) knowingly has given false or misleading information  
101 to migrant workers concerning the terms, conditions, or exist-  
102 ence of agricultural employment;

103 (3) has failed, without justification, to perform agreements  
104 entered into or arrangements with farm operators;

105 (4) has failed, without justification, to comply with the  
106 terms of any working arrangements he has made with mi-  
107 grant workers;

108 (5) has failed to show financial responsibility satisfactory  
109 to the commissioner required by subsection (a) (2) of this  
110 section or has failed to keep in effect a policy of insurance  
111 required by subsection (a) (2) of this section;

112 (6) has recruited, employed, or utilized the services of a  
113 person with knowledge that such person is violating the pro-  
114 visions of the immigration and nationality laws of the United  
115 States;

116 (7) has been convicted of any crime under state or federal  
117 law relating to gambling or to the sale, distribution, or pos-  
118 session of alcoholic liquors in connection with or incident to  
119 his activities as a farm labor contractor; or has been convicted  
120 of any crime under state or federal law involving robbery,  
121 bribery, extortion, embezzlement, grand larceny, burglary,  
122 arson, violation of narcotics laws, murder, rape, assault with  
123 intent to kill, assault which inflicts greivous bodily injury,  
124 or prostitution;

125 (8) has failed to comply with any of the provisions of this  
126 chapter or any regulations issued hereunder.

127 (c) A certificate of registration, once issued, may not be  
128 transferred assigned and shall be effective for the remainder  
129 of the calendar year during which it is issued, unless sus-  
130 pended or revoked by the commissioner as provided in this  
131 chapter. A certificate of registration may be renewed each  
132 calendar year upon approval by the commissioner of an ap-  
133 plication for its renewal.

134 *Section 4.* Every farm labor contractor shall:—

135 (a) carry his certificate of registration with him at all  
136 times, while engaging in activities as a farm labor contractor  
137 and exhibits the same to all persons with whom he intends to  
138 deal in his capacity as a farm labor contractor prior to so  
139 dealing;

140 (b) ascertain and disclose to each worker at the time the  
141 worker is recruited the following information to the best of  
142 his knowledge and belief; (1) the area of employment, (2)  
143 the crops and operations on which he may be employed, (3)  
144 the transportation, housing, and insurance to be provided  
145 him, (4) the wage rates to be paid him, and (5) the charges  
146 to be made by the contractor for his services;

147 (c) upon arrival at a given place of employment, post in a  
148 conspicuous place a written statement of the terms and con-  
149 ditions of that employment;

150 (d) in the event he manages, supervises, or otherwise con-  
151 trols the housing facilities, post in a conspicuous place the  
152 terms and conditions of occupancy; and

153 (e) in the event he pays migrant workers engaged in intra-  
154 state agricultural employment, either on his own behalf or  
155 on behalf of another person, keep payroll records which shall  
156 show for each worker total earnings in each payroll period,  
157 all withholdings from wages, and net earnings. In addition,  
158 for workers employed on a time basis, the number of units  
159 of time employed and the rate per unit of time shall be  
160 recorded on the payroll records, and for workers employed on  
161 a piece rate basis, the number of units of work performed and  
162 the rate per unit be recorded on such records. In addition he  
163 shall provide to each migrant worker engaged in intrastate  
164 agricultural employment with whom he deals in a capacity  
165 as a farm labor contractor a statement of all sums paid to  
166 him (including sums received on behalf of such migrant  
167 worker) on account of the labor of such migrant worker.  
168 He shall also provide each such worker with an itemized  
169 statement showing all sums withheld by him from the amount  
170 he received on account of the labor of such worker, and the  
171 purpose for which withheld. The commissioner may prescribe  
172 an appropriate form for recording such information.

173 *Section 5.* The commissioner or his designated represen-  
174 tative may investigate and gather data with respect to matters  
175 which may aid in carrying out the provisions of this chapter.  
176 In any case in which a complaint has been filed with the com-  
177 missioner regarding a violation of this chapter or with re-  
178 spect to which the commissioner has reasonable grounds to  
179 believe that a farm labor contractor has violated any pro-

180 visions of this chapter, the commissioner or his designated  
181 representative may investigate and gather data respecting  
182 such case, and may, in connection therewith, enter and in-  
183 spect such places and such records (and make such transcrip-  
184 tions thereof), question such persons, and investigate such  
185 facts, conditions, practices, or matters as may be necessary or  
186 appropriate to determine whether a violation of this chapter  
187 has been committed.

188 *Section 6.* The commissioner is authorized to enter into  
189 agreements with Federal and state agencies, to utilize (pur-  
190 suant to such agreements) the facilities and services of the  
191 agencies, and to delegate to the agencies such authority, other  
192 than rulemaking, as he deems necessary in carrying out the  
193 provisions of this chapter, and to allocate or transfer funds  
194 or otherwise to pay or to reimburse such agencies for expenses  
195 in connection therewith.

196 *Section 7.* Any farm labor contractor or employee thereof  
197 who willfully and knowingly violates any provision of this  
198 chapter or any regulation prescribed hereunder shall be  
199 fined not more than five hundred dollars.

200 *Section 8.* The provisions of chapter thirty A shall apply  
201 to all administrative proceedings conducted pursuant to the  
202 authority contained in this chapter.

203 *Section 9.* Any person aggrieved by any order of the com-  
204 missioner in refusing to issue or renew, or in suspending or  
205 revoking, a certificate of registration may obtain a review of  
206 any such order by filing in the superior court for the county  
207 wherein such person resides or has his principal place of  
208 business, and serving upon the commissioner, within thirty  
209 days after the entry of a petition, a written petition praying  
210 that the order of the commissioner be modified or set aside  
211 in whole or in part. Upon receipt of any such petition, the  
212 commissioner shall file in such court a full, true, and correct  
213 copy of the transcript of the proceedings upon which the  
214 order complained of was entered. Upon the filing of such peti-  
215 tion and receipt of such transcript, such court shall have  
216 jurisdiction to affirm, set aside, modify, or enforce such order,  
217 in whole or in part. In any such review, the findings of fact  
218 of the commissioner shall not be set aside if supported by  
219 substantial evidence.

220 *Section 10.* Any farmer or processor who knowingly en-  
221 ters into a contract with an unregistered farm labor contrac-  
222 tor for supplying migrant workers shall be punished by a fine  
223 of not more than five hundred dollars.

224 *Section 11.* If any provision of this chapter, or the appli-  
225 cation thereof to any person or circumstance, shall be held  
226 invalid, the remainder of the chapter and the application of  
227 such provision to other persons or circumstances shall not  
228 be affected thereby.

229 *Section 12.* The commissioner is authorized to issue such  
230 rules and regulations as he determines necessary for the pur-  
231 pose of carrying out the provisions of this chapter.

