

No. 1978-93

AN ACT

SB 967

Establishing minimum wages and providing for hours of labor of seasonal farm workers and requiring certain records; providing for inspection of seasonal farm labor camps; providing for the promulgation of rules and regulations; establishing rights of access and egress, providing penalties; and repealing certain acts.

TABLE OF CONTENTS

Chapter 1. Preliminary Provisions

- Section 101. Short title.
- Section 102. Declaration of intent.
- Section 103. Definitions.

Chapter 2. Wages and Hours

- Section 201. Minimum wages.
- Section 202. Piece rates.
- Section 203. Employment of minors.
- Section 204. Discrimination on account of sex prohibited.
- Section 205. Records required; notice to workers.
- Section 206. Wage payment.
- Section 207. Hours of labor.

Chapter 3. Regulations and Inspections

- Section 301. Rules and regulations.
- Section 302. Inspections and entry.
- Section 303. Permit to operate a seasonal farm labor camp.
- Section 304. Enforcement orders.
- Section 305. Review of department actions.
- Section 306. Civil penalties.
- Section 307. Civil remedies.
- Section 308. Drinking water; toilet facilities.

Chapter 4. Access and Entry

- Section 401. Tenancy rights.
- Section 402. Interference prohibited.
- Section 403. Privilege persons.

Chapter 5. Registration of Farm Labor contractors

- Section 501. Annual registration required.
- Section 502. Registration; application; renewal.
- Section 503. Qualifications of registrants.
- Section 504. Agents exempt from registration; employment agencies.

Section 505. Farm labor contractors and agents; prohibited activities.

Section 506. Secretary of Labor and Industry, powers and duties.

Chapter 6. Construction, Repeals, Penalties, Effective Date

Section 601. Administrative procedure.

Section 602. Saving provision.

Section 603. Continuation of regulations.

Section 604. Pending proceedings.

Section 605. Repeals.

Section 606. Criminal penalties.

Section 607. Effective date.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

CHAPTER 1 PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the "Seasonal Farm Labor Act."

Section 102. Declaration of intent.

It is declared to be the intent of the Legislature by this act to improve the conditions of seasonal farm workers by establishing standards for their wages, hours, conditions of work, housing, sanitation, food facilities, fire protection and safety; by requiring permits for the operation and occupancy of seasonal farm labor camps; by making unlawful the practices by which such workers may be isolated from the community and from services to which they are by law entitled; and by limiting child labor among such workers.

Section 103. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Employer." Every individual, firm, partnership, association, trust, corporation, receiver or other officer of a court of this Commonwealth, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to any employee, employing or permitting to work any seasonal farm worker in this Commonwealth, and includes every farmer, grower, nurseryman or landowner who employs, or on whose premises or in whose interest is employed, any seasonal farm worker.

"Farm labor contractor." Any person who, for payment, wages, salary, fees or other consideration, either for himself or on behalf of another person, recruits, solicits, hires, furnishes or transports five or more seasonal farm workers (excluding members of his immediate family) in any calendar year for employment in agriculture or in agriculture-related

industry. In any case in which a firm, partnership, association, corporation or organization engages in such activities for the purpose of supplying seasonal farm workers solely for its own operation, the term "farm labor contractor" means that officer, official, supervisor or employee most directly responsible for such activity. Such term shall not include:

(1) any person, firm, partnership, association or corporation which is the holder of a valid and current license pursuant to the act of July 31, 1941 (P.L.616, No.261), known as the "Employment Agency Law";

(2) any nonprofit charitable organization, public or nonprofit private educational institution, or similar organization;

(3) an individual farmer, grower, nurseryman or landowner who engages in such activity for the purpose of supplying seasonal farm workers solely for his own operation, except that an employee of an individual farmer who engages in such activity on such a farmer's behalf shall be considered a "farm labor contractor" for the purposes of this act; or

(4) any person who engages in such activity for the purpose of obtaining seasonal farm workers of any foreign nation for employment in the United States if the employment is subject to:

(i) an agreement between the United States and such foreign nation; or

(ii) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for through the United States by an instrumentality of such foreign nation.

"Person." Any individual, firm, partnership, association, trust, corporation, receiver or any other organization, and in the case of a corporation, association or other organization, shall include any officer, director, manager, agent or employee who has knowledge of any conduct or condition, and has supervisory responsibility over such conduct or condition.

"Seasonal farm labor." Labor or employment engaged in by an individual defined in this act as a seasonal farm worker.

"Seasonal farm labor camp." Any living quarters, including, without limitation, housing accommodations, motel, rooming house, dormitory, or mobile home, maintained directly or indirectly in connection with any work of, or place where work is being performed by, seasonal farm workers whether or not rent is paid or reserved for use or occupancy; includes the immediate premises or site upon which any such building or buildings are situated; includes the facilities necessary to or associated with any such building or buildings; and includes any area or site set aside and provided for camping of seasonal farm workers; but shall not include buildings reserved exclusively for the personal use of the landowner.

"Seasonal farm worker." An individual employed in raising, cultivating, fertilizing, seeding, planting, pruning, harvesting, gathering,

washing, sorting, weighing or handling, drying, packing, packaging, grading, storing or delivering to market or to storage or to a carrier for transportation to market in its unmanufactured state, any agricultural commodity as defined in the act of September 20, 1961 (P.L. 1541, No. 657), known as the "Pennsylvania Agricultural Commodities Marketing Act of 1968," or any farm product as defined in 1 Pa.C.S. § 1991 (relating to definitions) on a seasonal or other temporary basis; includes every individual, irrespective of his primary employment, while he performs agricultural labor on a seasonal or other temporary basis, except any person who commutes daily from his permanent residence to the work site unless transportation is provided such a person by a farm labor contractor; and, other provisions of this act to the contrary notwithstanding, includes any person residing in living quarters owned, leased or operated by an employer or a farm labor contractor and occupied by four or more unrelated persons.

"Secretary." In Chapters 2 and 5, the Secretary of Labor and Industry, and in Chapter 3, the Secretary of Environmental Resources, except where clearly stated otherwise.

CHAPTER 2 WAGES AND HOURS

Section 201. Minimum wages.

(a) Except as may otherwise be provided under this chapter, every employer of seasonal farm labor shall pay to each seasonal farm worker wages at a rate which is as great or greater than the minimum hourly wage rate in force under the act of January 17, 1968 (P.L. 11, No. 5), known as "The Minimum Wage Act of 1968," at the time payment is due to the seasonal farm worker.

(b) Such wages shall be paid at such rates notwithstanding any contrary provision or exclusion in The Minimum Wage Act of 1968, relating to labor on a farm.

(c) No employer shall be required to pay wages at a rate greater than that provided for in subsection (a) even if the number of hours worked by any seasonal farm worker in any one workweek exceeds 40 hours.

Section 202. Piece rates.

(a) Notwithstanding the provisions of section 201, an employer of seasonal farm labor may adopt a piece rate or rates, or differential piece rate or rates, as a basis for, or a partial or additional basis for, the compensation of seasonal farm workers in his employment: Provided, That any such piece rate or rates, or differential piece rate or rates, shall yield to each seasonal farm worker in his employment, in each and every workweek, not less than the applicable minimum hourly wage rate which such seasonal farm worker would have received pursuant to the provisions of section 201 in the same workweek.

(b) Every employer of seasonal farm labor who adopts a piece rate or

rates, or differential piece rate or rates, as a basis for, or a partial or additional basis for, the compensation of seasonal farm workers in his employment, shall apply such piece rate or rates to the work done by every minor in his employment in the same manner as such rates are applied to adult workers, and shall compensate such minor at such rates as they are applied to work done by adult workers, subject to the minimum wage provisions of section 201.

Section 203. Employment of minors.

(a) No minor under 14 years of age shall be required to work, or penalized for failure to work, as a seasonal farm worker, except that this subsection shall not apply to any member of an employer's immediate family.

(b) Every minor from the ages of 14 to 17 years inclusive, who is employed or permitted to work as a seasonal farm worker, every employer of such minor, and every school district wherein such minor is so employed, shall be subject to the provisions of the act of May 13, 1915 (P.L.286, No.177), known as the "Child Labor Law," and to the provisions of the act of June 23, 1931 (P.L.923, No.309) (relating to child labor), except that no such minor shall be employed between the hours of seven o'clock in the morning and one hour following the end of the school day or any regular school day of the school district wherein he is then a resident, whether or not such minor is registered as a pupil in such school district.

Section 204. Discrimination on account of sex prohibited.

No employer of seasonal farm labor shall discriminate within the purview of his activities between workers on the basis of sex by paying wages to workers at a rate less than the rate at which he pays wages to workers of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to an established system which measures earnings by quantity or quality of production. The Secretary of Labor and Industry shall have the power, and it shall be his duty to carry out and administer the provisions of this section pursuant to the act of December 17, 1959 (P.L.1913, No.694), known as the "Equal Pay Law".

Section 205. Records required; notice to workers.

(a) Every employer of seasonal farm labor and every farm labor contractor shall make, keep and preserve such records, including the Social Security number of the persons employed by him, or of the persons contracted for or recruited by him, or employed under his supervision, and of the wages, hours, wage rate or rates, piece rate or rates, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom as shall be required by Federal law or regulation, by Commonwealth law or regulation, and by the local taxing body. Such records shall include satisfactory evidence of timely payment of wages, either by receipt signed or by check endorsed by the payee.

(b) Every employer of seasonal farm labor shall furnish to each seasonal farm worker, at the time of payment of wages, salaries or other compensation for time, or labor, or work performed, a written statement in such manner and in such form as may be prescribed by the Department of Revenue, showing the amount of compensation paid by the employer to the seasonal farm worker, the wage rate or rates, hours worked, piece rate or rates, and units of work performed if applicable, the computation of gross compensation, the amounts deducted or withheld for every purpose, and such other information as the Department of Revenue shall prescribe. Section 206. Wage payment.

(a) Notwithstanding any contrary provisions of the act of July 14, 1961 (P.L.637, No.329), known as the "Wage Payment and Collection Law," every employer of seasonal farm labor shall pay directly all wages due to every seasonal farm worker, on account of time, labor or employment in any calendar week, including payment for piece rates, or differential piece rates, excepting only lawful deductions, on regular paydays designated in advance by the employer but in no case more than seven days after the end of such calendar week.

(b) Wages shall be paid in lawful money of the United States or by check.

(c) Notwithstanding any provisions of subsection (a), or of any other law, every employer of seasonal farm labor, pursuant to subsection (b), shall pay in full all wages or other compensation for time, labor and employment due and payable to every seasonal farm worker by the end of the next business day after termination of the period of employment for which the seasonal farm worker was employed: Provided, however, That such payment must be made before the closing of the seasonal farm labor camp.

(d) No employer of seasonal farm labor shall deduct, withdraw, withhold or otherwise retain from the wages of any seasonal farm worker any amount on account of debts accrued or anticipated, regardless of purposes or circumstances: Provided, That nothing in this subsection shall prohibit any employer of seasonal farm labor from deducting or withholding from any wages paid such amounts as may be required on account of any tax, or of any Social Security payment, or of dues payable to a recognized labor organization, or any contribution or voluntary subscription for the support of a charitable organization or institution or on account of any premium or other charge due from the seasonal farm worker for group insurance pursuant to any contract with any insurance company, or with any nonprofit corporation providing medical, osteopathic, dental or legal services, or reasonable charges for housing and meals provided by the employer, which the seasonal farm worker has authorized in writing, or of any amount or partial amount of any advance payment by the employer to the seasonal farm worker against subsequent earnings pursuant to a contract or prior agreement with such seasonal farm worker.

(e) No employer of seasonal farm labor shall designate as his agent or shall permit to act or perform as his agent, with respect to the payment of wages or other compensation, any farm labor contractor or any person engaged in activities as a farm labor contractor; except as provided in subsection (g); and except that this subsection shall not apply to any person, firm, partnership, association or corporation which is the holder of a valid and current license pursuant to the act of July 31, 1941 (P.L. 616, No. 261), known as the "Employment Agency Law," or the farmer, grower, nurseryman or landowner acting as his own farm labor contractor.

(f) No provision of this section shall be construed to deprive any seasonal farm worker of any right or privilege to which he is or would be entitled under any general law of the Commonwealth, or by any rules or regulations promulgated pursuant to any such law.

(g) If an employer of seasonal farm workers furnishes a statement to each seasonal farm worker including the wage rate or rates, piece rate or rates and other conditions and practices of employment which have been agreed upon prior to hiring and also posts such statement in a place easily accessible to the seasonal farm workers, then the employer may allow a farm labor contractor to act as his agent. If the employer decides to allow a farm labor contractor to act as his agent, then for the purposes of section 205(b) and section 206 the farm labor contractor shall be considered to be the employer.

Section 207. Hours of labor.

(a) No seasonal farm worker shall be required to work or be penalized for failure to work on any premises for more than six days in any one week, or more than 48 hours in any one week, or more than ten hours in any one day.

(b) Whenever any seasonal farm workers shall be employed or permitted to work on the premises of more than one employer in any one week or in any one day, the aggregate number of hours during which he shall be required to work on all such premises shall not exceed 48 in any one week or ten in any one day.

(c) No seasonal farm worker shall be required to work for more than five hours continuously on any premises without a meal or rest period of at least 30 minutes, which period shall not be considered a part of the hours of labor, and no period of less than 30 minutes shall be deemed to interrupt a continuous period of work.

CHAPTER 3 REGULATIONS AND INSPECTIONS

Section 301. Rules and regulations.

(a) The Environmental Quality Board, subject to the provisions for receipt of prior comment from the Seasonal Farm Labor Committee established in subsection (b), shall adopt, amend and repeal such rules and regulations as it deems necessary or appropriate to assure safe or healthful employment and places of employment, to provide safe, healthful and

sanitary seasonal farm labor camps, including standards for housing, sanitation, food facilities, fire protection and safety, and to establish criteria for carrying out the functions of the Department of Environmental Resources under this act. The Seasonal Farm Labor Committee shall submit comments on existing rules and regulations to the secretary and the Environmental Quality Board.

(b) There is hereby established in the Department of Environmental Resources a Seasonal Farm Labor Committee consisting of the Secretary of Environmental Resources or his designee, who shall be chairman, the Secretary of Agriculture or his designee, the Secretary of Labor and Industry or his designee, the Secretary of Health or his designee and six persons appointed by the Governor for terms of four years, three of whom shall be selected from lists submitted by employer organizations and shall be employers of seasonal farm laborers or persons with experience in using seasonal farm labor for agricultural purposes, and three of whom shall be representatives of Statewide organizations or agencies actively engaged in the welfare of seasonal farm workers. Of the members first appointed, one shall serve one year, one shall serve two years, two shall serve three years and two shall serve four years. The public members shall be reimbursed for necessary expenses incurred in performing their duties under this section.

(c) The Environmental Quality Board shall have no power to adopt rules or regulations for seasonal farm labor or seasonal farm labor camps until receipt of written comments on the proposed rules or regulations from the Seasonal Farm Labor Committee, or until 60 days have expired from the date when such rules and regulations were submitted by the secretary to the committee for their comments. Existing rules and regulations shall continue until modified, superseded or repealed by the Environmental Quality Board under this section.

Section 302. Inspections and entry.

(a) Each seasonal farm labor camp shall be inspected by the Department of Environmental Resources from time to time during a calendar year. At least one such inspection shall be made prior to the issuance or renewal of a permit for such camps. Inspectors shall be authorized to consult with and to assist camp owners and operators with respect to the requirements of this act, the rules and regulations or permits issued pursuant to this act, and other relevant statutes and ordinances. Inspectors shall ascertain and report to the department the violations of this act or of rules and regulations or permits issued thereunder, or of any other act, rules or regulations apparent in the course of any inspection. The inspector shall provide the camp owner with a copy of the inspection sheet immediately following the inspection.

(b) The secretary and his authorized officers and agents, upon proper identification, may for the purpose of this act:

(1) enter public or private property to determine whether there exists any camp to which this act applies;

(2) enter and inspect all camps wheresoever situated, and inspect all sites, accommodations, equipment or facilities associated therewith; and

(3) enter and inspect the immediate land surrounding any camp, excluding that reserved solely for the owner's personal use, to determine whether the requirements of this act, any rules and regulations, permits or orders issued pursuant to this or any other act are being complied with.

It shall be unlawful for any person to prevent, interfere with, or hinder the secretary or his authorized officers and agents when, after presentation of proper identification, such officer or agent attempts to exercise any power authorized by this subsection.

(c) Any seasonal farm worker or representative of seasonal farm workers who believes that a violation of this act, rules and regulations, permits or orders issued pursuant to this act or of any other act, may request an inspection by giving notice to the secretary or his authorized representative of such violation. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the seasonal farm worker or representative of seasonal farm workers. A copy shall be provided the employer or his agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual seasonal farm workers referred to therein shall not appear in such copy. If upon receipt of such notification the secretary or his authorized representative determines there are reasonable grounds to believe that such violation exists, he shall make an inspection in accordance with the provisions of this subsection as soon as practicable to determine if such violation exists. If the secretary institutes enforcement proceedings on the basis of a notice provided for in this subsection, he shall in a timely fashion inform the employer of the name of the person who filed the notice. If the secretary determines there are no reasonable grounds to believe that a violation exists he shall notify the seasonal farm workers or representative of the seasonal farm workers in writing of such determination.

Section 303. Permit to operate a seasonal farm labor camp.

(a) It shall be unlawful for any person who owns lands, buildings or facilities to allow the occupancy, operation or use thereof as a seasonal farm labor camp without first obtaining a permit authorizing the operation and occupancy of said seasonal farm labor camp from the department.

Application for a permit to operate and occupy a seasonal farm labor camp shall be made at least 60 days prior to the first date of occupancy, or within 60 days of the effective date of this act for any seasonal farm labor camp which is occupied on the effective date of this act. The application shall specify the period for which permission to occupy the seasonal farm labor camp is requested, the date when the camp will be ready for inspection which date shall be at least 45 days prior to the first date for which permission to occupy is requested, the maximum number of

occupants for which facilities will be provided and such other information as may be required by the department to properly evaluate the application.

The department shall not issue or renew a permit authorizing the occupancy of a seasonal farm labor camp until an inspection is completed and the department finds that the camp facilities comply with the regulations applicable to seasonal farm labor camps adopted under this act and will not result in the exposure of seasonal farm workers or their families to unhealthy, unsanitary or unsafe conditions; provided, however, in the event the department fails to conduct an inspection within 60 days following receipt of a complete application for a permit to occupy said camp, a permit to occupy shall be deemed to have been issued under this act effective until such an inspection is conducted and the department acts upon the permit application.

Permits issued under this section shall be limited to the term of occupancy requested, but not to exceed one year, and shall specify the maximum number of occupants who may occupy the approved camp facilities.

(b) The department may revoke a permit issued pursuant to subsection (a) prior to the expiration of said permit if, after inspection, the department finds a violation of the permit, the act or any applicable standard or any condition at the seasonal farm labor camp which would provide sufficient reason for refusing to issue or renew such permit. Revocation shall be written notice to the permittee, which shall be served either personally or by certified mail. The notice shall specify the reasons for revocation and shall set a date by which the violation or unhealthful, unsanitary or unsafe condition shall be corrected or the seasonal farm labor camp vacated. The date for vacating a seasonal farm labor camp shall be at least ten days after the issuance of the notice, unless the department finds that a condition exists which presents a substantial risk to life, health or safety. Revocation shall be effective on the date set in the notice for vacating the camp unless, prior to the effective date, any affected person shall have obtained a supersedeas in accordance with the rules of practice of the Environmental Hearing Board. When a petition is filed for a supersedeas from a notice of revocation, the board shall act upon such petition prior to the effective date of revocation, or as expeditiously thereafter as possible in the case of a revocation which is effective in less than ten days after notice. Failure to the permittee to close a seasonal farm labor camp after a revocation becomes effective shall constitute a violation of this section.

Section 304. Enforcement orders.

(a) The department may issue orders requiring the abatement of any violation of this act or any rule or regulation adopted under section 301, or any condition which may be unhealthful, unsanitary or unsafe to which migrants or their families are exposed. Any order issued under this subsection shall be written, shall identify the person or persons to whom it applies, including officers of corporations, shall specify the violations and

conditions which are to be abated, and may establish a schedule of abatement, require the submission of an abatement plan or specify the abatement action to be taken, including, but not limited to, the temporary or permanent closing of identified seasonal farm labor camp facilities.

(b) Any order issued under this section shall be served personally or by certified mail and shall be effective upon receipt.

Section 305. Review of department actions.

(a) Any action of the department pursuant to this act shall be effective unless a supersedeas is obtained pursuant to section 1921-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(b) Any action of the department pursuant to this act shall become a final adjudication and not subject to review unless an appeal is perfected in accordance with section 1921-A of The Administrative Code of 1929. Review shall be limited to the errors of law or other grounds alleged in the appeal. The Environmental Hearing Board shall issue an adjudication affirming the action of the department if the action was authorized by law and the board finds the violations or conditions recited by the department in the notice or order from which the appeal was taken. The board may modify, remand or overrule any action of the department which is inconsistent with law or not supported by the facts on the record as a whole.

(c) Any aggrieved party to a proceeding under subsection (a) or (b), including the department, may obtain judicial review of an adjudication issued under the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law," as provided therein.

Section 306. Civil penalties.

Notwithstanding any other remedy available at law or in equity for a violation of this act, the Environmental Hearing Board shall have jurisdiction to assess a civil penalty upon a person who fails to comply with this act or any rule or regulation or the conditions of any permit or any order issued under this act. Such a penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed \$100 per day for each violation, and shall not be less than \$50 per day for any violation of section 303 or an effective order of the department, except for a continuous, willful violation; then the civil penalty assessed shall not exceed \$500 per day and shall not be less than \$50 per day. In determining the amount of the civil penalty, the board shall consider the willfulness of the violation, the seriousness of any health or safety hazard, expenditures incurred by the department in pursuing the abatement of any violation, economic benefit derived from the unlawful conduct, and any other relevant factor. Any penalty assessed shall be payable to the Commonwealth of Pennsylvania within 30 days after the adjudication is issued, shall be collectible in any manner provided by law for the execution of a final judgment, and shall have priority over any other civil debt. If any person fails to pay any such penalty when due, the principal amount,

together with interest at 8% per annum and any costs that may be incurred, shall be a lien on the property of such person, but only after the same has been entered and docketed of record by the prothonotary of the county where such property is situated. The board, at the request of any party, shall transmit certified copies of any civil penalty adjudication, and it shall be the duty of each prothonotary to enter and docket the same in his office and to index the same as a final judgment without requiring the payment of costs as a condition to the entry thereof.

Section 307. Civil remedies.

In addition to any other remedies provided for in this act, an action in equity may be filed in the court of appropriate jurisdiction for an injunction to restrain any violation of this act, the rules and regulations, or any order of the department issued under this act, or to restrain any public nuisance or condition which may be detrimental to the health or safety of seasonal farm laborers or their families. In any such proceeding, the court shall, upon motion of the plaintiff, issue a mandatory preliminary injunction if it finds that the defendant is engaging in conduct prohibited by this act, has failed to comply with an effective order of the department or the conditions of a permit issued under this act, or is maintaining a condition which is causing immediate and irreparable harm to seasonal farm laborers or their families. In any action filed by the Commonwealth under this section, bond or other security shall not be required. In addition to granting relief in equity, the court in any proceeding under this section shall have jurisdiction to assess civil penalties as provided for in section 306.

Section 308. Drinking water; toilet facilities.

On any premises where seasonal farm workers are employed or permitted to work, the employer shall provide in the working area a sufficient supply of cool, potable water, and within a reasonable distance of the working area sufficient, suitable, and separate toilet facilities.

CHAPTER 4 ACCESS AND ENTRY

Section 401. Tenancy rights.

A seasonal farm worker who resides in any structure or property owned, leased or operated by an employer or farm labor contractor and occupied during at least six months in a calendar year, whether or not under any contract of rental or lease, whether or not consideration is given for the right or privilege of such residence, and for whatever time, shall be deemed to be the tenant in possession and shall have every right and recourse to law as if he were the tenant in possession for such time as he shall reside therein, including, without limitation, the right to three days notice prior to eviction from such a structure or a property unless the seasonal farm worker resides in such structure or property with one or more dependents, in which case the seasonal farm worker and his family shall be given two weeks notice prior to eviction.

Section 402. Interference prohibited.

No person shall prohibit, bar, or interfere with, or attempt to prohibit, bar, or interfere with, reasonable access to, or egress from, the grounds of any seasonal farm labor camp by a privileged person, either by the erection or maintenance of any physical barrier, or by physical force or violence, or by threat of force or violence, or by posting, or by any order of notice given in any manner.

Section 403. Privileged persons.

The entry to or egress from the premises of any seasonal farm labor camp shall not be denied by any means, nor shall any person attempt to deny or to limit the access to or egress from any seasonal farm labor camp at any time, to

(1) any inspector employed by any department, board, agency, bureau, commission or service of the United States, the Commonwealth of Pennsylvania, a local government, or the executive or administrative officer of any such department, board, agency, bureau, commission or service, or his duly authorized representative who shall, upon request, present proper identification to the owner, provided that such organization has within the present year of occupancy notified the owner of the camp stating their purpose and the agent of the organization visiting the seasonal farm labor camp;

(2) guests of seasonal farm workers or persons working under the auspices of private organizations whose primary objective on entering the premises is the health, safety, welfare or dignity of seasonal farm workers; or

(3) any individual, group or public agency whose primary purpose is to provide a service to the owner of a seasonal farm labor camp rather than the seasonal farm workers.

CHAPTER 5 REGISTRATION OF FARM LABOR CONTRACTORS

Section 501. Annual registration required.

(a) No person shall act as a farm labor contractor unless he possesses or has applied for a certificate of registration issued by the secretary. A certificate of registration may not be transferred or assigned. Every certificate shall be effective until 12 midnight of December 31 of the year during which it is issued, unless suspended or revoked pursuant to this act. The certificate of registration shall be displayed by the registrant upon request of the Secretary of Labor and Industry, the Secretary of Environmental Resources, the Attorney General, the Secretary of Health, the Secretary of Education, or the Secretary of Public Welfare, or their authorized representatives; or of any peace officer, or of any person who is a contractor or a prospective contractor for farm labor services, or any seasonal farm worker or prospective seasonal farm worker; or of an employer or a prospective employer of seasonal farm labor, or of any qualified officer of the United States or of any local government.

(b) The provisions of subsection (a) to the contrary notwithstanding, if an employee of an individual farmer, grower, nurseryman, or landowner engages in the activities of a farm labor contractor on an emergency basis solely for the benefit of his employer's operation, he may apply for a certificate of registration from the secretary after having engaged in such activity.

Section 502. Registration; application; renewal.

The secretary shall issue to every qualified registrant a certificate of registration, subject to such rules and regulations and upon payment of such fees as the secretary shall require. The secretary shall renew a certificate of registration previously issued upon application by the registrant, subject to the qualifications, rules and regulations required of a new applicant and upon payment of any renewal fee which the secretary may require. The secretary shall prescribe the form of application for registration and for renewal of registration and shall supply application forms upon request.

Section 503. Qualifications of registrants.

The secretary, after notice, may refuse to issue a certificate of registration, and may suspend or revoke any certificate previously issued, if he shall find that the applicant or registrant:

(1) has violated any provision of this act or any rules or regulations promulgated under this act;

(2) has made any deliberate misrepresentation or has knowingly made any false statement in or with respect to an application for registration or renewal;

(3) has failed to comply with the provisions of Title 75 of the Pennsylvania Consolidated Statutes, (relating to vehicles) or of any other law of this Commonwealth or of any Federal statute or rule with relation to the regulation or operation of motor vehicles for the transportation of persons or property by motor vehicle; or

(4) is subject to Public Law 88-582 (7 U.S.C. § 2041 et seq.), known as the "Farm Labor Contractor Registration Act of 1963," and has failed to apply for and to obtain a certificate of registration pursuant to that act, or whose certificate of registration under that act has expired and has not been renewed, or has been suspended or revoked, or if he has violated any provision of that act. Refusal to issue or to renew a certificate or registration, or the suspension or revocation of a certificate or renewal, shall be in addition to any other penalties provided by this act or any other law. Any applicant or registrant who has been refused a certificate of registration or who has had his certificate of registration revoked or suspended pursuant to this section shall have the right to file an appeal, within 30 days of receipt of notice of such refusal, revocation or suspension, with the Industrial Board pursuant to the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law."

Section 504. Agents exempt from registration; employment agencies.

(a) A full-time or regular employee of any person holding a valid certificate of registration pursuant to this act, who shall have been designated an agent of the registrant and who is employed partly or solely for the purpose of engaging in activities as a farm labor contractor on behalf of the registrant, shall not be required to obtain a certificate of registration in his own name under this act. Every such agent shall have in his immediate possession when engaging in activities as a farm labor contractor such identification as the secretary may require showing such employee to be an agent of a registrant. Every such agent shall be subject to the provisions of this act and of any rules and regulations promulgated pursuant to this act to the same extent as if he were required to obtain a certificate of registration in his own name. The secretary shall require that every registrant identify all persons who have been or who subsequently become agents of the registrant, and may disallow, suspend or revoke the designation as agent of any person pursuant to the qualifications of registrants required by section 503. For the purposes of this act every registrant shall be responsible for the activities of every agent designated by him, and shall be subject to any penalties, including the refusal, suspension or revocation of a certificate of registration, proceeding from any act of any agent designated by him while such agent is engaged in activities as a farm labor contractor. No such agent shall be permitted separately to engage in activities as a farm labor contractor, or to contract with or become the employee of any employer of seasonal farm labor, except on behalf of the registrant for whom he is the agent, and in the same employment, on the same premises and at the same time as the registrant for whom he is the agent. No employer may act as, or be designated as, the agent of a farm labor contractor at any time that such farm labor contractor is providing, or intends to provide, seasonal farm workers for employment by, or in the interest of, said employer.

(b) Every person, partnership, association or corporation which is the holder of a valid and current license pursuant to the act of July 31, 1941 (P.L.616, No.261), known as the "Employment Agency Law," shall be exempt from the registration requirements of this act.

Section 505. Farm labor contractors and agents; prohibited activities.

No person engaged in activities as a farm labor contractor, and no person acting as an agent for any such person, shall:

(1) knowingly give or represent to any person who is a seasonal farm worker or a prospective seasonal farm worker any false or misleading information, or fail fully to disclose to any such person pertinent information concerning terms of employment, wages to be paid and the terms and conditions under which wages are to be paid, conditions of employment, conditions of residence, arrangements for transportation, arrangements for providing or furnishing food, clothing, and other personal goods or services, or the demand for or existence of opportunity for employment, for the purpose of inducing such seasonal

farm worker or prospective seasonal farm worker to accept or to reject any offer of employment, whether made by the farm labor contractor or his agent, or by another person;

(2) violate any provision of, or fail to comply with every requirement of Public Law 88-582 (U.S.C. § 2041 et seq.), known as the "Farm Labor Contractor Registration Act of 1963";

(3) recruit, employ, utilize the services of, or enter into any agreement with, any person with knowledge that such person is in violation of any provision of the immigration and naturalization laws of the United States, or is a fugitive from justice in any state or under Federal statute;

(4) manufacture, transport, resell, dispense, or in any way engage in activities as a dealer of any liquor, wine, or any malt or brewed beverage, unless he shall have obtained a license or a permit pursuant to the act of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code"; make, transport, purchase, sell, or dispense any drug or any controlled substance as defined by the act of April 14, 1972 (P.L.221, No.63), known as the "Pennsylvania Drug and Alcohol Abuse Control Act," or by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act"; or violate any provision of the act of July 22, 1970 (P.L.513, No.178), known as the "Pennsylvania Cigarette Tax Act";

(5) receive, accept, disburse, withhold, manage or administer, any wages, salaries, emoluments, or any other rewards of or payment for the time, labor or employment of any seasonal farm worker, except pursuant to section 206;

(6) levy, charge, assess, or collect from any person, on account of any loan of money, credit, goods, or things in action, a rate of interest, discount, fines, charges or consideration, unless he shall be in compliance with the provisions of the act of April 8, 1937 (P.L.262, No.66), known as the "Consumer Discount Company Act";

(7) levy, charge, assess, or collect from any seasonal farm worker, whether or not recruited by him or under his supervision or direction, or under any contract or agreement with him, written or verbal, any money, goods or any other thing, for any service offered or performed, including the purchase and resale of any personal goods or services, except for:

(i) a reasonable charge for transportation of the seasonal farm worker and his relatives and their possessions from the place of their residence or recruitment to the premises of an employer of seasonal farm labor, or from the premises of one employer to those of another, and return to the place of their residence or recruitment; and

(ii) a reasonable charge for the preparation and serving of meals during the seasonal farm worker's term of employment or transportation; or

(8) charge more than a reasonable amount for transportation of the seasonal farm worker and his relatives and their possessions from the

place of their residence or recruitment to the premises of an employer of seasonal farm labor, or from the premises of one employer to those of another, and return to the place of their residence or recruitment, and for a reasonable amount for the preparation and serving of meals during the seasonal farm worker's term of employment or transportation. Such charge for transportation and for the preparation and serving of meals may be levied and collected only if the full amount of such charges is correctly stated and disclosed to the seasonal farm worker and agreed to by the seasonal farm worker at the time any contract or agreement of recruitment is negotiated, and such agreement as to charges for transportation and for the preparation and serving of meals shall be a part of any contract or agreement between the farm labor contractor and the seasonal farm laborer.

Section 506. Secretary of Labor and Industry, powers and duties.

The Secretary of Labor and Industry is authorized, and it shall be his duty, to:

(1) promulgate and enforce rules and regulations for the enforcement and implementation of this chapter;

(2) investigate or cause to be investigated all matters which may aid in carrying out the provisions of this chapter, including the investigation of any complaint filed with the secretary regarding any violation of this chapter or with respect to which the secretary has reasonable grounds to believe that any person has violated any provisions of this chapter, and may, in connection therewith, enter and inspect any premises, inspect such records and make transcriptions thereof, question such persons, and investigate such facts, conditions, practices, or matters as may be necessary or appropriate to determine whether a violation of this chapter has been committed;

(3) gather and compile data and information relative to the enforcement of this chapter, for the purpose of ascertaining conditions under which seasonal farm workers are recruited, employed, compensated and protected in the Commonwealth, and file reports with the Governor and the General Assembly showing the results of his investigations and of the compilation of data and information;

(4) conduct field surveys and censuses adequate to determine the number, location, character and the condition of seasonal farm workers and the needs of the workers and of the employers, in cooperation with the Departments of Environmental Resources, Agriculture, Health, Public Welfare, Education, Community Affairs and any other departments, agencies or Commonwealth employees;

(5) report annually to the Governor and the General Assembly the results of such surveys and censuses, and make recommendations for legislation and for executive action to improve service and enforcement programs relating to seasonal farm workers and their employers;

(6) enter into agreements with the Secretary of the United States Department of Labor for the enforcement of any law or the performance

of any function, pursuant to section 8 of Public Law 88-582, known as the "Farm Labor Contractor Registration Act of 1963," and further, enter into agreements with the appropriate officers or agencies of any other state or states for the enforcement of any provision of or the performance of any function under this chapter; and

(7) enforce, or cause to be enforced, the provisions of this chapter, and cooperate with other officers, departments, boards, agencies or commissions of the Commonwealth, or of the United States, or of any other state, or of any local government, or with other persons or organizations in the enforcement of the provisions of this chapter.

CHAPTER 6

CONSTRUCTION, REPEALS, PENALTIES, EFFECTIVE DATE

Section 601. Administrative procedure.

The act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law," shall be applicable in its entirety to the Department of Labor and Industry with reference to Chapters 2 and 5, and to the Department of Environmental Resources with reference to Chapter 3, in the administration of this act.

Section 602. Saving provision.

The provisions of this act shall not affect any act done, liability incurred, or right accrued or vested, or affect any suit or prosecution pending to enforce any right or penalty or punish any offense under the authority of any act of Assembly, or part thereof, repealed by this act.

Section 603. Continuation of regulations.

Any orders and regulations promulgated under any law affected by this act and in effect on the effective date of this act and not in conflict with it shall continue in effect until modified, superseded or repealed.

Section 604. Pending proceedings.

Prosecution for any violation of law occurring prior to the effective date of this act is not affected or abated by this act. Injunctive proceedings commenced prior to the effective date of this act are not affected by this act. All administrative proceedings pending under prior laws which are superseded by this act shall be continued and brought to a final determination in accord with the laws and rules in effect prior to the effective date of this act. This act applied to violations of law, injunctive proceedings, administrative proceedings and investigations which occur following its effective date.

Section 605. Repeals.

All acts and parts of acts inconsistent herewith are repealed to the extent of such inconsistency, provided that nothing in this act shall be construed to repeal or modify the powers and duties of any agency of the Commonwealth pursuant to section 9, act of May 18, 1937 (P.L.654, No.174), entitled, as amended, "An act to provide for the safety and to protect the health and morals of persons while employed; prescribing

certain regulations and restrictions concerning places where persons are employed, and the equipment, apparatus, materials, devices and machinery used therein; prescribing certain powers and duties of the Department of Labor and Industry relative to the enforcement of this act, and fixing penalties.”

Section 606. Criminal penalties.

(a) Any person who violates any provision of Chapters 2, 4, 5 or section 303, or any effective permit, permit condition or order of the department issued pursuant to section 303 shall, for the first offense, be sentenced in a summary proceeding to pay a fine of not more than \$50 and costs of prosecution or to undergo imprisonment for not more than ten days, and for a second or subsequent violation of the same provision of this act within one year, or for a continuing violation of section 303 after written notice, shall be guilty of a misdemeanor of the first degree and upon conviction shall be sentenced to pay a fine of not more than \$1,000, or to undergo imprisonment not exceeding one year, or both. For the purposes of this section, any violation occurring during any period of seven consecutive days shall be considered one offense.

(b) Prosecution for a violation of any section of this act shall not bar prosecution for a violation of any other section of this act, or of any other law, statute or ordinance resulting from any action of the offender, nor shall any such prosecution bar the assessment of civil penalties by the Environmental Quality Board pursuant to section 303.

(c) Interference with, harassment of, eviction of, or termination of the employment of any seasonal farm worker for having filed a civil or criminal complaint under this act, shall be a separate violation of this act and subject to the criminal penalties set forth in subsection (a).

Section 607. Effective date.

This act shall take effect in 90 days.

APPROVED— The 23rd day of June, A. D. 1978.

MILTON J. SHAPP.