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HOUSE BILL 1814

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By Representatives Kenney, Wood, Green, Conway, Hunt, Hasegawa, Simpson, Ormsby, Williams, Sells, Miloscia, Darneille, Santos, Chase, and Hudgins

Read first time 01/29/09. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to farm labor contracting activities; amending RCW  
2 19.30.010, 19.30.030, 19.30.040, 19.30.045, 19.30.050, 19.30.060,  
3 19.30.110, 19.30.120, 19.30.170, 19.30.190, and 19.30.200; adding new  
4 sections to chapter 19.30 RCW; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 19.30.010 and 1985 c 280 s 1 are each amended to read  
7 as follows:

8 As used in this chapter:

9 (1) "Person" includes any individual, firm, partnership,  
10 association, corporation, or unit or agency of state or local  
11 government.

12 (2) "Farm labor contractor" or "contractor" means any person, or  
13 his or her agent or subcontractor, who, for a fee, performs any farm  
14 labor contracting activity.

15 (3) "Farm labor contracting activity" means recruiting, soliciting,  
16 employing, supplying, transporting, or hiring agricultural  
17 (~~employees~~) workers.

18 (4) "Agricultural association" means any nonprofit or cooperative

1 association of agricultural employers, incorporated or qualified under  
2 applicable state law, that performs any farm labor contracting  
3 activity.

4 (5) "Agricultural employer" means any person engaged in  
5 agricultural activity, including the growing, producing, or harvesting  
6 of farm or nursery products, or engaged in the forestation or  
7 reforestation of lands, which includes but is not limited to the  
8 planting, transplanting, tubing, precommercial thinning, and thinning  
9 of trees and seedlings, the clearing, piling, and disposal of brush and  
10 slash, the harvest of Christmas trees, and other related activities.

11 ~~((+5))~~ (6) "Agricultural guest worker" means an agricultural  
12 worker who is temporarily present in the United States as a  
13 nonimmigrant under federal law including, but not limited to,  
14 subparagraph (H)(ii) of section 101(a)(15) of the federal immigration  
15 and naturalization act.

16 (7) "Agricultural ~~(employee)~~ worker" means any person who renders  
17 or seeks to render personal services to, or under the direction of, an  
18 agricultural employer in connection with the employer's agricultural  
19 activity.

20 ~~((+6) This chapter shall not apply to employees of the employment~~  
21 ~~security department acting in their official capacity or their agents,~~  
22 ~~nor to any common carrier or full time regular employees thereof while~~  
23 ~~transporting agricultural employees, nor to any person who performs any~~  
24 ~~of the services enumerated in subsection (3) of this section only~~  
25 ~~within the scope of his or her regular employment for one agricultural~~  
26 ~~employer on whose behalf he or she is so acting, unless he or she is~~  
27 ~~receiving a commission or fee, which commission or fee is determined by~~  
28 ~~the number of workers recruited, or to a nonprofit corporation or~~  
29 ~~organization which performs the same functions for its members. Such~~  
30 ~~nonprofit corporation or organization shall be one in which:~~

31 ~~(a) None of its directors, officers, or employees are deriving any~~  
32 ~~profit beyond a reasonable salary for services performed in its behalf.~~

33 ~~(b) Membership dues and fees are used solely for the maintenance of~~  
34 ~~the association or corporation.~~

35 ~~(+7))~~ (8) "Fee" means:

36 (a) Any money or other valuable consideration paid or promised to  
37 be paid for services rendered or to be rendered by a farm labor  
38 contractor.

1 (b) Any valuable consideration received or to be received by a farm  
2 labor contractor for or in connection with any of the services  
3 described in subsection (3) of this section, and shall include the  
4 difference between any amount received or to be received by him or her,  
5 and the amount paid out by him or her for or in connection with the  
6 rendering of such services.

7 ((+8)) (9) "Director" ((as used in this chapter)) means the  
8 director of the department of labor and industries ((of the state of  
9 Washington)).

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.30 RCW  
11 to read as follows:

12 (1) This chapter applies to all transactions, acts, and omissions  
13 of farm labor contractors and other persons performing farm labor  
14 contracting activities that are within the constitutional power of the  
15 state to regulate, and not preempted by federal law including, but not  
16 limited to, the recruitment of workers in this state to perform work  
17 outside this state, the recruitment of workers outside this state to  
18 perform work in whole or in part in this state, the housing of workers  
19 in this state for work in another state, the housing of workers from  
20 outside this state in connection with work to be performed in this  
21 state, the transportation of workers within this state, and the payment  
22 terms and conditions, disclosure, and recordkeeping required with  
23 respect to work performed outside this state by workers recruited in  
24 this state.

25 (2) For purposes of establishing personal jurisdiction under this  
26 chapter, a farm labor contractor or a person performing farm labor  
27 contracting activities is deemed to be doing business in Washington  
28 and, therefore, subject to the jurisdiction of Washington courts if the  
29 contractor or person contracts for services with a Washington resident  
30 or is considered to be doing business under any other provision or rule  
31 of law.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.30 RCW  
33 to read as follows:

34 (1) This chapter does not apply to:  
35 (a) Employees of the employment security department acting in their  
36 official capacities, or their agents;

1 (b) Common carriers' or full-time regular employees thereof, while  
2 transporting agricultural workers; or

3 (c) Agricultural associations or agricultural employers performing  
4 farm labor contracting activities with respect to agricultural workers  
5 who are not agricultural guest workers.

6 (2) The licensing requirements under this chapter, including the  
7 requirements of RCW 19.30.040, do not apply to agricultural  
8 associations or agricultural employers performing farm labor  
9 contracting activities with respect to agricultural guest workers.

10 **Sec. 4.** RCW 19.30.030 and 1985 c 280 s 3 are each amended to read  
11 as follows:

12 The director shall not issue to any person a license to act as a  
13 farm labor contractor until:

14 (1) Such person has executed a written application on a form  
15 prescribed by the director, subscribed and sworn to by the applicant,  
16 and containing (a) a statement by the applicant of all facts required  
17 by the director concerning the applicant's character, competency,  
18 responsibility, and the manner and method by which he or she proposes  
19 to conduct operations as a farm labor contractor if such license is  
20 issued, and (b) the names and addresses of all persons financially  
21 interested, either as partners, stockholders, associates, profit  
22 sharers, or providers of board or lodging to agricultural ~~((employees))~~  
23 workers in the proposed operation as a farm labor contractor, together  
24 with the amount of their respective interests;

25 (2) The director, after investigation, is satisfied as to the  
26 character, competency, and responsibility of the applicant;

27 (3) The applicant has paid to the director a license fee of:  
28 ~~((+1))~~ (a) Thirty-five dollars in the case of a farm labor contractor  
29 not engaged in forestation or reforestation, or ~~((+2))~~ (b) one hundred  
30 dollars in the case of a farm labor contractor engaged in forestation  
31 or reforestation or such other sum as the director finds necessary, and  
32 adopts by rule, for the administrative costs of evaluating  
33 applications;

34 (4) The applicant has filed proof satisfactory to the director of  
35 the existence of a policy of insurance with any insurance carrier  
36 authorized to do business in the state of Washington in an amount  
37 satisfactory to the director, which insures the contractor against

1 liability for damage to persons or property arising out of the  
2 contractor's operation of, or ownership of, any vehicle or vehicles for  
3 the transportation of individuals in connection with the contractor's  
4 business, activities, or operations as a farm labor contractor;

5 (5) The applicant has filed a surety bond or other security which  
6 meets the requirements set forth in RCW 19.30.040;

7 (6) The applicant executes a written statement which shall be  
8 subscribed and sworn to and shall contain the following declaration:

9 "With regards to any action filed against me concerning my  
10 activities as a farm labor contractor, I appoint the director of the  
11 Washington department of labor and industries as my lawful agent to  
12 accept service of summons when I am not present in the jurisdiction in  
13 which the action is commenced or have in any other way become  
14 unavailable to accept service"; and

15 (7) The applicant has (~~stated~~) described on his or her  
16 application (~~whether or not~~):

17 (a) Any past violations or settlements related to labor protection  
18 laws in any jurisdiction in the United States or other countries, and  
19 any current allegations or claims that the applicant has violated  
20 labor protection laws;

21 (b) Any suspension, revocation, or denial of his or her  
22 contractor's license or the license of any of his or her agents,  
23 partners, associates, stockholders, or profit sharers (~~has ever been~~  
24 suspended, revoked, or denied)) by any (~~state or federal agency,~~)  
25 governmental authority; and (~~whether or not there are~~)

26 (c) Any outstanding (~~judgments~~) debts against him or her or any  
27 of his or her agents, partners, associates, stockholders, or profit  
28 sharers (~~in~~) from any (~~state or federal court~~) jurisdiction arising  
29 out of activities as a farm labor contractor or employer.

30 **Sec. 5.** RCW 19.30.040 and 1987 c 216 s 1 are each amended to read  
31 as follows:

32 (1) The director shall require the deposit of a surety bond by any  
33 person acting as a farm labor contractor (~~under this chapter~~) to  
34 insure compliance with (~~the provisions of~~) this chapter. Such bond  
35 shall be in an amount specified by the director in accordance with such  
36 criteria as the director adopts by rule but shall not be less than  
37 (~~five~~): Twenty-five thousand dollars if the contractor performs farm

1 labor contracting activities with respect to no more than twenty  
2 agricultural workers; fifty thousand dollars if the contractor performs  
3 farm labor contracting activities with respect to twenty-one to fifty  
4 agricultural workers; and seventy-five thousand dollars if the  
5 contractor performs farm labor contracting activities with respect to  
6 more than fifty agricultural workers. The bond shall be payable to the  
7 state of Washington and be conditioned on payment of sums legally owing  
8 ((~~under contract~~)) to an agricultural ((~~employee~~)) worker. The  
9 aggregate liability of the surety upon such bond for all claims which  
10 may arise thereunder shall not exceed the face amount of the bond.

11 (2) The amount of the bond may be raised or additional security  
12 required by the director, upon his or her own motion or upon petition  
13 to the director by any person, when it is shown that the security or  
14 bond is insufficient to satisfy the contractor's potential liability  
15 for the licensed period.

16 (3) No surety insurer may provide any bond, undertaking,  
17 recognizance, or other obligation for the purpose of securing or  
18 guaranteeing any act, duty, or obligation, or the refraining from any  
19 act with respect to a contract using the services of a farm labor  
20 contractor unless the farm labor contractor has made application for or  
21 has a valid license issued under RCW 19.30.030 at the time of issuance  
22 of the bond, undertaking, recognizance, or other obligation.

23 (4) Surety bonds may not be canceled or terminated during the  
24 period in which the bond is executed unless thirty days' notice is  
25 provided by the surety to the department. The bond is written for a  
26 one-year term and may be renewed or extended by continuation  
27 certification at the option of the surety.

28 (5) In lieu of the surety bond required by this section, the  
29 contractor may file with the director a deposit consisting of cash or  
30 other security acceptable to the director. The deposit shall not be  
31 less than ((~~five~~)): Twenty-five thousand dollars ((~~in value~~)) if the  
32 contractor performs farm labor contracting activities with respect to  
33 no more than twenty agricultural workers; fifty thousand dollars if the  
34 contractor performs farm labor contracting activities with respect to  
35 twenty-one to fifty agricultural workers; and seventy-five thousand  
36 dollars if the contractor performs farm labor contracting activities  
37 with respect to more than fifty agricultural workers. The security  
38 deposited with the director in lieu of the surety bond shall be

1 returned to the contractor at the expiration of three years after the  
2 farm labor contractor's license has expired or been revoked if no legal  
3 action has been instituted against the contractor or on the security  
4 deposit at the expiration of the three years.

5 (6) If a contractor has deposited a bond with the director and has  
6 failed to comply with the conditions of the bond as provided by this  
7 section, and has departed from this state, service may be made upon the  
8 surety as prescribed in RCW 4.28.090.

9 **Sec. 6.** RCW 19.30.045 and 1987 c 216 s 2 are each amended to read  
10 as follows:

11 (1) Any person(~~(7)~~) having a claim for (~~wages pursuant to~~) any  
12 violation of this chapter may bring suit upon the surety bond or  
13 security deposit filed by the contractor pursuant to RCW 19.30.040, in  
14 any court of competent jurisdiction of the county in which the claim  
15 arose, or in which either the claimant or contractor resides.

16 (2) The right of action is assignable in the name of the director  
17 or any other person.

18 **Sec. 7.** RCW 19.30.050 and 1985 c 280 s 5 are each amended to read  
19 as follows:

20 Any person may protest the grant or renewal of a license under this  
21 section. In accordance with the procedures in chapter 34.05 RCW, the  
22 director shall deny an application for a license to (~~operate~~) act as  
23 a farm labor contractor (~~shall be denied~~) if the director determines  
24 that:

25 (1) (~~To any person who~~) The applicant has made any material  
26 misrepresentations in his or her application;

27 (2) The applicant has failed to fully satisfy outstanding debts  
28 owed to workers in relation to labor protection laws;

29 (3) The applicant sells or proposes to sell intoxicating liquors in  
30 a building or on premises where he or she operates or proposes to  
31 operate as a farm labor contractor(~~(7)~~); or

32 (~~(2) To a person whose license~~) (4) Any prior farm labor  
33 contractor license of the applicant's has been revoked within three  
34 years from the date of application.

1       **Sec. 8.** RCW 19.30.060 and 1997 c 58 s 846 are each amended to read  
2 as follows:

3       (1) Any person may protest the grant, continuation, or renewal of  
4 a license under this section. In accordance with the procedures in  
5 chapter 34.05 RCW, the director may revoke(~~(7)~~) or suspend(~~(7~~~~-or-refuse~~  
6 to issue or renew any)) a license ((when it is shown)) to act as a farm  
7 labor contractor if the director determines that:

8       (~~(1)~~) (a) The farm labor contractor or any agent of the  
9 contractor has (~~violated or failed to comply with any of the~~  
10 ~~provisions of this chapter~~) engaged in actions that would result in  
11 the denial or refusal of a license under RCW 19.30.050;

12       (~~(2) The farm labor contractor has made any misrepresentations or~~  
13 ~~false statements in his or her application for a license;~~

14       (~~3~~) (b) The conditions under which the license was issued have  
15 changed or no longer exist;

16       (~~(4)~~) (c) The farm labor contractor, or any agent of the  
17 contractor, has violated or willfully aided or abetted any person in  
18 the violation of, or failed to comply with, any law of the state of  
19 Washington regulating employment in agriculture, the payment of wages  
20 to (~~farm employees~~) agricultural workers, or the conditions, terms,  
21 or places of employment affecting the health and safety of (~~farm~~  
22 ~~employees~~) agricultural workers, which is applicable to the business  
23 activities, or operations of the contractor in his or her capacity as  
24 a farm labor contractor; or

25       (~~(5)~~) (d) The farm labor contractor or any agent of the  
26 contractor has in recruiting (~~farm labor~~) agricultural workers  
27 solicited or induced the violation of any then existing contract of  
28 employment of such (~~laborers; or~~

29       (~~6) The farm labor contractor or any agent of the contractor has an~~  
30 ~~unsatisfied judgment against him or her in any state or federal court,~~  
31 ~~arising out of his or her farm labor contracting activities)) workers.~~

32       (2) The director may order summary suspension of a license to act  
33 as a farm labor contractor in accordance with RCW 34.05.422.

34       (3) The director shall immediately suspend the license (~~or~~  
35 ~~certificate~~) of a person who has been certified pursuant to RCW  
36 74.20A.320 by the department of social and health services as a person  
37 who is not in compliance with a support order (~~or a residential or~~  
38 ~~visitation order~~). If the person has continued to meet all other



1 requirements for reinstatement during the suspension, reissuance of the  
2 license (~~or certificate~~) shall be automatic upon the director's  
3 receipt of a release issued by the department of social and health  
4 services stating that the licensee is in compliance with the order.

5 **Sec. 9.** RCW 19.30.110 and 1985 c 280 s 9 are each amended to read  
6 as follows:

7 (1) Every person acting as a farm labor contractor shall:

8 ~~((1))~~ (a) Carry a current farm labor contractor's license at all  
9 times and exhibit it to all persons with whom the contractor intends to  
10 deal in the capacity of a farm labor contractor prior to so dealing.

11 ~~((2))~~ (b) Disclose to every person with whom he or she deals in  
12 the capacity of a farm labor contractor the amount of his or her bond  
13 and the existence and amount of any claims against the bond.

14 ~~((3))~~ (c) File at the United States post office serving the  
15 address of the contractor, as noted on the face of the farm labor  
16 contractor's license, a correct change of address immediately upon each  
17 occasion the contractor permanently moves his or her address, and  
18 notify the director within ten days after an address change is made.

19 ~~((4))~~ (2) Every person acting as a farm labor contractor and  
20 every agricultural association and agricultural employer performing  
21 farm labor contracting activities with respect to agricultural guest  
22 workers shall:

23 (a) Promptly when due, pay or distribute to the individuals  
24 entitled thereto all moneys or other things of value entrusted to the  
25 contractor, association, or employer by any third person for such  
26 purpose.

27 ~~((5))~~ (b) Comply with the terms and provisions of (~~all legal and~~  
28 ~~valid agreements and~~) any working arrangement, whether oral or  
29 written, entered into between the contractor, association, or employer  
30 and all persons recruited or hired to work for that person or an  
31 agricultural employer, and comply with all contracts entered into  
32 between the (~~contractor in the capacity of a farm labor~~) contractor,  
33 association, or employer and third persons.

34 ~~((6))~~ (c) File information regarding work offers with the nearest  
35 employment service office, such information to include wages and work  
36 to be performed and any other information prescribed by the director.

1           ((+7)) (d) On a form prescribed by the director, furnish to each  
2 worker, at the time of hiring, recruiting, soliciting, or supplying,  
3 whichever occurs first, a written statement in English and any other  
4 language common to workers who are not fluent or literate in English  
5 that contains a description of:

6           ((+a)) (i) The compensation to be paid and the method of computing  
7 the rate of compensation;

8           ((+b)) (ii) The terms and conditions of any bonus offered,  
9 including the manner of determining when the bonus is earned;

10           ((+c)) (iii) The terms and conditions of any loan made to the  
11 worker;

12           ((+d)) (iv) The conditions of any transportation, housing, board,  
13 health, and day care services or any other employee benefit to be  
14 provided by the ~~((farm labor))~~ contractor, association, or employer or  
15 by his or her agents, and the costs to be charged for each of them;

16           ((+e)) (v) The terms and conditions of employment, including the  
17 approximate length of season or period of employment and the  
18 approximate starting and ending dates thereof, and the crops on which  
19 and kinds of activities in which the worker may be employed, and any  
20 production standards that an agricultural worker will be required to  
21 meet in order to retain employment;

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

24           ((+g)) (vii) The place of employment;

25           ((+h)) (viii) The name and address of the owner of all operations,  
26 or the owner's agent, where the worker will be working as a result of  
27 being recruited, solicited, supplied, or employed by the ~~((farm labor))~~  
28 contractor, association, or employer;

29           ((+i)) (ix) The existence of a labor dispute at the worksite;

30           ((+j)) (x) The name and address of the ~~((farm labor))~~ contractor,  
31 association, or employer;

32           ((+k)) (xi) The existence of any arrangements with any owner or  
33 agent of any establishment at the place of employment under which the  
34 ~~((farm labor))~~ contractor, association, or employer is to receive a fee  
35 or any other benefit resulting from any sales by such establishment to  
36 the workers; and

37           ((+l)) (xii) The name and address of the surety on the

1 contractor's bond and the workers' right to claim against the bond, if  
2 applicable.

3 ((+8)) (e) Disclose to every person with whom he or she deals when  
4 performing farm labor contracting activities that no fees may be  
5 charged for recruitment by the contractor, association, or employer, or  
6 by any other person with whom that person has an agreement.

7 (f) Furnish to the worker each time the worker receives a  
8 compensation payment from the ((farm-labor)) contractor, association,  
9 or employer, a written statement itemizing the total payment and the  
10 amount and purpose of each deduction therefrom, hours worked, rate of  
11 pay, and pieces done if the work is done on a piece rate basis, and if  
12 the work is done under the Service Contract Act (41 U.S.C. Secs. 351  
13 through 401) or related federal or state law, a written statement of  
14 any applicable prevailing wage.

15 ((+9)) (g) With respect to each worker recruited, solicited,  
16 employed, supplied, or hired by the ((farm-labor)) contractor,  
17 association, or employer:

18 ((+a)) (i) Make, keep, and preserve for three years a record of  
19 the following information:

20 ((+i)) (A) The basis on which wages are paid;

21 ((+ii)) (B) The number of piecework units earned, if paid on a  
22 piecework basis;

23 ((+iii)) (C) The number of hours worked;

24 ((+iv)) (D) The total pay period earnings;

25 ((+v)) (E) The specific sums withheld and the purpose of each sum  
26 withheld; and

27 ((+vi)) (F) The net pay; and

28 ((+b)) (ii) Provide to any other ((farm-labor)) contractor,  
29 association, or employer and to any user of farm labor for whom he or  
30 she recruits, solicits, supplies, hires, or employs workers copies of  
31 all records, with respect to each such worker, which the contractor,  
32 association, or employer is required by this chapter to make, keep, and  
33 preserve. The recipient of such records shall keep them for a period  
34 of three years from the end of the period of employment. When  
35 necessary to administer this chapter, the director may require that any  
36 ((farm-labor)) contractor, association, or employer provide the  
37 director with certified copies of his or her payroll records for any  
38 payment period.

1       (3) The recordkeeping requirements of this chapter shall be met if  
2 either the (~~farm labor~~) contractor, association, or employer or any  
3 user of the contractor's services makes, keeps, and preserves for the  
4 requisite time period the records required under this section, and so  
5 long as each worker receives the written statements specified in  
6 subsection (~~(+8)~~) (2)(f) of this section.

7       **Sec. 10.** RCW 19.30.120 and 1985 c 280 s 10 are each amended to  
8 read as follows:

9       No person (~~acting as a~~) performing farm labor (~~contractor~~)  
10 contracting activities shall:

11       (1) Make any misrepresentation or false statement in an application  
12 for a license.

13       (2) Make or cause to be made, to any person, any false, fraudulent,  
14 or misleading representation, or publish or circulate or cause to be  
15 published or circulated any false, fraudulent, or misleading  
16 information concerning the terms or conditions or existence of  
17 employment at any place or places, or by any person or persons, or of  
18 any individual or individuals.

19       (3) Send or transport any worker to any place where the farm labor  
20 contractor knows a strike or lockout exists.

21       (4) Do any act in the capacity of a farm labor contractor, or cause  
22 any act to be done, which constitutes a crime involving moral turpitude  
23 under any law of the state of Washington.

24       (5) Charge, directly or indirectly, any fee to an agricultural  
25 worker which relates to recruiting, soliciting, or supplying an  
26 agricultural worker, or allow any such fee to be charged by another  
27 person or entity.

28       **Sec. 11.** RCW 19.30.170 and 1987 c 216 s 5 are each amended to read  
29 as follows:

30       (1) After filing a notice of a claim with the director, in addition  
31 to any other penalty provided by law, any person aggrieved by a  
32 violation of this chapter or any rule adopted under this chapter may  
33 bring suit in any court of competent jurisdiction of the county in  
34 which the claim arose, or in which either the plaintiff or respondent  
35 resides, without regard to the amount in controversy and without regard  
36 to exhaustion of any alternative administrative remedies provided in

1 this chapter. No such action may be commenced later than three years  
2 after the date of the violation giving rise to the right of action. In  
3 any such action the court may award to the prevailing party, in  
4 addition to costs and disbursements, reasonable attorney fees at trial  
5 and appeal.

6 (2) In any action under subsection (1) of this section, if the  
7 court finds that the respondent has violated this chapter or any rule  
8 adopted under this chapter, it (~~(may)~~) shall award (~~(damages up to and~~  
9 ~~including an amount equal to the amount of)~~) actual damages, or  
10 statutory damages of five hundred dollars per plaintiff per violation,  
11 whichever is greater(~~(, or other equitable relief)~~).

12 (3) Without regard to other remedies provided in this chapter, a  
13 person having a claim against the farm labor contractor for any  
14 violation of this chapter may bring suit against the farm labor  
15 contractor and the surety bond or security deposit filed by the  
16 contractor pursuant to RCW 19.30.040, in any court of competent  
17 jurisdiction of the county in which the claim arose, or in which either  
18 the claimant or contractor resides.

19 (4) An action upon the bond or security deposit shall be commenced  
20 by serving and filing the summons and complaint within three years from  
21 the date of expiration or cancellation of the bond or expiration or  
22 cancellation of the license, whichever is sooner, or in the case of a  
23 security deposit, within three years of the date of expiration or  
24 revocation of the license.

25 (5) A copy of the summons and complaint in any such action shall be  
26 served upon the director at the time of commencement of the action and  
27 the director shall maintain a record, available for public inspection,  
28 of all suits so commenced. Such service shall constitute service on  
29 the farm labor contractor and the surety for suit upon the bond and the  
30 director shall transmit the complaint or a copy thereof to the  
31 contractor at the address listed in his or her application and to the  
32 surety within forty-eight hours after it has been received.

33 (6) The surety upon the bond may, upon notice to the director and  
34 the parties, tender to the clerk of the court having jurisdiction of  
35 the action an amount equal to the claims or the amount of the bond less  
36 the amount of judgments, if any, previously satisfied therefrom and to  
37 the extent of such tender the surety upon the bond shall be exonerated.

1 (7) If the actions commenced and pending at any one time exceed the  
2 amount of the bond then unimpaired, the claims shall be satisfied from  
3 the bond in the following order:

4 (a) Wages, including employee benefits;

5 (b) Other ~~((contractual))~~ damages owed to the ~~((employee))~~  
6 agricultural worker;

7 (c) Any costs and attorneys' fees the ~~((claimant))~~ agricultural  
8 worker may be entitled to recover by contract or statute.

9 (8) If any final judgment impairs the bond so furnished so that  
10 there is not in effect a bond undertaking in the full amount prescribed  
11 by the director, the director shall suspend the license of the  
12 contractor until the bond liability in the required amount unimpaired  
13 by unsatisfied judgment claims has been furnished. If such bond  
14 becomes fully impaired, a new bond must be furnished.

15 (9) A claimant against a security deposit shall be entitled to  
16 damages under subsection (2) of this section. If the farm labor  
17 contractor has filed other security with the director in lieu of a  
18 surety bond, any person having an unsatisfied final judgment against  
19 the contractor for any violation of this chapter may execute upon the  
20 security deposit held by the director by serving a certified copy of  
21 the unsatisfied final judgment by registered or certified mail upon the  
22 director. Upon the receipt of service of such certified copy, the  
23 director shall pay or order paid from the deposit, through the registry  
24 of the court which rendered judgment, towards the amount of the  
25 unsatisfied judgment. The priority of payment by the director shall be  
26 the order of receipt by the director, but the director shall have no  
27 liability for payment in excess of the amount of the deposit.

28 (10) An agricultural employer shall have the liability of a farm  
29 labor contractor or an agricultural association to any agricultural  
30 worker if:

31 (a) No solvent farm labor contractor who would be liable to the  
32 agricultural worker is subject to service of process under the laws of  
33 the state of Washington; or

34 (b) The court determines that it is highly probable that the  
35 agricultural worker would be unable to enforce a judgment against the  
36 farm labor contractor or an agricultural association.

1       **Sec. 12.** RCW 19.30.190 and 1985 c 280 s 13 are each amended to  
2 read as follows:

3       No ~~((farm labor contractor or agricultural employer))~~ person may  
4 intimidate, threaten, coerce, blackmail, discharge, or in any other  
5 manner discriminate against any ~~((employee))~~ agricultural worker  
6 because:

7       (1) The ~~((employee))~~ agricultural worker has made or is about to  
8 make a claim against ~~((the))~~ a farm labor contractor or ~~((agricultural~~  
9 ~~employer))~~ a person performing farm labor contracting activities for  
10 ~~((compensation for the employee's personal services))~~ monetary damages  
11 or injunctive relief based on the worker's employment or promised  
12 employment.

13       (2) The ~~((employee))~~ agricultural worker has ~~((caused to be))~~  
14 instituted or is about to institute any proceedings ~~((under or))~~  
15 related to ~~((RCW 19.30.180))~~ this chapter.

16       (3) The ~~((employee))~~ agricultural worker has testified or is about  
17 to testify in any ~~((such))~~ proceedings related to this chapter.

18       (4) The ~~((employee))~~ agricultural worker has discussed or consulted  
19 with anyone concerning the ~~((employee's))~~ worker's rights ~~((under))~~  
20 related to this chapter.

21       **Sec. 13.** RCW 19.30.200 and 2000 c 171 s 48 are each amended to  
22 read as follows:

23       No person may utilize the services of any farm labor contractor to  
24 supply any agricultural worker unless the person first takes reasonable  
25 steps to determine that the farm labor contractor possesses a valid  
26 license. Any person who ~~((knowingly uses the services of an unlicensed~~  
27 ~~farm labor contractor))~~ violates this section shall be personally,  
28 jointly, and severally liable with the person acting as a farm labor  
29 contractor to the same extent and in the same manner as provided in  
30 this chapter. ~~((In making determinations under this section, any user~~  
31 ~~may rely))~~ The only defense that may be asserted to avoid liability  
32 under this section is that the person relied upon either the license  
33 issued by the director to the farm labor contractor under RCW 19.30.030  
34 or the director's representation that such contractor is licensed as  
35 required by this chapter.

1        NEW SECTION.   **Sec. 14.**   This act takes effect November 1, 2009.

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