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APPROVED
DEC 7 - 1974
Statement Issued
12/9/74

ACTION

THE WHITE HOUSE
 WASHINGTON
 December 6, 1974

Last Day: December 9

To Archive
12/9

MEMORANDUM FOR

THE PRESIDENT

FROM:

KEN COLE *C*

SUBJECT:

S. 3202 - Farm Labor Contractor
Registration Act Amendments of 1974

Attached for your consideration is S. 3202, sponsored by Senator Nelson, which amends the Farm Labor Contractor Registration Act of 1963 by extending coverage, strengthening enforcement mechanisms, and establishing a Federal civil remedy for persons aggrieved by violations of the Act.

The enrolled bill is the Congressional response to your veto of H.R. 13342 on October 29, 1974. S. 3202 deletes the objectionable personnel rider, as you requested in your veto message.

OMB recommends approval and provides you with additional background information in its enrolled bill report (Tab A).

Bill Timmons and Phil Areeda recommend approval. Paul Theis has approved the text of the proposed signing statement.

RECOMMENDATION

That you sign S. 3202 (Tab B) and approve the proposed signing statement (Tab C).

HR7

Approve Signing Statement

Disapprove Signing Statement

PRESIDENTIAL SIGNING STATEMENT ON S. 3202
THE "FARM LABOR CONTRACTOR
REGISTRATION ACT AMENDMENTS OF 1974"

In the decade since enactment of the "Farm Labor Contractor Registration Act of 1963," it became apparent that the law did not adequately protect migrant farm workers from various abuses. For about a year, the Administration has worked with the Congress to develop legislation to improve the act. There has been give and take on all sides. I am pleased that this cooperation has greatly strengthened the Act.

On October 29, 1974, I vetoed a similar bill, H.R. 13342. It contained an objectionable rider entirely unrelated to improving the working conditions of migrant workers. The rider would have changed the classifications of certain Department of Labor administrative law judges, members of the Benefits Review Board, and other persons in no way involved with migrant workers. At that time, I urged the Congress to reenact this legislation without the objectionable rider. I am very pleased that it has done so.

This legislation, S. 3202, makes a number of improvements in the act, including the following:

-- The act's coverage is expanded. Under existing law, a crew leader has to be recruiting migrant workers on an interstate basis -- 10 or more workers at any one time -- before being required

to register as a farm labor contractor. This bill removes these restrictions except with respect to those operating within a 25-mile intrastate radius of their homes and for 13 weeks a year or less. This provides protection for many more migrant workers under the act.

-- Sanctions against violators are expanded. The only penalty which may be imposed against crew leaders who violate the present law is a \$500 fine. It has been relatively ineffective against violations. This legislation adds a jail sentence of up to one year to the present \$500 criminal fine, and a maximum fine of \$10,000 as well as a maximum three-year jail sentence for subsequent violations -- including unregistered crew leaders who knowingly recruit illegal aliens. The Labor Department is now authorized additionally to seek injunctions and assess administrative civil money penalties. Private individuals also have the right to bring civil suits. Those discriminated against are offered means to exercise their rights under the act. The Labor Department is also given increased investigatory authority. In short, crew leaders now have greater responsibilities toward the migrant workers they recruit.

-- Other leaders' responsibilities are increased. Under this legislation, crew leaders must obtain increased vehicle insurance coverage, and provide transportation and housing which satisfy

State and Federal health and safety requirements. Crew leaders must make a complete employment disclosure to the migrant workers they recruit. This disclosure must now be written, and in a language in which the workers are fluent.

-- The act prohibits use of unregistered crew leaders and calls for improved recordkeeping.

I strongly believe that these and the other amendments to the Farm Labor Contractor Registration Act will go a long way toward improving the working conditions of our Nation's migrant farm workers. I therefore am pleased today to sign into law the Farm Labor Contractor Registration Act Amendments of 1974.

#

APPROVED
DEC 7 - 1974

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 3 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3202 - Farm Labor Contractor
Registration Act Amendments of 1974
Sponsor - Sen. Nelson (D) Wisconsin

Last Day for Action

December 9, 1974 - Monday

Purpose

Amends the Farm Labor Contractor Registration Act of 1963 by extending coverage, strengthening enforcement mechanisms, and establishing a Federal civil remedy for persons aggrieved by violations of the Act.

Agency Recommendations

Office of Management and Budget

Approval

Department of Labor

Approval (Signing
statement attached)

Department of Justice

Defers to Labor

Discussion

The enrolled bill is the congressional response to your veto of H.R. 13342 on October 29, 1974. That veto was based upon a rider--unrelated to the provisions of the bill concerning farm workers--which would have reclassified hearing officer positions in the Department of Labor, and would have declared the employees in those positions to be Administrative Law Judges without regard to their capacity to fill such positions. Approval of the predecessor bill would have resulted in a large number of persons who were hired noncompetitively being converted by law to competitive status. Moreover, the grade level of these positions would have been raised from GS-15 to GS-16, creating a serious precedent for over 400 similar positions in the Social Security Administration, now graded as GS-15.

S. 3202 deletes the objectionable personnel rider, as you requested in your veto message. It is virtually identical in all other respects with the earlier bill. The only differences are some technical changes in provisions which the Congress had earlier not included in the bill, but had handled via a floor colloquy to establish legislative history. These include:

(1) Section 2 of H.R. 13342 would have amended the Farm Labor Contractor Registration Act to cover all persons engaging in the activities of a farm labor contractor. S. 3202 would exempt from coverage purely local and occasional intrastate contractors--i.e. those who operate no more than 25 intrastate miles from their homes and no more than 13 weeks a year.

(2) H.R. 13342 contained a provision requiring that a grower first must "observe" a valid certificate of registration in the possession of a farm labor contractor before using his services. S. 3202 would instead require that a grower make a determination that a contractor possesses such a certificate.

(3) Another provision of H.R. 13342 would have permitted the Department of Labor to deny, suspend, or fail to renew the license of any farm labor contractors who used an illegal alien. The enrolled bill would require that such alien labor be used "with knowledge" before Labor could take such action against the contractor.

(4) H.R. 13342 would have provided for assessment of civil money penalties only for violation of regulations issued under the Act. Under S. 3202, such penalties would be assessed for violations of the Act itself as well as violations of regulations.

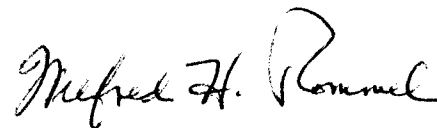
(5) Under the antidiscrimination provisions of H.R. 13342, workers would have had only 30 days to file a retaliation complaint with Labor. Under S. 3202, workers would be given 180 days to file such complaints. In addition, under H.R. 13342, a court could order all appropriate relief in antidiscrimination cases, including rehiring, reinstatement and damages of up to \$1,000. S. 3202 specifies the additional remedy of back pay.

A summary of the major amendments to the Farm Labor Contractor Registration Act in S. 3202, excerpted from our memorandum of October 25, 1974 on H.R. 13342, is attached.

The Civil Service Commission, which had recommended disapproval of H.R. 13342, has advised us informally that S. 3202 is acceptable, since the objectionable rider has been removed.

The Labor Department, in strongly recommending approval, states:

"Certain provisions of this legislation still do not reflect the views of this Department. However, we believe that this bill is better than the bill vetoed by the President and substantially improves the effectiveness of the Farm Labor Contractor Registration Act. It will afford needed protection for the Nation's migrant farm workers."

A handwritten signature in dark ink, appearing to read "Alfred H. Rummel". The signature is fluid and cursive, with the first name "Alfred" and last name "Rummel" clearly distinguishable.

Assistant Director for
Legislative Reference

Enclosures

SUMMARY OF H.R. 13342

Farm Labor Contractor Registration Act
Amendments of 1974

The Farm Labor Contractor Registration Act of 1963 sought to curb widespread abuses against migrant and seasonal farm laborers and the farmers who employ them by requiring that all crew leaders who contract with farmers to provide laborers register with the Secretary of Labor. Registration can be denied if an applicant has been convicted of certain crimes, fails to perform contracts with farm operators, or gives false or misleading information to migrant workers concerning the terms of farm employment. The Act requires all crew leaders to inform each worker at the time of recruitment of specified terms of employment, and post these terms at the worksite. If the crew leader is the paymaster, he is required to keep payroll records and follow tax withholding laws. Violation of any of the requirements can result in the revocation of the certificate or in criminal prosecution, with a fine of up to \$500.

The Act is enforced by compliance officers in the Labor Department's Wage-Hour Division, who check for a certificate of registration or make a detailed investigation when a complaint is received. Violations of the Act have been widespread. Only 2,000 of an estimated 5,000 crew leaders have registered. Enforcement is difficult because of inadequate statutory authority to deter and correct any abuses.

Provisions of the enrolled bill

H.R. 13342 would amend the Act in the following major respects:

(1) Coverage--Removes the present exemptions for crew leaders operating within one State or recruiting less than 10 workers.

(2) Enforcement--Imposes affirmative duties upon the Secretary of Labor to monitor and investigate activities of contractors, and provides him with subpoena powers.

(3) Penalties--Strengthens penalty provisions of the Act by (a) adding a possible one-year prison sentence to the present \$500 fine; (b) adding a new \$10,000 fine, imprisonment not to exceed three years, or both, for subsequent violations of the Act, and for contractors who knowingly hire illegal aliens; (c) empowering the Secretary to assess a civil penalty for violation of regulations under the Act, subject to judicial review.

(4) Civil relief--Empowers the Secretary of Labor to seek injunctive relief in any U.S. District Court when he determines that a violation of the Act has occurred; allows persons aggrieved by violations of the Act to bring civil suits in U.S. District Courts.

(5) Registration requirements--Adds requirements that crew leaders must (a) post a minimum \$5,000 bond; (b) provide proof that vehicles and housing under the ownership or control of the applicant meet Federal and State health and safety standards.

(6) Insurance--Increases required insurance on vehicles transporting farm workers to that required for other interstate passenger vehicles by the Interstate Commerce Commission.

(7) Other Farm Labor Contractor Registration Act Amendments--The enrolled bill would impose new obligations on registered farm labor contractors, such as more detailed disclosure of employment information--including the existence of a strike--in a language in which the worker is fluent; increased reporting requirements; and the prohibition of retaliation against any migrant worker for the exercise of a right secured under the Act. A grower who uses workers supplied by a crew leader would be required to maintain payroll records, and assure that the crew leader has a valid registration certificate.

10-
Harris Handwritten
12-5-74
11:20 a.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 5 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 15580 - Departments of Labor and Health, Education, and Welfare and Related Agencies Appropriation Act, 1975
Sponsor - Representative Flood (D), Pennsylvania

Last Day for Action: December 9, 1974, Monday

Activities Affected: Departments of Labor and Health, Education, and Welfare; and other related agencies.

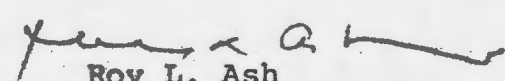
<u>Appropriations Requested:</u> (in millions)	<u>Budget Estimate</u>	<u>Enrolled Bill</u>	<u>Congressional Change</u>
	33,531	33,046	-485

Outlay Effect: FY 1975: +\$318 million

Highlights:

- A reduction of \$1.2 billion for public assistance will probably necessitate an FY 1975 supplemental in a like amount. If this reduction is disregarded, the Congress added a net \$701 million in budget authority to the bill.
- Funds for comprehensive manpower assistance have been increased \$350 million.
- Increases of \$787 million in education are related largely to unrequested items in the area of student and institutional assistance.
- Health programs are increased \$410 million, the largest increases being for programs of the National Institutes of Health.
- Congress did not consider the revised requests you made for this bill in your November 26 budget restraint message.

Recommendation: That you sign the bill and concurrently issue a signing statement. Deferrals can be transmitted to the Congress this month and rescissions can be included in the upcoming budget documents.


Roy L. Ash
Director

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 5 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 15580 - Departments of Labor
and Health, Education, and Welfare and Related
Agencies Appropriation Act, 1975
Sponsor - Rep. Flood (D), Pennsylvania

Last Day for Action

December 9, 1974 - Monday

Purpose

Appropriates for fiscal year 1975 a total of \$33,045,856,000 in budget authority for the activities of the Departments of Labor and Health, Education, and Welfare; and other agencies.

Agency Recommendations

Office of Management and Budget

Approval (signing statement attached)

Affected Agencies

Approval (letter from Secretary Weinberger attached)

Discussion

The Congress received your message on restraining the 1975 budget the same afternoon that both Houses passed the conference report on this bill. The enrolled bill does not reflect Congressional consideration of your restrained requests for this bill. In general, your budget restraint message asked the Congress to consider several new and lower requests for the bill and to pare back, in most other cases, to the level you had earlier requested. Our analysis of the enrolled bill compares Congressional action with your pre-restraint message requests, but we have also noted in several cases the differences between the bill and your restrained requests.

The budget authority provided by the enrolled bill is \$485 million below the February budget request, as amended, of \$33,531 million. This apparent decrease in total budget authority is, however, misleading because if a single decrease-- \$1.2 billion for public assistance--is disregarded, the Congress added a net \$701 million in budget authority to the bill.

The public assistance reduction reflects a disagreement between the Congress and the Administration on the amount of funds needed in fiscal year 1975 for this program. We believe that the appropriation would not be sufficient to meet payments required by law for these grants for fiscal year 1975 and that supplemental appropriations of about \$1.5 billion would have to be requested. While the bill appropriates an amount the Congress believes to be sufficient, the conference report acknowledges the possibility that the appropriation may not be sufficient and directs the Comptroller General, in cooperation with the Congressional Research Service, to present to the Appropriations Committees of the House and Senate, not later than five days after the submission of your fiscal year 1976 budget to the Congress, a report estimating the amounts required for public assistance for fiscal year 1975.

The disagreement over the public assistance funds is the principal point of a similar disagreement over the outlay effect of the bill. We believe that the bill will add \$318 million to 1975 outlays. The Congress, however, through the conference report, declared its firm intention that the bill not increase budgeted outlays and indicated its expectation that rescissions and deferrals would be sent before the GAO report on public assistance, as well as after the report if warranted. As Secretary Weinberger points out in his attached memorandum, the Congress has conditioned its promise to give all consideration to these rescissions and deferrals by adding factors outside the bill itself: "general economic conditions" and "latest estimates of total Federal spending." This, the Secretary maintains, will give Congress the final word on whether or not reductions will be made in the event spending attributable to this bill rises over the budget.

We recommend dealing with the outlay problems by (1) issuing the attached signing statement which reminds the Congress of its outlay statements and indicates your intention of sending deferrals to the Congress shortly, (2) sending deferrals to the Congress this month that would preserve the possibility of staying within budgeted amounts, and (3) transmitting, in the

upcoming budget documents, the necessary rescissions. We need to delay the rescission requests until the budget in order to be able to propose firm amounts, these determinations resting on a number of variables such as possible absorption of pay costs. Conversely, we cannot delay the deferrals until the budget if we are to maintain the possibility of staying within budgeted outlays.

The following table summarizes Congressional action on the 1975 appropriations by major program category:

(In millions of dollars)

	<u>Budget Estimate Considered</u>	<u>Enrolled Bill</u>	<u>Congressional Change</u>
Department of Health, Education, and Welfare...	30,265	29,424	-841
Health (excluding National Institutes of Health).....	(1,452)	(1,539)	(+86)
National Institutes of Health.....	(1,835)	(2,090)	(+256)
Education Division.....	(3,208)	(3,240)	(+33)
Social and Rehabilita- tion Services).....	(14,372)	(13,157)	(-1,215)
Office of the Secretary.	(121)	(105)	(-16)
Other (including Social Security Adminis- tration).....	(9,277)	(9,292)	(+15)
Department of Labor.....	2,999	3,356	+357
Related Agencies.....	<u>267</u>	<u>265</u>	<u>-2</u>
Total (does not add due to rounding).....	33,531	33,046	-485

An analysis of significant changes in the bill follows:

Increases

Health

(increased by \$410 million--offsetting decreases discussed later)

- Funds for the National Institutes of Health--traditionally an area subject to Congressional additions--would be increased \$265 million. The largest single increase appears in funds for the National Cancer Institute where an additional \$92 million has been added. The total appropriation level for the National Institutes of Health is \$366 million over the amount you requested in your 1975 budget restraint message, including \$125 million more than you sought for cancer research spending.

- Increases totaling \$89 million in the Alcohol, Drug Abuse, and Mental Health Administration would provide additional support for research, training, alcoholism projects, and funding for an additional 226 positions. This appropriation level is \$108 million over the amount you requested in your 1975 budget restraint message.
- Increases of \$12 million for the Center for Disease Control are mainly for occupational health research and venereal disease grants. The appropriation level is \$13 million over the amount you requested in your 1975 budget restraint message.
- An additional \$43 million for the Health Services Administration includes an increase of \$27 million for State maternal and child health formula grants in fiscal year 1975. Also included in this increase is \$10 million for a higher level of emergency medical services, demonstration grants, and contracts.
- An increase of \$7.5 million is provided for special Federal operating subsidies for the Georgetown and George Washington University medical and dental schools, as authorized earlier this year in P.L. 93-389. Your budget proposals did not provide for these subsidies.

Education

(increased by \$787 million--offsetting decreases discussed later)

- Increases for several higher education student assistance programs total \$634 million. Included are increases for the work-study program (\$50 million), the direct student loan program (\$323 million), incentive grants for State scholarships (\$20 million), and supplemental opportunity grants (\$240 million). These increases are, however, more properly characterized as shifts in funding within an essentially unchanged total for student assistance. The increases here are offset by reductions of \$640 million in the Administration's Basic Opportunity Grants program.
- An increase of \$47 million in Federal support of college and public libraries would restore funds for college library resources, undergraduate instructional equipment, and library training and demonstration activities, all of which are unrequested items.
- The enrolled bill would provide \$23 million in increased support for grants to States for vocational education as well as education professions development. The amount provided is \$34 million over the request included in your budget restraint message.

- An increase of \$23 million is provided for several elementary and secondary education programs. The increase includes: \$18 million for the Follow Through program and \$5 million for the Educational Broadcasting Facilities program.

Welfare

(increased by \$51 million--offsetting decreases discussed later)

- The bill would increase funding for innovation and expansion of vocational rehabilitation projects by \$23 million. The February budget had requested that these projects, whose incentive stages are now complete, be transferred from this 90% matching program to the regular 80% matching State program.
- The bill would also add \$11 million for vocational rehabilitation training to maintain the 1974 program level of \$27.7 million. The budget had provided for a lower level on the assumption that longer term and degree training would be met by general non-categorical educational support programs.
- Three public assistance activities are increased as follows:

State and local planning	\$+4 million
Child welfare services	\$+4 million
Training projects	\$+9 million

Thus, these activities are restored to their 1974 levels (before reduction of the 1974 appropriation by 5%). The budget had reduced each of these items for specific reasons: the child welfare activity to long-term stable levels that prevailed before an increase in the 1974 program; the training projects to shift from categorical training support; and the state and local training activity for the imposition of tighter administration.

Comprehensive Manpower Assistance--Department of Labor (increased by \$350 million--no offsetting reductions)

- The \$2.4 billion included in the enrolled bill, together with the carryover from the 1974 appropriation, would provide an obligation level of \$2.8 billion for fiscal year 1975. In accordance with your decisions on the composition of items in your recent budget message, Secretary Brennan informed the Congress in a November 21 letter that the Administration supported the \$350 million increase.

Decreases

Health

(decreased by \$68 million--offsetting increases discussed earlier)

- Demonstration programs for health maintenance organizations were cut \$40 million, and grants and contracts for professional standards review organizations were reduced by \$21 million. You accepted these reductions in your message on budget restraint on the grounds that the reductions do not jeopardize essential activities.

Education

(decreased by \$754 million--offsetting increases discussed earlier)

- Basic Opportunity Grant programs are decreased \$640 million but offset by increases in other higher education student assistance programs, as discussed earlier.
- The enrolled bill provides \$60 million less than requested for the National Institute of Education. Fifty million of the cut was accepted in your budget restraint message. Consequently, no new programs will be started in 1975, program continuations will be cut back by a third, and staff will be cut 23%.
- The enrolled bill provides \$13 million less than requested for salaries and expenses, including a \$6 million reduction for program administration, a \$2 million cut for planning and evaluation, a \$2 million reduction for general program dissemination, and a \$3 million decrease for the National Center for Education Statistics.

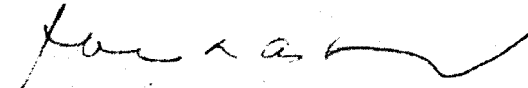
Welfare

(decreased \$1,266 million--offsetting increases discussed earlier)

- The bill's reduction in public assistance appropriations assumes that the estimates for the three major public assistance programs (Maintenance, Medicaid, and Social Services) were overstated in the budget. In fact, the Congress so reduced appropriations in 1974 that an advance of \$214 million from 1975 funds was required, which has to be made up, and current estimates indicate overall 1975 public assistance costs may exceed the budget by about \$150 million. This would necessitate a supplemental of approximately \$1.5 billion for 1975. This reduction and the disagreements surrounding it are discussed on page two of this memorandum.

Recommendation

I recommend that you sign the bill into law and concurrently issue a signing statement (draft attached).



Roy L. Ash
Director

Attachments

STATEMENT BY THE PRESIDENT

I have today signed H.R. 15580, the 1975 Appropriation Act for the Departments of Labor and Health, Education, and Welfare and related agencies.

The Congress intended that the appropriations provided in H.R. 15580 should not exceed the 1975 budget. Nevertheless, amounts included in the bill for mandatory Federal payments for public assistance are \$1.2 billion below the estimates in the budget. The conferees' report on the bill, however, explicitly states that the "conferees are acutely aware of the need to control inflation and of the need to restrain spending as one means to achieve this objective." The report states further, "The conferees have no intention of approving budget (obligational) authority which will ultimately result in spending in excess of the total budget estimate for the bill." In conclusion, the conferees declared the expectation and a willingness of the Congress to consider fully deferrals and rescissions submitted by the President to achieve these objectives.

I commend the Congress on this responsible approach to reducing inflationary pressures. I believe, however, that further review of mandatory public assistance spending will confirm the need for significantly higher spending than provided for in H.R. 15580. In the meantime, I will submit, as expected by the report of the conferees, deferrals to restrain spending for discretionary programs under this bill.

ACTION

THE WHITE HOUSE
WASHINGTON
December 6, 1974

Last Day: December 9

MEMORANDUM FOR THE PRESIDENT
FROM: KEN COLE
SUBJECT: S. 3202 - Farm Labor Contractor
Registration Act Amendments of 1974

Attached for your consideration is S. 3202, sponsored by Senator Nelson, which amends the Farm Labor Contractor Registration Act of 1963 by extending coverage, strengthening enforcement mechanisms, and establishing a Federal civil remedy for persons aggrieved by violations of the Act.

The enrolled bill is the Congressional response to your veto of H.R. 13342 on October 29, 1974. S. 3202 deletes the objectionable personnel rider, as you requested in your veto message.

OMB recommends approval and provides you with additional background information in its enrolled bill report (Tab A).

Bill Timmons and Phil Areeda recommend approval. Paul Theis has approved the text of the proposed signing statement.

RECOMMENDATION

That you sign S. 3202 (Tab B) and approve the proposed signing statement (Tab C).

_____ Approve Signing Statement

_____ Disapprove Signing Statement

To -
Hamm/Handlin
12-3-74
5:05 p.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 3 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3202 - Farm Labor Contractor
Registration Act Amendments of 1974
Sponsor - Sen. Nelson (D) Wisconsin

Last Day for Action

December 9, 1974 - Monday

Purpose

Amends the Farm Labor Contractor Registration Act of 1963 by extending coverage, strengthening enforcement mechanisms, and establishing a Federal civil remedy for persons aggrieved by violations of the Act.

Agency Recommendations

Office of Management and Budget

Approval

Department of Labor

Approval (Signing
statement attached)
Defers to Labor

Department of Justice

Discussion

The enrolled bill is the congressional response to your veto of H.R. 13342 on October 29, 1974. That veto was based upon a rider--unrelated to the provisions of the bill concerning farm workers--which would have reclassified hearing officer positions in the Department of Labor, and would have declared the employees in those positions to be Administrative Law Judges without regard to their capacity to fill such positions. Approval of the predecessor bill would have resulted in a large number of persons who were hired noncompetitively being converted by law to competitive status. Moreover, the grade level of these positions would have been raised from GS-15 to GS-16, creating a serious precedent for over 400 similar positions in the Social Security Administration, now graded as GS-15.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 759

Date: December 3, 1974

Time: 5:30

FOR ACTION: Roger Semerad *O.k.*
Bill Timmons *O.k.*
Paul Theis *edited*
Phil Areeda *noobj*
Geoff Shepard *noobj*

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 11 1974

Time: 11:00 a.m.

SUBJECT:

Enrolled Bill S. 3202 - Farm Labor Contractor
Registration Act ~~amendments~~ of 1974

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 759

Date: December 3, 1974

Time: 5:30

FOR ACTION: Roger Semerad ✓
Bill Timmons
Paul Theis
Phil Areeda
Geoff Shepard

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 6, 1974

Time: 11:00 a.m.

SUBJECT:

Enrolled Bill S. 3202 - Farm Labor Contractor
Registration Act Amendments of 1974

ACTION REQUESTED:

<input type="checkbox"/> For Necessary Action	<input checked="" type="checkbox"/> For Your Recommendations
<input type="checkbox"/> Prepare Agenda and Brief	<input type="checkbox"/> Draft Reply
<input checked="" type="checkbox"/> For Your Comments	<input type="checkbox"/> Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

Approved
Robert G. Smith 12/4/74

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

December 4, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS *WT*

SUBJECT: Action Memorandum - Log No. 759
Enrolled Bill S. 3202 - Farm Labor
Contractor Registration Act Amendments
of 1974

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO.: 759

Date: December 3, 1974

Time: 5:30

FOR ACTION: Roger Semerad
Bill Timmons
~~Paul Theis~~
Phil Areeda
Geoff Shepard

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 6, 1974

Time: 11:00 a.m.

SUBJECT:

Enrolled Bill S. 3202 - Farm Labor Contractor
Registration Act Amendments of 1974

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

Gasserly
Research
Theis ✓

1974 DEC 3 PM 8 18

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

PRESIDENTIAL SIGNING STATEMENT ON S. 3202
THE "FARM LABOR CONTRACTOR
REGISTRATION ACT AMENDMENTS OF 1974"

In the decade since ~~the~~ enactment of the "Farm Labor Contractor Registration Act of 1963," it ^{became} ~~has become~~ apparent that the ^{law did not adequately protect} ~~provisions of the law have not been adequate~~ to accomplish its purpose of protecting migrant farm workers ^{from various} ~~from abuses by farm labor contractors and crew leaders~~. For about a year, the Administration has ^{worked} ~~been working~~ with the Congress to develop legislation to improve the Act, and there has been give and take on all sides. I am pleased that ^{this} ~~the~~ ^{greatly strengthened the Act.} ~~spirit of cooperation has resulted in legislation greatly strengthening the Act.~~

On October 29, 1974, I vetoed a similar bill, H.R. 13342, ^{entirely} ~~because~~ it contained an objectionable rider ^{wholly} ~~un-~~ related to improving the working conditions of migrant workers. The rider would have changed the classifications of certain Department of Labor ~~Administrative Law Judges~~, members of the ^{other} ~~Benefits Review Board~~, and persons ^{in no way involved with migrant workers.} ~~hearing "black lung" cases~~. At that time, I urged the Congress to reenact this legislation without the objectionable rider, and I am very pleased that it has done so ^{this relevant legislation} ~~and placed S. 3202 before me today for my signature.~~

^{this legislation is S. 3202,}
This legislation makes a number of improvements in the Act, including the following:

-- The ~~Act's~~ coverage is expanded. Under ~~the~~ existing law, a crew leader has to be recruiting migrant workers on an interstate basis, ~~and recruiting~~ 10 or more workers at any one time before being required to register as a farm labor contractor. [^] This bill removes these restrictions except with respect to those operating within a 25-mile intrastate radius of their homes and for 13 weeks a year or less. This ~~bill~~ provide ~~pro~~tection for many more migrant workers under the ~~Act~~.

-- Sanctions against violators are expanded. The only penalty which may be imposed against crew leaders who violate the present law is a \$500 fine. ~~This has proven to be~~ ^{It has been} relatively ineffective ~~deterrent~~ against violations. This legislation adds a jail sentence of up to ^{one} year to the present \$500 criminal fine, and a maximum fine of \$10,000 as well as a maximum ^{three} ~~2~~-year jail sentence for subsequent violations ~~of the~~ ^{including} ~~Act and for~~ unregistered crew leaders who knowingly recruit

illegal aliens. ~~In addition to the expanded criminal penalties,~~ ^{is now} the Labor Department ~~will now be~~ ^{additionally} authorized to seek injunctions and assess administrative civil money penalties. Private in-

dividuals ~~will~~ also have the right to bring civil suits, ~~and~~ ^{are} remedies ~~are provided for~~ those discriminated against ^{are offered means}

^{to} exercise ~~the~~ their rights under the ~~Act~~. The Labor Department is also given increased investigatory authority. ~~These pro-~~

~~vvisions should go a long way toward providing the weapons~~ ^{I don't} ~~needed to assure that~~ ^{now have greater} crew leaders ~~live up to their~~ responsibilities toward the migrant workers they recruit.

Other

-- ~~Crew leaders~~ ^{responsibilities} are increased. Under this legislation, crew leaders ~~will be required to~~ ^{must} obtain increased vehicle insurance coverage, and provide transportation and housing which satisfy ~~the~~ ^{applicable} State and Federal health and safety requirements. Crew leaders ~~will be required to~~ ^{must} make a complete disclosure to migrant workers they recruit ~~concerning their employment~~ ^{employment}. ~~In addition, the disclosure will now have to~~ ^{This must now} be written, and in a language in which the workers are fluent. ~~These provisions should afford workers additional needed protections and assure them greater information about the work for which they are being recruited.~~ ^{will}

-- ~~Provision is made for prohibiting the use of un-~~ ^{The Act prohibits} registered crew leaders, ~~and for improved recordkeeping under~~ ^{calls} ~~the Act.~~

I strongly believe that these and the other amendments to the Farm Labor Contractor Registration Act ~~should~~ ^{will} go a long way toward improving the working conditions of our Nation's migrant farm workers. I therefore am pleased today to sign into law the ~~of~~ Farm Labor Contractor Registration Act Amendments of 1974. ^{of}

Department of Justice
Washington, D.C. 20530

DEC 3 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

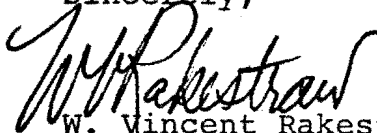
Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 3202, "To amend the Farm Labor Contractor Registration Act of 1963 to provide for the extension of coverage and to further effectuate the enforcement of such Act."

Insofar as this Department is concerned, the bill is substantially similar to H.R. 13342 which the President vetoed on October 29, 1974. The Department of Justice in an October 22d letter to your office deferred to the Department of Labor on the question whether H.R. 13342 should receive Executive approval. We take the same position with respect to S. 3202.

We do wish to note, however, that the Department's lack of objection to section 14 of the bill, which would add a new section 12(d) to the Farm Labor Contractor Registration Act authorizing the Solicitor of Labor, subject to the direction and control of the Attorney General, to appear for and represent the Secretary of Labor in certain civil litigation brought under the Act, is caused by the Department's adherence to a compromise with respect to this bill only and does not represent a formal change in the Department's position that Government litigation should be conducted by the Attorney General.

Sincerely,



W. Vincent Rakestraw
Assistant Attorney General

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 759

Date: December 3, 1974

Time: 5:30

FOR ACTION: Roger Semerad
Bill Timmons
Paul Theis
Phil Areeda ✓
Geoff Shepard

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 6, 1974

Time: 11:00 a.m.

SUBJECT:

Enrolled Bill S. 3202 - Farm Labor Contractor
Registration Act Amendments of 1974

ACTION REQUESTED:

<input type="checkbox"/> For Necessary Action	<input checked="" type="checkbox"/> For Your Recommendations
<input type="checkbox"/> Prepare Agenda and Brief	<input type="checkbox"/> Draft Reply
<input checked="" type="checkbox"/> For Your Comments	<input type="checkbox"/> Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

*No objection
P. Areeda*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

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Date: December 3, 1974

Time: 5:30

FOR ACTION: Roger Semerad
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Registration Act Amendments of 1974

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

*no objection
yes 12/6*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

DEC 2 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

This is in response to your request for our views on the enrolled enactment of S. 3202 the "Farm Labor Contractor Registration Act Amendments of 1974."

This Department has supported legislation to improve the Farm Labor Contractor Registration Act of 1963. On November 9, 1973 and April 8, 1974, Assistant Secretary DeLury testified before the House and Senate Subcommittees involved respectively. In both statements, he expressed our basic support for many of the concepts embodied in this legislation. We have also provided technical assistance to the Senate Labor and Public Welfare Committee in connection with this bill and with the bill vetoed by the President on October 29, 1974 because of an unrelated rider.

With respect to strengthening of the Farm Labor Contractor Registration Act of 1963, S. 3202 is essentially the same as H.R. 13342, which was vetoed. However, this bill does not contain the unrelated rider relating to the classification of certain Department of Labor administrative law judges and members of the Benefits Review Board and the status of individuals hearing Black Lung claims. In his veto message, the President stated that he would sign this legislation if the Congress would remove the unrelated rider. Besides deletion of the objectionable rider, and correction of certain technical errors, this bill differs in the following substantive ways from H.R. 13342, which we described in our October 22, 1974 letter to you on that bill.

First, Section 2 of H.R. 13342 amended the Act to cover all persons engaging in the activities of a farm labor contractor. S. 3202 exempts from coverage those contractors who engage in such activity no more than 25 intrastate miles from their homes and who also operate as contractors for no more than 13 weeks a year. This provides an exemption for purely local and occasional intrastate contractors.

Second, Section 4 of H.R. 13342 required that a grower first must "observe" a valid certificate of registration in the possession of a farm labor contractor before using his services. Section 4 of S. 3202 instead requires that a grower make a determination that a contractor possesses such a certificate. This provides growers with some increased flexibility without releasing them from their obligation to use only registered contractors.

Third, Section 7(5) of H.R. 13342 permitted this Department to deny, suspend, or fail to renew the license of any farm labor contractor who used an illegal alien. Section 7(5) of S. 3202 requires that such use be with knowledge before this Department could take such action against the contractor.

Fourth, the civil money penalty provisions of section 13 of H.R. 13342 only provided for assessment of such penalties for violation of regulations issued under the Act. Section 13 of S. 3202 provides for assessments of civil money penalties for violation of the Act itself as well as for violation of regulations.

Fifth, under the antidiscrimination provisions of section 14 of H.R. 13342, workers were given only 30 days to file a retaliation complaint with this Department. Under section 14 of S. 3202, workers are given 180 days to file such complaints.

Sixth, under the antidiscrimination provisions of section 14 of H.R. 13342, a court could order all appropriate relief, including rehiring, reinstatement and damages of up to \$1,000. Section 14 of S. 3202 specifies the additional remedy of back pay.

Certain provisions of this legislation still do not reflect the views of this Department. However, we believe that this bill is better than the bill vetoed by the President and substantially improves the effectiveness of the Farm Labor Contractor Registration Act. It will afford needed protection for the Nation's migrant farm workers.

Therefore, we strongly recommend that the President sign this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthur J. Altmeyer".

Secretary of Labor

Department of Justice
Washington, D.C. 20530

DEC 3 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

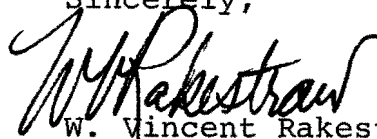
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Insofar as this Department is concerned, the bill is substantially similar to H.R. 13342 which the President vetoed on October 29, 1974. The Department of Justice in an October 22d letter to your office deferred to the Department of Labor on the question whether H.R. 13342 should receive Executive approval. We take the same position with respect to S. 3202.

We do wish to note, however, that the Department's lack of objection to section 14 of the bill, which would add a new section 12(d) to the Farm Labor Contractor Registration Act authorizing the Solicitor of Labor, subject to the direction and control of the Attorney General, to appear for and represent the Secretary of Labor in certain civil litigation brought under the Act, is caused by the Department's adherence to a compromise with respect to this bill only and does not represent a formal change in the Department's position that Government litigation should be conducted by the Attorney General.

Sincerely,



W. Vincent Rakestraw
Assistant Attorney General

PRESIDENTIAL SIGNING STATEMENT ON S. 3202
THE "FARM LABOR CONTRACTOR
REGISTRATION ACT AMENDMENTS OF 1974"

In the decade since the enactment of the "Farm Labor Contractor Registration Act of 1963," it has become apparent that the provisions of the law have not been adequate to accomplish its purpose of protecting migrant farm workers from abuses by farm labor contractors and crew leaders. For about a year, the Administration has been working with the Congress to develop legislation to improve the Act, and there has been give and take on all sides. I am pleased that the spirit of cooperation has resulted in legislation greatly strengthening the Act.

On October 29, 1974, I vetoed a similar bill, H.R. 13342, because it contained an objectionable rider wholly unrelated to improving the working conditions of migrant workers. The rider would have changed the classifications of certain Department of Labor Administrative Law Judges, members of the Benefits Review Board, and persons hearing "black lung" cases. At that time, I urged the Congress to reenact this legislation without the objectionable rider, and I am very pleased that it has done so and placed S. 3202 before me today for my signature.

This legislation makes a number of improvements in the Act, including the following:

-- The Act's coverage is expanded. Under the existing law, a crew leader has to be recruiting migrant workers on an interstate basis, and recruiting 10 or more workers at any one time before being required to register as a farm labor contractor. This bill removes these restrictions except with respect to those operating within a 25-mile intrastate radius of their homes and for 13 weeks a year or less. This will provide protection for many more migrant workers under the Act.

-- Sanctions against violators are expanded. The only penalty which may be imposed against crew leaders who violate the present law is a \$500 fine. This has proven to be a relatively ineffective deterrent against violations. This legislation adds a jail sentence of up to 1 year to the present \$500 criminal fine, and a maximum fine of \$10,000 as well as a maximum 3-year jail sentence for subsequent violations of the Act and for unregistered crew leaders who knowingly recruit illegal aliens. In addition to the expanded criminal penalties, the Labor Department will now be authorized to seek injunctions and assess administrative civil money penalties. Private individuals will also have the right to bring civil suits, and remedies are provided for those discriminated against for exercising their rights under the Act. The Labor Department is also given increased investigatory authority. These provisions should go a long way toward providing the weapons needed to assure that crew leaders live up to their responsibilities toward the migrant workers they recruit.

-- Crew leaders" responsibilities are increased. Under this legislation, crew leaders will be required to obtain increased vehicle insurance coverage, and provide transportation and housing which satisfies applicable State and Federal health and safety requirements. Crew leaders will be required to make a complete disclosure to migrant workers they recruit concerning their employment. In addition, the disclosure will now have to be written, and in a language in which the workers are fluent. These provisions should afford workers additional needed protections and assure them greater information about the work for which they are being recruited.

-- Provision is made for prohibiting the use of unregistered crew leaders, and for improved recordkeeping under the Act.

I strongly believe that these and the other amendments to the Farm Labor Contractor Registration Act should go a long way toward improving the working conditions of our Nation's migrant farm workers. I therefore am pleased today to sign into law the "Farm Labor Contractor Registration Act Amendments of 1974."

FARM LABOR CONTRACTOR REGISTRATION ACT
AMENDMENTS OF 1974

NOVEMBER 21, 1974.—Ordered to be printed

Mr. NELSON, from the Committee on Labor and Public Welfare,
submitted the following

REPORT

[To accompany S. 3202]

The Committee on Labor and Public Welfare, to which was referred the bill (S. 3202) to amend the Farm Labor Contractor Registration Act of 1963 to provide for the extension of coverage and to further effectuate the enforcement of such Act, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

BACKGROUND AND NEED FOR THE LEGISLATION

Migrant agricultural labor has been used extensively in this country since the latter part of the nineteenth century. Typically the migrant labor force has been composed of large ethnic blocks. During the early part of this century, Chinese, Japanese, and Filipinos constituted the majority of those who worked the West Coast fields, while their East Coast counterparts included many Irish, Italian, and Scandinavian workers. Today, the bulk of the migrant workforce is made up of Mexican-Americans, Puerto Ricans, West Indians, and native born black Americans.

Migrant and seasonal farm workers have long been among the most exploited groups in the American labor force. Despite their hard toil and valuable contribution to our nation's economy, their lot has historically been characterized by low wages, protracted hours, and horrid working conditions. The families, and particularly the children, of these workers have also suffered from the typical symptoms of chronic poverty—being undereducated, ill-fed, poorly housed, and lacking even the most rudimentary health and sanitary facilities. The tragedy is further compounded when it is realized that the victims of this poverty are in fact the working poor, those who offer an honest

day's labor, but are denied the full benefits such work should provide, which are so desperately needed to provide the most basic necessities of life.

Exploitation of migrant and seasonal farm labor has continued despite, or perhaps even because of, the startling transformation in American agriculture that has taken place since World War I.

The small family farm, though still many in number, has been effectively replaced because of productivity by large commercial operations. Indeed, it is "agribusiness" which is now the mainstay of modern American farming. Although the impact of mechanization and crop specialization has diminished the overall demand for farm workers generally, the periodic need for such seasonal labor remains acute.

Basically, there are two types of seasonal farm laborers: the migrants who travel from state-to-state along fairly established patterns and those who live permanently in the agricultural area where they work. In both cases, the primary users of such labor—farmers, growers, and packing shed operators, have experienced great difficulty in obtaining a sufficient supply of agricultural labor either directly or through the offices of the United States Employment Service.

The result has been the emergence and evolution of the farm labor contractor to a position of prominence as the primary supplier of agricultural labor. Although the specific functions of the farm labor contractor, often called a "crew leader" or "crew pusher", might vary from job to job, his role essentially remains the same—a bridge between the operator and the worker. In many instances, the contractor is not only the recruiter, hirer, and transporter, but acts as the supervisor, foreman, and paymaster as well. In addition, the contractor frequently controls housing and other vital aspects of the workers' everyday needs. In the vast majority of cases, the crew leader is not only the link between the worker and the grower, but also acts as an intermediary with the non-farming community as well. In the latter role, the crew leader functions as a sort of cultural broker, mediating between the worker and the outside, often alien, community.

Because of these factors, the contractor has been permitted to exercise an inordinate amount of leverage over the workplace situation. The contractor's unchallenged bargaining position is clearly one of detriment to both the farmworker and operator. Patterns of abuse have been well documented in Congressional hearings over the years.

It is unfortunately an all too common experience for workers to be abused by farm labor contractors. Testimony revealed that in many cases the contractor: exaggerates conditions of employment when he recruits workers in their home base, or that he fails to inform them of their working conditions at all; transports them in unsafe vehicles; fails to furnish promised housing, or else furnishes substandard and unsanitary housing; operates a company store while making unitemized deductions from workers' paychecks for purchases, and pays the workers in cash without records of units worked or taxes withheld.

Evidence has also emerged of contractor exploitation of farmers. The contractor would agree to arrive with a crew on a designated date, and simply fail to show up because better opportunities presented themselves elsewhere. This would leave the farmer with no help to harvest his ripening crop. More common is the practice of leaving after the first picking when the second and third pickings become more difficult, and consequently less profitable.

In 1963, Congress sought to remedy some of these abuses by enacting the Farm Labor Contractor Registration Act. In essence, that Act requires that all contractors or "crew leaders" be registered with the Secretary of Labor, upon a showing of moral and fiscal responsibility. Registration is subject to denial if an applicant has been convicted of certain crimes, fails to perform contracts with farm operators, or gives false or misleading information to migrant workers concerning the terms of farm employment. The Act requires all crew leaders to inform each worker at the time of recruitment of (1) the expected area of employment, (2) the crops and operations on which he will be employed, (3) the transportation facilities, (4) the types and cost of housing upon arrival at each place of work, (5) the wage rates to be paid, and (6) any charges that the crew leader expects to make for his services. In addition, the crew leader is required at each place of employment to post the terms and conditions of employment at that particular place. If he manages the housing facilities, he is required to post the terms and conditions of occupancy. If he is the paymaster, he is required to keep payroll records and deduct from the wages all payments required under Federal law. In regard to transportation, the crew leader is required to provide vehicle insurance. Violation of any of the above requirements can result in the revocation of the certificate or in criminal prosecution, with a fine up to \$500, or both.

However, testimony before the Congress has shown that the Act of 1963 has failed to achieve its original objectives. It has become clear that the provisions of the Act cannot be effectively enforced. Non-compliance by those whose activities the Act were intended to regulate has become the rule rather than the exception.

Officials of the United States Department of Labor report that of an estimated 6,000 crew leaders operating across state lines, fewer than 2,000 are registered as required by the present law. Department of Labor investigation of over 1,100 farm labor contractors last year revealed violation of the Act by more than 70% of those checked. While those found in violation were brought into compliance with the Act, including getting those unregistered to register, the Department was unable to locate thousands of unregistered crew leaders.

It is quite evident that the Act in its present form provides no real deterrent to violations. Since the Act's inception, only four persons have been referred to the Department of Justice for criminal prosecution; and only one person has ever been convicted and sentenced.

There are several causes for the Act's ineffective enforcement to date. These include the difficulty of proving that the contractor is engaged in recruitment across state lines; the absence of any requirement that those who benefit from the work of migrant laborers assume responsibility for engaging only registered farm labor contractors; the relatively mild penalties provided by the Act; and the lack of a private remedy for aggrieved workers. The Committee is deeply concerned about this situation, and seeks to provide the Department with a more realistic arsenal of remedies in order to deter and correct the widespread violations that now exist.

The lack of adequate statutory authority with which to deter and correct the abuses of migrant workers by farm labor contractors has been compounded by the relatively meager resources available to the Department for enforcement and administration of the Act. The

Committee urges the Department to reallocate its resources to the maximum extent possible in order to assure a more effective enforcement effort.

The additional enforcement authority provided by the amendments should enable the Labor Department to select and apply corrective action as needed for the differing types of violations it discovers in its enforcement program. At present, the Department is basically limited to a choice between referral for prosecution, which carries a nominal penalty of \$500, or suspension or revocation of a certificate of registration, in cases where the contractor has one. Such suspension under the applicable provisions of the Administrative Procedure Act cannot be accomplished in the ordinary case without first giving the contractor the opportunity, over a period of time, "to demonstrate or achieve compliance with all lawful requirements."

It is the intent of the amendments that the Labor Department should no longer have to seek voluntary compliance with the law from a violator who has plainly disregarded it. The Department should clearly be able to institute proceedings to impose appropriate statutory sanctions without unnecessary delay where there is clear evidence of aggravated, serious, or repeated violations of the Act. In such instances, the public interest requires that the contractor be subject to immediate proceedings for suspension or withdrawal of his certificate unless he can show cause to the contrary. Such violators should not be permitted to obtain postponement or avoidance of this sanction on the unrealistic assumption that they will comply voluntarily in the future.

The Committee is aware that illegal aliens have become an increasingly large source of farm labor in this country, and that the services of a contractor are often utilized to procure this clandestine workforce. Although the existing Act generally prohibits such activities by making it grounds for revoking or suspending the contractor's registration, such sanction in itself is ineffective since the majority of contractors have in the past ignored the Act's registration requirement. Thus, if this tide of illegal immigration is to be stemmed, stricter enforcement and stronger penalties must be applied against those who violate the Act. These additional steps are necessary in light of the adverse effect such importation of illegal aliens has had on the wages and job security of native Americans and lawfully admitted aliens, especially in times of high unemployment.

The Committee has been informed by the Commissioner of the Immigration and Naturalization Service that some government agencies have permitted the employment of illegal aliens as tree planters, thinners and other forest laborers by awarding contracts to forestry contractors who regularly employ aliens who have illegally entered the United States. The provisions of this bill and its penalties are intended to apply to such contractors. The Committee urges the appropriate authorities to investigate this matter and to take all steps necessary to assure that such contracts are not awarded to these contractors.

The Committee has also received expressions of concern, particularly from New Mexico State officials, about the administration of Federal laws on the immigration and use of alien agricultural labor. There has been particular criticism of these laws with respect to the issue

of whether these laws are being administered in such a manner as to be consistent with the need to permit sufficient numbers of alien workers to enter the United States necessary for the harvest of crops, and, at the same time, the need to protect the jobs and wages of the domestic work force. Accordingly, the Committee urges the Department of Labor, in collaboration with other appropriate agencies, to review and examine the adequacy of the alien labor certification program in agriculture, and to report back to the Committee at the earliest possible date.

HISTORY OF THE LEGISLATION

S. 2070 was introduced on June 26, 1973 by the Chairman of the Subcommittee on Employment, Poverty, and Migratory Labor (Senator Nelson). Hearings were held on February 8, 1974, in Fresno, California and on April 8 and 9 in Washington, D.C. Testimony was offered by representatives of growers, farm labor contractors and migratory and seasonal farm workers. Based on information developed at the initial hearing, Senator Nelson introduced a new bill, S. 3202, on March 20, 1974.

Numerous organizations presented favorable views including the United States Department of Justice, the International Brotherhood of Teamsters, the United Farm Workers of America, AFL-CIO, the California Department of Industrial Relations, and the Colorado Department of Labor and Employment. The Department of Labor has strongly endorsed the enactment of legislation to broaden and strengthen the provisions of the Farm Labor Contractor Registration Act, and during the Subcommittee's hearings expressed its support for the provisions of S. 3202.

Legislation (H.R. 13342) seeking to remedy many of the same deficiencies was passed by the House of Representatives on May 7, 1974. S. 3202 was reported out of Subcommittee, and after amendment by the Full Committee, its language was substituted for that passed by the House. H.R. 13342 as amended was then ordered reported by unanimous voice vote from the Full Labor and Public Welfare Committee on August 15, 1974. There were no rollcall votes in Committee.

H.R. 13342 as amended was passed without dissent by the Senate on October 3. The following week, the House unanimously passed the bill with an amendment, and returned it to the Senate. On October 16, the Senate accepted the amended version of H.R. 13342, and sent the bill to the President. On October 29, 1974, the President vetoed the bill, objecting to Section 17 which concerned administrative hearings and proceedings (H. Doc. 93-380).

The Committee thereupon reconsidered S. 3202, which was pending at the time H.R. 13342 was substituted for it. S. 3202 was re-drafted to conform basically with H.R. 13342 as engrossed, except for the deletion of Section 17, and the addition of technical changes and certain modifications to reflect the Committee's original intentions regarding the registration of farm labor contractors. S. 3202 was ordered reported to the Senate by the full Committee by unanimous voice vote on November 21, 1974.

SUMMARY OF THE LEGISLATION

The purpose of S. 3202 is to remedy the deficiencies of the Farm Labor Contractor Registration Act of 1963. The bill extends the Act's coverage, and strengthens its enforcement mechanisms.

S. 3202 deletes the Act's limitation of coverage by including intrastate as well as interstate transactions, although dealings of a purely local and casual nature continue to be exempted. The bill also adds coverage for employment involving the processing of agricultural commodities in an unmanufactured state.

The Secretary of Labor is authorized to issue a certificate of registration to applicants who fully describe their activities, who show proof of having vehicle insurance, and who have not been convicted of certain specified crimes. All registered contractors are required to carry and disclose such certificates of registration at designated times. The bill broadens the information requirement that the farm labor contractor must provide migrant workers with regard to the nature of the worker's prospective employment. All such information must be in writing, in a language in which the worker is fluent, and be in a form prescribed by the Secretary of Labor.

The bill requires farm labor contractors to establish proof that their vehicles and property comply with federal and state health and safety standards; and establishes amounts of vehicle insurance comparable to amounts applicable to vehicles operating under the Interstate Commerce Act.

S. 3202 also places responsibility for payroll recordkeeping on the person to whom workers are furnished by a contractor. However, contractors would still be required to provide migrant workers with specified payroll information.

In addition, S. 3202 creates a Federal civil remedy for persons aggrieved by violations of the Act. It also empowers the Secretary of Labor to enforce the Act through investigations, by the issuance of subpoenas, and by the imposition of civil penalties for designated serious violations of the Act, subject to administrative and judicial review. The bill raises the maximum criminal penalties, and prohibits discrimination against persons who exercise their rights under the Act.

The bill redefines the Act's existing prohibition on contractors regarding illegal aliens, and establishes a criminal penalty, in addition to the current sanction of registration revocation, for certain violators. Any farm labor contractor who has not registered under the Act, or whose registration has been revoked or suspended, will be subject to a criminal penalty of up to a \$10,000 fine or a prison sentence of up to 3 years (or both), if such contractor has knowingly engaged the services of an illegal alien. Illegal alien has been redefined to mean any person who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment.

ESTIMATE OF COST

The Committee has determined on the basis of the increased number of persons who would be defined as farm labor contractors under this legislation that it will be necessary to assign at least an additional 30 positions to the Department's Employment Standards Administration. The Committee therefore estimates the additional cost associated with the legislation to be \$525,000 for fiscal year 1975, and \$750,000 in each fiscal year through 1979.

SECTION-BY-SECTION ANALYSIS

The following is an explanation of the provisions of S. 3202, as reported by the Committee on Labor and Public Welfare.

SHORT TITLE

The first section of this legislation provides that it may be cited as the "Farm Labor Contractor Registration Act Amendments of 1974."

COVERAGE

Section 2 amends certain definitions contained in section 3 of the Farm Labor Contractor Registration Act of 1963 (the "Act") as follows:

The limitation on coverage to those contractors who transport ten or more migrant workers at any one time is removed. The bill creates a new exemption for persons engaging in farm labor contracting within a 25 mile intrastate radius for not more than 13 weeks each year.

A farmer, processor, canner, ginner, packing shed operator, or nurseryman is exempt if he personally recruits migrant workers for his own operation. The Committee wishes to clarify the phrase "solely for his own operation" as used in section 3(b)(2) of the Act. The Committee intends that application of this provision shall not necessarily depend on where title to the commodities involved rests at the time, but shall in the future depend on a full consideration of the economic realities of agricultural production and processing.

It is also the intention of the Committee to include within the personal exemption for agricultural operators (Sec. 3(b)(2) of the Act) any person who is a farmer within the meaning of section 3(f) of the Fair Labor Standards Act. Thus, for example, grove care contractors who perform all the farming operations for fruit grove owners required prior to harvest in producing a crop of fruit from the owner's groves have been considered "farmers" within the meaning of the Fair Labor Standards Act (opinion of the Administrator on advice of the Solicitor of Labor, April 18, 1970, BNA-WHM 91:858r) and would not be deemed farm labor contractors by virtue of any personal engagement by them in activities solely for performance of their own farming operations in the groves of the owners with whom they have contracted.

In addition, the exemption in section 3(b)(3) of the Act has been revised to apply to any full-time or regular employees of any entity referred to in section 3(b)(1) or (2) if their covered activity is performed on no more than an incidental basis and is performed solely for such entity. While employment relationships vary, it is the Committee's intent that foremen and similar bona fide employees will not

have to register as Farm Labor Contractors if it can be shown, for example, that they are full-time and permanent employees of an employer, who utilizes a limited portion of their time for activities as defined in section 3(b) of the Act.

The bill continues the Act's present exemption for charities, non-profit educational institutions, employees of registered farm labor contractors, and the recruitment of non-resident workers under agreements with foreign governments. It creates a new exemption for any common carrier or employee thereof engaged solely in the transportation of migrant workers.

Section 3 amends section 3(d) of the Act providing coverage to all aspects of commerce in agriculture, including that defined in either the Fair Labor Standards Act, Title 29 U.S.C. section 203(f) or the Internal Revenue Code, 26 U.S.C. section 3121(g), and other processing of agricultural or horticultural commodities in an unmanufactured state. This section, and others making conforming changes to additional sections of the Act, deletes the existing limitation of coverage to interstate activity, and thus extend coverage to farm labor contractor activities which may occur entirely within one state.

REGISTRATION REQUIREMENTS

Section 4 of the bill amends Section 4 of the Act by requiring that persons utilizing the services of farm labor contractors must first make a determination that such contractors are properly registered. The Committee intends that this will place an affirmative duty on the person utilizing such services before such services are in fact rendered. The Department of Labor shall promulgate such rules and regulations as are necessary to effectuate and assure that only the services of validly registered contractors are utilized.

Section 5 amends section 5(a) of the Act by extending the present standards for issuance of a certificate of registration to require proof that an applicant's vehicles for the transportation of migrant workers, and real property for the housing of migrant workers, conform to applicable federal and state health and safety standards; and the applicant's consent to the substitute service of legal process on the Secretary on behalf of the applicant where he has made himself unavailable to accept such service, under terms a court may set.

INSURANCE COVERAGE

Section 6 further amends section 5(a) of the Act to require that the Act's current requirements of vehicle insurance coverage be comparable to amounts applicable to vehicles used for the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated thereunder. However, the Secretary of Labor shall have discretion to permit lesser amounts of such preferred insurance if not otherwise available to the farm labor contractor.

DENIAL OR REVOCATION OF REGISTRATION

Section 7 amends section 5(b) of the Act by permitting the Secretary to deny a certificate of registration to any applicant found by the

Secretary to be a stand-in for another person not eligible for a certificate of registration, or where the Secretary determines that an applicant has used a vehicle for the transportation of migrant workers, or has used real property for the housing of migrant workers, which does not conform with applicable federal and state health and safety standards, and which is within the applicant's ownership or control.

The Secretary's current discretion to deny a certificate of registration to persons convicted of offenses designated in § 5(b) (7) of the Act is limited by the bill to those convictions occurring within five years preceeding an application.

REPORTING REQUIREMENTS

Section 8 adds a new subsection 5(d) to the Act requiring registered farm labor contractors to report each change of address to the Secretary within ten days. The subsection also requires each registrant to provide the Secretary with the documentation required in § 5(a) (5) pertaining to health and safety standards of vehicles and real property acquired by the registrant during the year for which registration was previously issued.

DENIAL OF CERTAIN FACILITIES AND SERVICES

Section 9 amends section 6(a) of the Act to provide that a farm labor contractor shall be denied the facilities and services of the United States Employment Service authorized by the Wagner-Peyser Act (48 Stat. 113; 29 U.S.C. 49 et. seq.) if the contractor refuses or fails to exhibit his certificate of registration.

OBLIGATIONS OF FARM LABOR CONTRACTORS

Section 10 amends section 6(b) of the Act to require a farm labor contractor to provide each worker a written statement of the nature of employment at the time of recruitment, in a language in which the worker is fluent, and in a form prescribed by the Secretary, which will include in addition to the information already specified in the present Act: the period of employment of such worker; whether a labor dispute exists in the area of contracted employment; and the existence of any kick-back arrangements between the contractor and third parties in the area of employment.

Section 11 amends section 6 of the Act by: requiring each farm labor contractor to pay over promptly all money or things of value entrusted to him by a farm operator; prohibiting the contractor from requiring workers to purchase goods exclusively from himself or another; prohibiting him from recruiting persons he knows are in violation of the immigration and nationality laws; and requiring him to provide full payroll information to those to whom he furnishes migrant workers.

INVESTIGATION BY SECRETARY

Section 12 amends section 7 of the Act to provide the Secretary with powers of subpoena and examination similar to that provided under

the Fair Labor Standards Act. This Section imposes affirmative duties upon the Secretary to monitor and investigate activities of contractors to the full extent necessary to enforce the Act.

PENALTY PROVISIONS

Section 13 amends section 9 of the Act to add a criminal penalty of imprisonment not to exceed one year, or both, for a first offense. Maximum penalties for conviction of a subsequent violation of the Act are a fine not to exceed \$10,000, imprisonment not to exceed three years, or both. The Secretary is required to report on enforcement in his annual report to the Congress. This section also empowers the Secretary to impose up to a \$1,000 civil money penalty for a violation of the Act or any regulation promulgated under the Act. The civil penalty procedure is subject to the rights of agency review and judicial review by the person against whom a penalty is assessed. It is the intention of the Committee that the availability of both civil and criminal penalties will not manifest itself in abuse of process.

It further provides that any farm labor contractor who has not registered under the Act, or whose registration has been revoked or suspended will be subject to a criminal penalty of up to a \$10,000 fine or a prison sentence of up to 3 years (or both), if such contractor has knowingly engaged the services of an illegal alien. It is the intention of the Committee that all contractors must evidence some affirmative showing by making a bona fide inquiry of whether a prospective employee is a United States citizen, a lawfully-admitted permanent resident, or a non-immigrant authorized to work in the United States. This, of course, should not be construed as a means for discriminating against foreign born, or non-English speaking citizens, who are entitled to all protected rights of employment regardless of ethnic background. It is also the intention of the Committee that the Secretary shall promulgate all regulations necessary for the enforcement of the Act's prohibition against the utilization of illegal aliens in employment. All such regulations, to the extent permitted by this Act, are to be consistent with those of the Attorney General promulgated under the Immigration and Nationality Act.

CIVIL RELIEF

Subsections (a) and (b) of section 14 create a new section 12 of the Act and provide, in addition to other remedies under the Act, that any person who claims to be aggrieved by the violation of any provision may file suit in the appropriate district court of the United States without regard to the amount in controversy, or to the citizenship of the parties. The court may appoint an attorney for such person and may award damages up to \$500 for each violation or other equitable relief. Any civil action brought under such section is subject to appeal as provided by chapter 83 of title 28, U.S.C.

Subsection (c) of section 13 empowers the Secretary to seek injunctive relief in any United States District Court when a violation of the Act is determined by him to have occurred. Subsection (d) authorizes the Solicitor of Labor to represent the Secretary subject to the direction of the Attorney General.

However it is the intention of the Committee that, in the normal course, the Secretary will be represented in civil litigation by the Solicitor of Labor and his attorneys, with appropriate arrangements being made between the Secretary of Labor and the Attorney General with respect to the active involvement of the Justice Department in cases where two or more agencies of the Federal government have varying positions, or where the constitutionality of Federal laws is in question.

DISCRIMINATION PROHIBITED

Section 14 creates a new section 13 of the Act prohibiting discrimination against any migrant worker for the exercise of a right secured under the Act. The United States district court shall be empowered to order reinstatement of any aggrieved worker with back pay or damages. The statutory language limiting protection to actions of a worker taken "with just cause" refers only to complaints which are frivolous on their face, and is not intended to limit any rights secured under the Act. In any action arising under this section the burden remains on the person claimed to be in violation to prove the absence of just cause as a defense to retaliatory action as defined in the Act.

RECORDKEEPING

Section 14 creates a section 14 of the Act which places responsibility on the person to whom workers are furnished by a farm labor contractor for the keeping of records, and to obtain and keep information to be furnished to him by the farm labor contractor under section 6(e) of the Act as amended.

WAIVER OF RIGHTS

Section 15 creates a new section 18 of the Act rendering void a purported waiver by an employee of rights under the Act, except where waiver occurs in favor of the Secretary for purposes of enforcing the Act.

AUTHORIZATION

Section 15 creates a new section 19 of the Act authorizing the appropriation of such sums as are necessary to the enforcement of the Act.

PROMULGATION OF RULES AND REGULATIONS

Section 16 amends section 14 of the Act and redesignated as section 17 to authorize the Secretary to promulgate rules and regulations under any section of the Act.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Labor Contractor Registration Act of 1963".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the channels and instrumentalities of interstate commerce are being used by certain irresponsible contractors for the services of the migrant agricultural laborers, and the public generally, and that, as a result of the use of the channels and instrumentalities of interstate commerce by such irresponsible contractors, the flow of interstate commerce has been impeded, obstructed, and restrained.

(b) It is therefore the policy of this Act to remove the impediments, obstructions, and restraints occasioned to the flow of interstate commerce by the activities of such irresponsible contractors by requiring that all persons engaged in the activity of contracting for the services of workers for **["interstate"]** agricultural employment comply with the provisions of this Act and all regulations prescribed hereunder by the Secretary of Labor.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "person" includes any individual, partnership association, joint stock company, trust, or corporation.

(b) The term "farm labor contractor" means any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports **["ten or more"]** migrant workers (excluding members of his immediate family) **["at any one time in any calendar year"]** for **["interstate"]** agricultural employment. Such term shall not include—

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

(2) any farmer, processor, canner, ginner, packing shed operator, or nurseman who *personally* engages in any such activity for the purpose of supplying migrant workers solely for his own operation;

(12)

(3) any full-time or regular employee of any entity referred to in (1) or (2) above *who engages in such activity solely for his employer on no more than an incidental basis*;

(4) any person who engages in such activity (A) *solely within a 25 mile intrastate radius of his permanent place of residence, and (B) for not more than 13 weeks per year*;

(5) any person who engaged in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States, if the employment of such workers is subject to—

(A) an agreement between the United States and such foreign nation, or

(B) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for in the United States by an instrumentality of such foreign nation;

(6) *any full-time or regular employee of any person holding a certificate of registration under this Act; or*

(7) *any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers.*

(c) The term "fee" includes any money or other valuable consideration paid or promised to be paid to a person for services as a farm labor contractor.

(d) The term **["interstate"]** "agricultural employment" means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) **["when such service or activity is performed by an individual worker who has been transported from one State to another or from any place outside of a State to any place within a State.] and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.**

(e) The term "Secretary" means the Secretary of the United States Department of Labor or his duly authorized representative.

(f) The term "State" means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

(g) The term "migrant worker" means an individual whose primary employment is in agriculture, as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or who performs agricultural labor, as defined in section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)), on a seasonal or other temporary basis.

CERTIFICATE OF REGISTRATION REQUIRED

SEC. 4. (a) No person shall engage in activities as a farm labor contractor unless he first obtains a certificate of registration from the Secretary, and unless such certificate is in full force and effect and is in such person's immediate possession.

(b) A full-time or regular employee of any person holding a valid certificate of registration under the provisions of this Act shall not, for the purpose of engaging in activities as a farm labor contractor solely on behalf of such person, be required to obtain a certificate of registration hereunder in his own name. Any such employee shall be required to have in his immediate personal possession when engaging in such activities such identification as the Secretary may require showing such employee to be an employee of, and duly authorized to engage in activities as a farm labor contractor for, a person holding a valid certificate of registration under the provisions of this Act. Except as provided in the foregoing provisions of this subsection, any such employee shall be subject to the provisions of this Act and regulations prescribed hereunder to the same extent as if he were required to obtain a certificate of registration in his own name.

(c) *No person shall engage the services of any farm labor contractor to supply farm laborers unless he first determines that the farm labor contractor possesses a certificate from the Secretary that is in full force and effect at the time he contracts with the farm labor contractor.*

(d) *Upon determination by the Secretary that any person knowingly has engaged the services of any farm labor contractor who does not possess such certificate as required by subsection (c) of this section, the Secretary is authorized to deny such person the facilities and services authorized by the Act of June 6, 1933 (48 Stat. 113; 29 U.S.C. 49 et seq.), commonly referred to as the Wagner-Peyser Act, for a period of up to three years.*

ISSUANCE OF CERTIFICATE OF REGISTRATION

SEC. 5. (a) The Secretary shall, after appropriate investigation, issue a certificate of registration under this Act to any person who—

(1) has executed and filed with the Secretary a written application subscribed and sworn to by the applicant containing such information (to the best of his knowledge and belief) concerning his conduct and method of operation as a farm labor contractor as the Secretary may require in order effectively to carry out the provisions of this Act;

(2) has filed, within such time as the Secretary may prescribe, proof satisfactory to the Secretary of the financial responsibility of the applicant or proof satisfactory to the Secretary of the existence of a policy of insurance which insures such applicant against liability for damages to persons or property arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle for the transportation of migrant workers in connection with his business, activities, or operations as a farm labor contractor. [The amount of any such policy of insurance shall be not less than the amount required under the law or regulation of any State in which such applicant operates a vehicle in connection with his business, activities, or operations as a farm labor contractor; but in no event shall the amount of such insurance be less than \$5,000 for bodily injuries to or death of one person; \$20,000 for bodily injuries to or death of all persons in-

jured or killed in any one accident; \$5,000 for the loss or damage in any one accident to property of others; and.] *In no event shall the amount of such insurance be less than the amounts currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, or amounts offering comparable protection to persons or property from damages arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle as provided herewith: Provided, That the Secretary shall have the discretion to issue regulations requiring insurance in the highest amount feasible which are less than the amounts currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, if the Secretary, after due and careful consideration, determines that the insurance coverage in such amounts is not available to farm labor contractors in the same manner and in the same amounts as such coverage is available to other carriers used to transport passengers in interstate commerce;*

(3) has filed, within such time as the Secretary may prescribe, a set of his fingerprints;

(4) has filed, under such terms as the Secretary may prescribe, a statement identifying each vehicle to be used by the applicant for the transportation of migrant workers, and all real property to be used by the applicant for the housing of migrant workers, during the period for which registration is sought, along with proof that every such vehicle and all such housing currently conform to all applicable Federal and State safety and health standards to the extent that such vehicle and all such housing are under the applicant's ownership or control; and

(5) has consented to designation of the Secretary as the agent available to accept service of summons in any action against such farm labor contractor at any and all times during which such farm labor contractor has departed from the jurisdiction in which such action is commenced or otherwise has become unavailable to accept service, under such terms and conditions as are set by the court in which such action has been commenced.

(b) Upon notice and hearing in accordance with regulations prescribed by him, the Secretary may refuse to issue, and may suspend, revoke, or refuse to renew a certificate of registration to any farm labor contractor if he finds that such contractor—

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

(2) knowingly has given false or misleading information to migrant workers concerning the terms, conditions, or existence of agricultural employment;

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

(4) has failed, without justification, to comply with the terms of any working arrangements he has made with migrant workers;

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

(6) has recruited, employed, or utilized, *with knowledge*, the services of **[a person with knowledge that such person is violating the provisions of the immigration and nationality laws of the United States;]** *any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment;*

(7) has been convicted of any crime under State or Federal law relating to gambling or to the sale, distribution, or possession of alcoholic liquors in connection with or incident to his activities as a farm labor contractor; or has been convicted of any crime under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, *prostitution, or peonage; where the date of the judgment of conviction of any crime as specified herein has been entered within a period of five years preceding the action of the Secretary under this subsection;*

(8) has failed to comply with rules and regulations promulgated by the Interstate Commerce Commission that are applicable to his activities and operations in interstate commerce;

(9) knowingly employs or continues to employ any person to whom subsection (b) of section 4 of this Act applies who has taken any action, except for that listed in paragraph (5) of this subsection, which could be used by the Secretary under this subsection to refuse to issue a certificate of registration; **[or]**

(10) has failed to comply with any of the provisions of this Act or any regulations issued **[hereunder.]** *hereunder; or*

(11) *is not in fact the real party in interest in any such application or certificate of registration and that the real party in interest is a person, firm, partnership association, or corporation who previously has been denied a certificate of registration, has had a certificate of registration suspended or revoked, or who does not presently qualify for a certificate of registration; or*

(12) *has used a vehicle for the transportation of migrant workers, or has used real property for the housing of migrant workers, while such vehicle or real property failed to conform to all applicable Federal and State safety and health standards, to the extent any such vehicle or real property has come within the ownership or control of such farm labor contractor.*

(c) A certificate of registration, once issued, may not be transferred or assigned and shall be effective for the remainder of the calendar year during which it is issued, unless suspended or revoked by the Secretary as provided in this Act. A certificate of registration may be renewed each calendar year upon approval by the Secretary of an application for its renewal.

(d) *Persons issued a certificate of registration under this section shall provide to the Secretary a notice of each and every change within 10 days after such change. The Secretary shall maintain a*

public central registry of all persons issued certificates of registration under this section. Persons issued a certificate of registration under this section shall provide to the Secretary documentation required under section 5(a)(4) of the Act applicable to any vehicle which the applicant obtains for use in the transportation of migrant workers and any real property which the applicant obtains or learns will be used for the housing of migrant workers during the period for which the certificate of registration is issued, within ten days after he obtains or learns of the intended use of such vehicle or real property, to the extent that such vehicle or such real property is under the ownership or control of such persons who have been issued certificates of registration.

OBLIGATIONS AND PROHIBITIONS

SEC. 6. Every farm labor contractor shall—

(a) carry his certificate of registration with him at all times while engaging in activities as a farm labor contractor and exhibit the same to all persons with whom he intends to deal in his capacity as a farm labor contractor prior to so dealing and shall be denied the facilities and services authorized by the Act of June 6, 1933 (29 U.S.C. 49), upon refusal or failure to exhibit the same;

(b) ascertain and disclose to each worker at the time the worker is recruited the following information to the best of his knowledge and belief: (1) the area of employment, (2) the crops and operations on which he may be employed, (3) the transportation, housing, and insurance to be provided him, (4) the wage rates to be paid him, (5) the charges to be made by the contractor for his services, (6) *the period of employment, (7) the existence of a strike or other concerted stoppage, slowdown, of interruption of operations by employees at the place of contracted employment, and (8) the existence of any arrangements with any owner, proprietor, or agent of any commercial or retail establishment in the area of employment under which he is to receive a commission or any other benefit resulting from any sales provided to such commercial or retail establishment from the migrant workers whom he recruits. The disclosure required under this subsection shall be in writing in a language in which the worker is fluent and written in a manner understandable by such workers, on such forms and under such terms and conditions as the Secretary shall prescribe.*

(c) upon arrival at a given place of employment, post in a conspicuous place a written statement of the terms and conditions of that employment;

(d) in the event he manages, supervises, or otherwise controls the housing facilities, post in a conspicuous place the terms and conditions of occupancy; **[and]**

(e) in the event he pays migrant workers engaged in **[interstate]** agricultural employment, either on his own behalf or on behalf of another person, keep payroll records which shall show for each worker total earnings in each payroll period, all withholdings from wages, and net earnings. In addition, for workers employed on a time basis, the number of units of time employed and the rate per unit of time shall be recorded on the payroll records, and for workers employed on

a piece rate basis, the number of units of work performed and the rate per unit shall be recorded on such records. In addition he shall provide to each migrant worker engaged in [interstate] agricultural employment with whom he deals in a capacity as a farm labor contractor a statement of all sums paid to him (including sums received on behalf of such migrant worker) on account of the labor of such migrant worker. He shall also provide each such worker with an itemized statement showing all sums withheld by him from the amount he received on account of the labor of such worker, and the purpose for which withheld. [The Secretary may prescribe an appropriate form for recording such information.] *He shall additionally provide to the person to whom any migrant worker is furnished all information and records required to be kept by such contractor under this subsection, and all information required to be provided to any migrant worker under this subsection. The Secretary may prescribe appropriate forms for the recording of information required by this subsection;*

(f) *refrain from recruiting, employing, or utilizing, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by Attorney General to accept employment;*

(g) *promptly pay or contribute when due to the individuals entitled thereto all moneys or other things of value entrusted to the farm labor contractor by any farm operator for such purposes; and*

(h) *refrain from requiring any worker to purchase any good solely from such farm labor contractor or any other person.*

AUTHORITY TO OBTAIN INFORMATION

SEC. 7. The Secretary or his designated representative may investigate and gather data with respect to matters which may aid in carrying out the provisions of this Act. In any case in which a complaint has been filed with the Secretary regarding a violation of this Act or with respect to which the Secretary has reasonable grounds to believe that a farm labor contractor has violated any provisions of this Act, the Secretary or his designated representative may investigate and gather data respecting such case, and may, in connection therewith, enter and inspect such places and such records (and make such 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 Act has been committed. *The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths and affirmations, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this chapter, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50) (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the jurisdiction, powers, and duties of the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary with respect to which the Secretary commences*

an investigation. The Secretary shall monitor and investigate activities of farm labor contractors in such manner as is necessary to enforce the provisions of this Act.

AGREEMENTS WITH FEDERAL AND STATE AGENCIES

SEC. 8. The Secretary is authorized to enter into agreements with Federal and State agencies, to utilize (pursuant to such agreements) the facilities and services of the agencies, and to delegate to the agencies such authority, other than rulemaking, as he deems necessary in carrying out the provisions of this Act, and to allocate or transfer funds or otherwise to pay or to reimburse such agencies for expenses in connection therewith.

PENALTY PROVISIONS

SEC. 9. (a) Any farm labor contractor or employee thereof who willfully and knowingly violates any provision of this Act shall be fined not more than \$500, sentenced to a prison term not to exceed one year, or both, and, upon conviction for any subsequent violation of this Act, shall be punishable by a fine not to exceed \$10,000 or sentenced to a prison term not to exceed three years, or both. The Secretary shall report on enforcement of the provisions of this Act in the annual report of the Secretary required pursuant to section 9, of the Act entitled An Act to Create a Department of Labor, approved March 4, 1913 (37 Stat. 738, 29 U.S.C. 560). The reporting hereunder shall include, but shall not be limited to, a description of efforts to monitor and investigate the activities of farm labor contractors, the number of complaints of violations received by the Secretary and their disposition and the number and nature of any sanctions imposed.

(b) (1) Any person who commits a violation of this Act or any regulations promulgated under this Act, may be assessed a civil money penalty of not more than \$1,000 for each violation. The penalty shall be assessed by the Secretary upon written notice, under the procedures set forth herein.

(2) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5 United States Code. The agency determination shall be made by final order subject to review only as provided in paragraph (3). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(3) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be

set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5.

(4) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(5) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(c) Notwithstanding subsections (a) and (b) of this section, any farm labor contractor who commits a violation of subsection 6(f) of the Act or any regulations promulgated thereunder shall upon conviction be fined not to exceed \$10,000 or sentenced to a prison term not to exceed three years, or both, if the person committing such violation has failed to obtain a certificate of registration pursuant to this Act or is one whose certificate has been suspended or revoked by the Secretary.

APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT

SEC. 10. The provisions of the Administrative Procedure Act (5 U.S.C. 1001 and the following) shall apply to all administrative proceedings conducted pursuant to the authority contained in this Act.

JUDICIAL REVIEW

SEC. 11. Any person aggrieved by any order of the Secretary in refusing to issue or renew, or in suspending or revoking, a certificate of registration may obtain a review of any such order by filing in the district court of the United States for the district wherein such person resides or has his principal place of business, or in the United States District Court for the District of Columbia, and serving upon the Secretary, within thirty days after the entry of such order, a written petition praying that the order of the Secretary be modified or set aside in whole or in part. Upon receipt of any such petition, the Secretary shall file in such court a full, true, and correct copy of the transcript of the proceedings upon which the order complained of was entered. Upon the filing of such petition and receipt of such transcript, such court shall have jurisdiction to affirm, set aside, modify, or enforce such order, in whole or in part. In any such review, the finding of fact of the Secretary shall not be set aside if supported by substantial evidence. The judgment and decree of the court shall be final, subject to review as provided in sections 1254 and 1291 of title 28, United States Code.

CIVIL RELIEF

SEC. 12. (a) Any person claiming to be aggrieved by the violation of any provision of this Act or any regulation prescribed hereunder may file suit in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without

regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

(b) Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action. If the court finds that the respondent has intentionally violated any provision of this Act or any regulation prescribed hereunder, it may award damages up to \$500 for each violation or other equitable relief. Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(c) If upon investigation the Secretary determines that the provisions of this Act have been violated, he may petition any appropriate district court of the United States within the jurisdiction of which violations of this Act are alleged to have occurred for temporary or permanent injunctive relief.

(d) Except as provided in section 518(a) of title 28, United States Code relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

DISCRIMINATION PROHIBITED

SEC. 13. (a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant worker because such worker has, with just cause, filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceedings or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this Act.

(b) Any worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within 180 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) and order all appropriate relief including rehiring or reinstatement of the worker, with back pay, or damages.

RECORDKEEPING

SEC. 14. Any person who is furnished any migrant worker by a farm labor contractor shall maintain all payroll records required to be kept by such person under Federal law, and with respect to migrant workers paid by a farm labor contractor such person shall also obtain from the contractor and maintain records containing the information required to be provided to him by the contractor under section 6(e) of the Act.

STATE LAWS AND REGULATIONS

Sec. [12] 15. This Act and the provisions contained herein are intended to supplement State action and compliance with this Act shall not excuse anyone from compliance with appropriate State law and regulation.

SEVERABILITY

Sec. [13] 16. If any provision of this Act, or the application thereof to any person or circumstance, shall be held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

RULES AND REGULATIONS

Sec. [14] 17. The Secretary is authorized to issue such rules and regulations as he determines necessary for the purpose of carrying out the provisions [of sections 4, 5, 6, and 8] of this Act.

NONWAIVER PROVISIONS

SEC. 18. Any agreement by an employee purporting to waive or to modify his rights hereunder shall be void as contrary to public policy, except a waiver or modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of the Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated to carry out the purpose of this Act such sums as may be necessary for the effective enforcement of this Act.



FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS OF 1974

NOVEMBER 25, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PERKINS, from the Committee on Education and Labor,
submitted the following

REPORT

[To accompany H.R. 17474]

The Committee on Education and Labor, to whom was referred the bill (H.R. 17474) to amend the Farm Labor Contractor Registration Act of 1933 to provide for the extension of coverage and to further effectuate the enforcement of such Act, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts a substitute text which appears in *italic type* in the reported bill.

PURPOSE AND SUMMARY OF THE LEGISLATION

The major purpose of the reported bill is to correct recognized deficiencies in the enforcement of the original legislation by extending coverage of the act by creating stronger provisions for the act's enforcement and by creating a civil remedy for persons aggrieved by violations of the act.

The bill deletes the existing exception to the act's coverage for farm labor contracting conducted intrastate by extending coverage to interstate commerce as defined in the Fair Labor Standards Act and the Internal Revenue Code. The bill does create, however, an exemption for casual operations that take place within a 25-mile intrastate radius for short-term periods. The bill also adds coverage for employment involving the processing of agricultural commodities in an unmanufactured state.

The bill empowers the Secretary of Labor to enforce the act through investigations, the issuance of subpoenas, and the referral of probable violations to the Department of Justice. It permits a person claiming to be aggrieved by a violation of the act to file suit for damages up to \$500 or other relief in the appropriate U.S. district court.

The bill requires farm labor contractors to establish proof that their vehicles and property comply with federal and state health and safety standards; and establishes amounts of vehicle insurance comparable to amounts applicable to vehicles operating under the Interstate Commerce Act.

An agricultural employer who engages a farm labor contractor is required to determine that the contractor possesses a valid certificate of registration under the act.

Farm labor contractors at the time of recruitment are required to disclose information to each worker in written form regarding the period of employment and whether a labor dispute exists in the area of employment (in a language in which the worker is fluent).

The bill increases the maximum penalty for willful and knowing violations of the act by providing for a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both. Discrimination against any farmworker for filing a complaint under the act is prohibited. The Secretary is authorized to investigate and file suit on behalf of a farmworker determined to have been the object of such discrimination.

The bill redefines the act's existing prohibition on contractors regarding illegal aliens, and establishes a criminal penalty, in addition to the current sanction of registration revocation, for certain violators. Any farm labor contractor who has not registered under the act, or whose registration has been revoked or suspended, will be subject to a criminal penalty of up to a \$10,000 fine or a prison sentence of up to 3 years (or both), if such contractor has knowingly engaged the services of an illegal alien. Illegal alien has been redefined to mean any person who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment.

LEGISLATIVE HISTORY

The precursor of the present bill was H.R. 7597, introduced by the chairman of the Agricultural Labor Subcommittee (Mr. Ford for himself, Mr. Thompson of New Jersey, Mr. O'Hara, Mrs. Grasso, Mr. Meeds, and Mr. Lehman) on May 8, 1973. H.R. 7597 was the result of an extensive study by the subcommittee staff and an oversight hearing in Dade County, Fla., on April 6 and 7, 1973, during which numerous deficiencies in the Farm Labor Contractor Registration Act of 1963 were discovered, due to the act's incomplete coverage of contractors and its inadequate provision for enforcement. To correct these deficiencies, H.R. 7597 extended the act's coverage to any recruitment of workers by farm labor contractors in interstate commerce and provided a federal civil remedy to persons aggrieved by violations of the act.

Hearings were held on H.R. 7597 on May 14 and November 9, 1973, which demonstrated some inadequacies in H.R. 7597. Thus, H.R. 12516, which incorporated the material provisions of H.R. 7597 and added other provisions extending the act's coverage, was introduced on February 4, 1974 by Mr. Landgrebe (for himself, Mr. Quie, Mr. Erlenborn, Mr. Hansen, and Mr. Towell).

At a subcommittee mark-up session on February 20, 1974, the text of H.R. 12516 was substituted for the text of H.R. 7597 and several amendments were adopted. The subcommittee ordered a clean bill favorably reported to the full committee. H.R. 13342 was introduced

on March 7, 1974, by all the members of the Subcommittee on Agricultural Labor (Mr. Ford, Mr. Landgrebe, Mrs. Grasso, Mr. Thompson of New Jersey, Mr. Hawkins, Mr. Lehman, Mr. Towell and Mr. Steiger) and by additional members of the Committee on Education and Labor (Mr. O'Hara, Mr. Meeds, Mr. Quie, Mr. Erlenborn and Mr. Hansen of Idaho).

On April 3, 1974, the full committee ordered H.R. 13342 reported, without amendment, by unanimous vote (H. Rept. 93-1024). H.R. 13342 was passed by the House under suspension of the rules on May 7 and referred to the Senate. On October 1, H.R. 13342 was reported in the Senate with an amendment in the form of a substitution by the Committee on Labor and Public Welfare (S. Rept. 93-1206). The Senate passed the bill without dissent on October 3. On October 11, the House concurred, with an amendment to the Senate amendment. The Senate agreed to the amended version of H.R. 13342 on October 16 and sent it to the President.

On October 29, 1974, the President vetoed the bill because of his objections to section 17 which amended the Longshoremen's and Harbor Workers' Compensation Act.

On November 20, 1974, H.R. 17474 was introduced by Mr. Ford (for himself, Mr. Thompson of New Jersey, Mr. Landgrebe, Mr. Lehman, and Mr. O'Hara). This bill was substantially similar to H.R. 13342 as engrossed, except for the deletion of section 17, for certain modifications in conformance with the committees' initial intention, and for the addition of technical changes.

The Committee on Education and Labor considered H.R. 17474 on November 21 and ordered it reported with an amendment by a voice vote which was unanimous. The amendment makes technical, conforming and clarifying changes in the text.

ESTIMATE OF COST

Pursuant to the requirements of clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates that this legislation will result in an increased Federal cost of \$500,000 for each fiscal year following enactment. This figure is based on the estimate provided in the Committee by the Office of Budget of the Department of Labor which follows:

Estimate

Coverage extended to 13,000 additional contractors, including 4,000 interstate crew leaders, 4,000 dayhaul contractors and 5,000 miscellaneous types.

Resources for fiscal year 1975 (20 positions)-----	\$500, 000
20—GS-12 compliance officers at \$17,497-----	349, 940
Extra day of pay-----	1, 000
10 percent lapse new positions-----	—28, 000
Personnel compensation-----	344, 000
Nonlabor costs-----	156, 000
Total-----	500, 000

Source: Department of Labor, Office of Budget.

BACKGROUND OF H.R. 17474

The men and women who harvest our fresh fruits and vegetables move with the seasons in three major migrant streams. For instance, in the east coast stream, many migrants have a home base in Florida. In the early spring, they move northward to the potato or bean fields of eastern North Carolina and then up the coast as the crops successively mature in Maryland, Delaware, New Jersey and Long Island. They may then move to upstate New York when fruits ripen in the late summer, then move southward picking apples in the Virginia Shenandoah Valley and peaches in Georgia or the Carolinas, and arrive home in Florida in time for the late fall cultivation. Their counterparts in the middle stream may maintain their home base in Texas. Traditionally, they may pick cotton in Texas in early spring, then follow the midwest stream north to the sugar beet fields of Colorado, on to the cherries of Michigan or the tomato fields of Indiana, and return to Texas for the fall cotton harvest. On the west coast, the migrants follow the harvest stream northward, perhaps from Arizona to the early lettuce in California on toward the Oregon hops or Washington apples. Also, on the west coast there are many migrants who never leave their home state of California but instead migrate from one area to another, all within the confines of the State boundaries.

Some farmworkers live in the commuting areas and "day haul" from their homes to their farm work. Others travel alone or in family groups and are "freewheelers" or "walk ons." Still others are recruited directly by large farmers, by associations of farmers, or by the large packing-houses and cannery companies that purchase the crops and do their own harvesting and processing.

Most farmworkers, however, are recruited, transported, housed, hired and directed by a single person—the farm labor contractor, known interchangeably as a "crew leader" in some areas. He is usually the single bridge between the farm operator as ultimate employer and his migrant agricultural work force.

The farm labor contractor; his power and potential in the lives of migrants

In addition to "recruiting" the work force, the farm labor contractor (or "crew leader") provides many other functions. First of all, he generally owns a bus or a truck and provides (for a fee) the necessary transportation northward. Upon arrival at the location of the temporary work, he transports the workers from their living accommodations to the fields and sometimes hauls the produce to market. Often he manages the field camp where the migrants live, collecting the rents and tending the maintenance. Crew leaders often have the "food concession" and serve meals and the "snacks" between meals—again for a price. They supervise and manage the crew in the fields and keep a tally of the individual production. They are the paymasters, paying the workers with money received by contract or by commission from the farmer.

The contractor's unchallenged bargaining position creates a constant opportunity for abuse of both the farmer and the farmworker. Patterns of such abuse emerged rather dramatically in Congressional testimony in both Houses preceding passage of the Act in 1963 and again in testimony before the Subcommittee on Agricultural Labor during the past year.

Evidence emerged of contractor exploitation of farmers. The contractor would agree to arrive with a crew on a designated date, and simply fail to show up because better opportunities presented themselves elsewhere. This would leave the farmer with no help to harvest his ripening crop. More common is the practice of leaving after the first picking, when the second and third pickings become more difficult and less profitable.

Abuse of workers by the contractor/crew leader appears more the rule than the exception. The testimony revealed that in many cases the contractor tends to exaggerate conditions of employment when he recruits workers in their home base or that he fails to inform them of their working conditions at all; tends to transport them in unsafe vehicles; fails to furnish promised housing or else furnishes substandard and unsanitary housing; often operates a company store while making unitemized deductions from workers' paychecks for purchases, and usually pays the workers in cash without records of units worked or taxes withheld.

The Farm Labor Contractor Registration Act of 1963; its purpose and provisions

In 1963, Congress sought to remedy some of these abuses by enacting the Farm Labor Contractor Registration Act.

In essence, that act requires that all contractors or "crew leaders" be registered with the Secretary of Labor, upon a showing of moral and fiscal responsibility. Registration was subject to denial to an applicant shown to have been convicted of certain crimes, or who failed to perform on contracts with farm operators, or who gave false or misleading information to migrant workers concerning the terms of farm employment. The act required all crew leaders to inform each worker at the time of recruitment (1) the expected area of employment, (2) the crops and operations on which he would be employed, (3) the transportation facilities, (4) the types and cost of housing upon arrival at each place of work, (5) the wage rates to be paid, and (6) any charges that the crew leader expected to make for his services. In addition, the crew leader was required at each place of employment to post the terms and conditions of employment at that particular place. If he managed the housing facilities, he was required to post the terms and conditions of occupancy. If he was the paymaster, he was required to keep payroll records and deduct from the wages all payments required under Federal law. In regard to transportation, the crew leader was required to provide insurance in an amount thought in 1963 to be adequate. Violation of any of the above requirements could result in the revocation of the certificate or in criminal prosecution, with a fine up to \$500, or both.

RECENT TESTIMONY SUPPORTING ADOPTION OF H.R. 17474

Evidence presented to the Subcommittee on Agricultural Labor during the past two years indicated quite clearly that many of the abuses which were the subject of the 1963 legislation have continued unabated. But for technical exceptions, the hearings produced no substantive criticism of the proposed law other than (1) calls for strengthening the bill even further and (2) one comment that the bill might duplicate certain registration requirements under Florida law. From this testimony emerged H.R. 12516, introduced by Mr. Landgrebe; from it emerged H.R. 13342 sponsored by the entire Subcommittee, and subsequently H.R. 17474 was introduced.

Cumulative testimony from public officials, growers, former farm labor contractors, unions and concerned citizens shows an undisputed pattern of continuing abuse in the activities of many contractors.

(1) *The abuses sought to be curbed by the 1963 law continue unabated.*—A Pennsylvania public official reported complaints from farmers of crew leaders leaving a job before the completion of a harvest, thus allowing a large tomato crop to spoil. He reported also of complaints from migrants who alleged that they were being cheated out of their wages, overcharged for the food furnished, and physically assaulted—all by the contractor who had recruited them.

A former farm labor contractor testified that he was unaware of any contractor who did not give false or misleading information to migrants in recruiting; that such contractors commonly receive a certain amount from the farmer, but "skim" and pay a lesser amount to the worker; that they overcharge on rent, food, liquor and cigarettes, and that very often they carry guns to maintain authority.

Several witnesses testified about misleading recruitment practices, where workers were hired allegedly as tractor drivers, but later were employed as stoop laborers; where workers are promised adequate living facilities but were actually housed in cramped and substandard rooms, and where workers were recruited unaware of the fact that they were to be used as strikebreakers.

(2) *The present law is largely ignored and is not adequately enforced.*—Officials of the U.S. Department of Labor estimated that, of over 6,000 crew leaders operating across state lines, fewer than 2,000 are registered as required by law. A spot check of over 900 farm labor contractors last year revealed violation of the Act by 73 percent of those checked. Despite widespread violations, no contractor registrations were revoked or suspended last year; only one person has ever been convicted under the Act in its entire history of almost 10 years.

Several explanations occur for the Act's ineffective enforcement to date. One is the difficulty of proving that the contractor is engaged in recruitment across state lines; another is the relatively light penalty upon conviction, with no provision for jail sentence even for serious or repeated violations. Perhaps most important of all, however, is the Department's shortage of adequate manpower to police the Act.

(3) *The proposed legislation would correct deficiencies in existing laws.*—H.R. 17474 would facilitate enforcement of the Farm Labor Contractor Registration Act by extending its coverage to recruitment which may occur entirely within a state by broadly defining "interstate" activity as set forth in either title 29 United States Code, sec. 203(f) or title 26 United States Code, sec. 3121(g), except for certain casual, short-term operations. The original bill (H.R. 7597) was premised on the belief that extension of coverage would dilute the limited enforcement resources within the Department of Labor and proposed instead to limit coverage by eliminating jurisdiction over the "day haul" operations. However, testimony strongly indicated the need to extend jurisdiction. Department of Labor officials assured the Subcommittee that, under its new staff reorganization, it could police the crew leader in the "day haul" operations, in the extended operations across state lines, and in the more limited intrastate operations within the large agricultural states such as California and Florida. The Department, as well as virtually all other witnesses who addressed this issue, strongly favored extending rather than decreasing jurisdiction in order to eliminate the intrastate loophole currently utilized by many contractors.

The bill further effectuates enforcement of the Act (a) by creating an unfettered federal civil remedy for persons aggrieved by a contractor's violation of the Act; (b) by empowering the Secretary of Labor with positive duties of investigation and action upon discovery of violations; (c) by requiring the grower to assure that the contractor with whom he deals is registered under the Act; and (d) by authorizing the Secretary of Labor to seek injunctive relief against violations in addition to administrative and criminal sanctions.

H.R. 17474 establishes amounts of vehicle insurance which the contractor must carry comparable to amounts applicable to vehicles operating under the Interstate Commerce Act. However, the Secretary of Labor shall have discretion to permit lesser amounts of such preferred insurance if not otherwise available to the farm labor contractor.

CONCLUSION

The committee believes the Farm Labor Contractor Registration Act must be expanded to provide the broadest feasible coverage and to include intrastate recruitment, transportation or hire of workers by farm labor contractors for agriculture as defined under either the Fair Labor Standards Act or the Internal Revenue Code. In addition, the bill's provisions of an unfettered civil remedy for aggrieved persons, a sharing of responsibility with growers for enforcement, and placing explicit powers and affirmative duties on the Secretary of Labor are additions all of which are crucial to the effective enforcement of existing law.

SECTION-BY-SECTION EXPLANATION AND RAMSEYER RULE PRINT

Following is an explanation of the provisions of H.R. 17474, as approved and reported by the Committee on Education and Labor on November 21, 1974.

SHORT TITLE

The first section of this legislation provides that it may be cited as the "Farm Labor Contractor Registration Act Amendments of 1974".

EXTENSION OF COVERAGE

Section 2, by restating the definition under the Act removes the existing exemptions for contractors operating on an intrastate basis and for contractors transporting fewer than 10 migrant workers at one time.

While it is the feeling of the Committee that the definitions and exclusions contained in Section 3 of the Act as it would be amended by this bill exclude the traditional relationship which exists in the hand-harvesting of certain crops in the Pacific Northwest whereby a teacher or other incidental employee of a grower may recruit, solicit, hire, furnish or transport students or other permanent residents of the area and whereby such recruitment, solicitation, hiring, furnishing or transporting is done in his capacity as an employee and results in the establishment of an employer-employee relationship between the grower and the students or other permanent residents mentioned above, some apprehension was indicated by certain Members. It should be made clear that the Committee does not intend, in any manner, to disturb the traditional historical relationship described above which the Committee does not feel is a farm labor contractor relationship as defined by this Act.

A farmer, processor, canner, ginner, packing shed operator, or nurseryman is exempt if he personally recruits migrant workers for his own operation. The Committee wishes to clarify the phrase "solely for his own operation" as used in section 3(b)(2) of the Act. The Committee intends that application of this provision shall not necessarily depend on where title to the commodities involved rests at the time, but shall in the future depend on a full consideration of the economic realities of agricultural production and processing.

It is also the intention of the Committee to include within the personal exemption for agricultural operators (Sec. 3(b)(2) of the Act) any person who is a farmer within the meaning of section 3(f) of the Fair Labor Standards Act. Thus, for example, grove care contractors who perform all the farming operations for fruit grove owners required prior to harvest in producing a crop of fruit from the owner's groves have been considered "farmers" within the meaning of the Fair Labor Standards Act (opinion of the Administrator on advice of the Solicitor of Labor, April 18, 1970, BNA-WHM 91:858r) and would not be deemed farm labor contractors by virtue of any personal engagement by them in activities solely for performance of their own farming operations in the groves of the owners with whom they have contracted.

In addition, the exemption in section 3(b)(3) of the Act has been revised to apply to any full-time or regular employees of any entity referred to in section 3(b)(1) or (2) if their covered activity is performed on no more than an incidental basis and is performed solely for such entity. While employment relationships vary, it is the Committee's intent that foremen and similar bona fide employees will not have to register as Farm Labor Contractors if it can be shown, for example, that they are full-time and permanent employees of an employer, who utilizes a limited portion of their time for activities as defined in section 3(b) of the Act.

The bill continues the Act's present exemption for charities, non-profit educational institutions, employees of registered farm labor contractors, and the recruitment of non-resident workers under agreements with foreign governments. It creates a new exemption for any common carrier or employee thereof engaged solely in the transportation of migrant workers.

Section 3 amends section 3(d) of the act providing coverage to all aspects of commerce in agriculture, including that defined in either the Fair Labor Standards Act, 29 U.S.C. 203(f) or the Internal Revenue Code, 26 U.S.C. section 3121(g), and other processing of agricultural or horticultural commodities in an unmanufactured state. This section, and others making conforming changes to additional sections of the act, deletes the existing limitation of coverage to interstate activity, and thus extends coverage to farm labor contractor activities which may occur entirely within one state.

REGISTRATION REQUIREMENTS

Section 4 of the bill amends section 4 of the act by requiring that persons utilizing the services of farm labor contractors must first make a determination that such contractors are properly registered. The Committee intends that this will place an affirmative duty on the person utilizing such services before such services are in fact rendered.

The Department of Labor shall promulgate such rules and regulations as are necessary to effectuate and assure that only the services of validly registered contractors are utilized.

Section 5 amends section 5(a) of the act by extending the present standards for issuance of a certificate of registration to require proof that an applicant's vehicles for the transportation of migrant workers, and real property for the housing of migrant workers, conform to applicable federal and state health and safety standards; and the applicant's consent to the substitute service of legal process on the Secretary on behalf of the applicant where he has made himself unavailable to accept such service, under terms a court may set.

INSURANCE COVERAGE

Section 6 further amends section 5(a) of the Act to require that the Act's current requirements of vehicle insurance coverage be comparable to amounts applicable to vehicles used for the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated thereunder. However, the Secretary of Labor shall have discretion to permit lesser amounts of such preferred insurance if not otherwise available to the farm labor contractor.

DENIAL OR REVOCATION OF REGISTRATION

Section 7 amends section 5(b) of the Act by permitting the Secretary to deny a certificate of registration to any applicant found by the Secretary to be a stand-in for another person not eligible for a certificate of registration, or where the Secretary determines that an applicant has used a vehicle for the transportation of migrant workers, or has used real property for the housing of migrant workers, which does not conform with applicable federal and state health and safety standards, and which is within the applicant's ownership or control.

The Secretary's current discretion to deny a certificate of registration to persons convicted of offenses designated in section 5(b)(7) of the Act is extended to include the offense of peonage and is limited by the bill to those convictions occurring within five years preceding an application.

REPORTING REQUIREMENTS

Section 8 adds a new subsection 5(d) to the act requiring registered farm labor contractors to report each change of address to the Secretary within ten days. The subsection also requires each registrant to provide the Secretary with the documentation required in § 5(a)(5) pertaining to health and safety standards of vehicles and real property required by the registrant during the year for which registration was previously issued.

DENIAL OF CERTAIN FACILITIES AND SERVICES

Section 9 amends section 6(a) of the act to provide that a farm labor contractor shall be denied the facilities and services of the United States Employment Service authorized by the Wagner-Peyser Act (48 Stat. 113; 29 U.S.C. 49 et. seq.) if the contractor refuses or fails to exhibit his certificate of registration.

OBLIGATIONS OF FARM LABOR CONTRACTORS

Section 10 amends section 6(b) of the act to require a farm labor contractor to provide each worker a written statement of the nature of employment at the time of recruitment, in a language in which the worker is fluent, and in a form prescribed by the Secretary, which will include in addition to the information already specified in the present act: the period of employment of such worker; whether a labor dispute exists in the area of contracted employment; and the existence of any kick-back arrangements between the contractor and third parties in the area of employment. It should be noted, however, that this section is not intended to preclude or discourage the farm labor contractor from providing the required information orally as well as in written form provided the two presentations are consistent.

Section 11 amends section 6 of the act by: requiring each farm labor contractor to pay over promptly all money or things of value entrusted to him by a farm operator; prohibiting the contractor from requiring workers to purchase goods exclusively from himself or another; prohibiting him from recruiting persons he knows are in violation of the immigration and nationality laws; and requiring him to provide full payroll information to those to whom he furnishes migrant workers.

INVESTIGATION BY SECRETARY

Section 12 amends section 7 of the act to provide the Secretary with powers of subpoena and examination similar to that provided under the Fair Labor Standards Act. This Section imposes affirmative duties upon the Secretary to monitor and investigate activities of contractors to the full extent necessary to enforce the act.

PENALTY PROVISIONS

Section 13 amends section 9 of the act to add a criminal penalty of imprisonment not to exceed one year, or both, for a first offense. Maximum penalties for conviction of a subsequent violation of the act are a fine not to exceed \$10,000, imprisonment not to exceed three years, or both. The Secretary is required to report on enforcement in his annual report to the Congress. This section also empowers the Secretary to impose up to a \$1,000 civil money penalty for a violation of the act or any regulation promulgated under the act. The civil penalty procedure is subject to the rights of agency review and judicial review by the person against whom a penalty is assessed. It is the intention of the Committee that the availability of both civil and criminal sanctions will not result in undue harassment or abuse of process.

It further provides that any farm labor contractor who has not registered under the Act, or whose registration has been revoked or suspended will be subject to a criminal penalty of up to a \$10,000 fine or a prison sentence of up to 3 years (or both), if such contractor has knowingly engaged the services of an illegal alien. It is the intention of the committee that the Secretary shall promulgate all regulations necessary for the enforcement of the act's prohibition against the utilization of illegal aliens in employment. All such regulations, to the extent permitted by this Act, are to be consistent with those of the Attorney General promulgated under the Immigration and Nationality Act.

CIVIL RELIEF

Subsections (a) and (b) of section 14 create a new section 12 of the act and provide that any person who claims to be aggrieved by the violation of any provision may file suit in the appropriate district court of the United States without regard to the amount in controversy, or to the citizenship of the parties. The court may appoint an attorney for such person and may award damages up to \$500 for each violation or other equitable relief. Any civil action brought under such section is subject to appeal as provided by chapter 83 of title 28, United States Code.

The remedy created in this section is available regardless of the existence of any criminal or administrative sanctions provided for specific kinds of violations of this Act.

In the newly created Section 12 of the Act, subsection (c) empowers the Secretary to seek injunctive relief in any United States District Court when a violation of the act is determined by him to have occurred. Subsection (d) authorizes the Solicitor of Labor to represent the Secretary subject to the direction of the Attorney General.

However it is the intention of the committee that, in the normal course, the Secretary will be represented in civil litigation by the Solicitor of Labor and his attorneys, with appropriate arrangements being made between the Secretary of Labor and the Attorney General with respect to the active involvement of the Justice Department in cases where two or more agencies of the Federal government have carrying positions, or where the constitutionality of Federal laws is in question.

DISCRIMINATION PROHIBITED

Section 14 creates a new section 13 of the act prohibiting discrimination against any migrant worker for the exercise of a right secured under the Act. The United States district court shall be empowered to order reinstatement of any aggrieved worker with back pay or damages. The statutory language limiting protection to actions of a worker taken "with just cause" is not intended to limit any rights secured under the Act.

RECORDKEEPING

Section 14 creates a new section 14 of the Act which places responsibility on the person to whom workers are furnished by a farm labor contractor for the keeping of records, and to obtain and keep information to be furnished to him by the farm labor contractor under section 6(e) of the act as amended.

WAIVER OF RIGHTS

Section 15 creates a new section 18 of the act rendering void a purported waiver by an employee of rights under the Act, except where waiver occurs in favor of the Secretary for purposes of enforcing the act.

AUTHORIZATION

Section 15 creates a new section 19 of the act authorizing the appropriation of such sums as are necessary to the enforcement of the act.

PROMULGATION OF RULES AND REGULATIONS

Section 16 amends section 14 of the Act, redesignated as section 17, to authorize the Secretary to promulgate rules and regulations under any section of the act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Labor Contractor Registration Act of 1963".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the channels and instrumentalities of interstate commerce are being used by certain irresponsible contractors for the services of the migrant agricultural laborers, and the public generally, and that, as a result of the use of the channels and instrumentalities of interstate commerce by such irresponsible contractors, the flow of interstate commerce has been impeded, obstructed, and restrained.

(b) It is therefore the policy of this Act to remove the impediments, obstructions, and restraints occasioned to the flow of interstate commerce by the activities of such irresponsible contractors by requiring that all persons engaged in the activity of contracting for the services of workers for [interstate] agricultural employment comply with the provisions of this Act and all regulations prescribed hereunder by the Secretary of Labor.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "person" includes any individual, partnership association, joint stock company, trust, or corporation.

(b) The term "farm labor contractor" means any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports [ten or more] migrant workers (excluding members of his immediate family) [at any one time in any calendar year] for [interstate] agricultural employment. Such term shall not include—

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

(2) any farmer, processor, canner, ginner, packing shed operator, or nurseman who *personally* engages in any such activity for the purpose of supplying migrant workers solely for his own operation;

(3) any full-time or regular employee of any entity referred to in (1) or (2) above *who engages in such activity solely for his employer on no more than an incidental basis*;

(4) any person who engages in such activity (A) *solely within a 25 mile intrastate radius of his permanent place of residence*, and (B) *for not more than 13 weeks per year*;

(5) any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States, if the employment [of such workers] is subject to—

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

(B) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for [in] *through* the United States by an instrumentality of such foreign nation:

(6) *any full-time or regular employee of any person holding a certificate of registration under this Act; or*

(7) *any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers.*

(c) The term "fee" includes any money or other valuable consideration paid or promised to be paid to a person for services as a farm labor contractor.

(d) The term ["interstate"] "agricultural employment" means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) [when such service or activity is performed by an individual worker who has been transported from one State to another or from any place outside of a State to any place within a State.] *and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.*

(e) The term "Secretary" means the Secretary of the United States Department of Labor or his duly authorized representative.

(f) The term "State" means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

(g) The term "migrant worker" means an individual whose primary employment is in agriculture, as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or who performs agricultural labor, as defined in section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)), on a seasonal or other temporary basis.

CERTIFICATE OF REGISTRATION REQUIRED

SEC. 4. (a) No person shall engage in activities as a farm labor contractor unless he first obtains a certificate of registration from the Secretary, and unless such certificate is in full force and effect and is in such person's immediate possession.

(b) A full-time or regular employee of any person holding a valid certificate of registration under the provisions of this Act shall not, for the purpose of engaging in activities as a farm labor contractor solely on behalf of such person, be required to obtain a certificate of registration hereunder in his own name. Any such employee shall be required to have in his immediate personal possession when engaging in such activities such identification as the Secretary may require showing such employee to be an employee of, and duly authorized to engage in activities as a farm labor contractor for, a person holding a valid certificate of registration under the provisions of this Act. Except as provided in the foregoing provisions of this subsection, any such employee shall be subject to the provisions of this Act and regulations prescribed hereunder to the same extent as if he were required to obtain a certificate of registration in his own name.

(c) *No person shall engage the services of any farm labor contractor to supply farm laborers unless he first determines that the farm labor contractor possesses a certificate from the Secretary that is in full force and effect at the time he contracts with the farm labor contractor.*

(d) *Upon determination by the Secretary that any person knowingly has engaged the services of any farm labor contractor who does not possess such certificate as required by subsection (c) of this section, the Secretary is authorized to deny such person the facilities and services authorized by the Act of June 6, 1933 (48 Stat. 113; 29 U.S.C. 49 et seq.), commonly referred to as the Wagner-Peyser Act for a period of up to three years.*

ISSUANCE OF CERTIFICATE OF REGISTRATION

SEC. 5. (a) The Secretary shall, after appropriate investigation, issue a certificate of registration under this Act to any person who—

(1) has executed and filed with the Secretary a written application subscribed and sworn to by the applicant containing such information (to the best of his knowledge and belief) concerning his conduct and method of operation as a farm labor contractor as the Secretary may require in order effectively to carry out the provisions of this Act;

(2) has filed, within such time as the Secretary may prescribe, proof satisfactory to the Secretary of the financial responsibility of the applicant or proof satisfactory to the Secretary of the existence of a policy of insurance which insures such applicant against liability for damages to persons or property arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle for the transportation of migrant workers in connection with his business, activities, or operations as a farm labor contractor. [The amount of any such policy of insurance shall be not less than the amount required under the law or regulation of any State in which such applicant operates a vehicle in connection with his business, activities, or operations as a farm labor contractor; but in no event shall the amount of such insurance be less than \$5,000 for bodily injuries to or death of one person; \$20,000 for bodily injuries to or death of all persons injured or killed in any one accident; \$5,000 for the loss or damage in any one accident to property of others; and.] *In no event shall the amount of such insurance be less than the amount currently applicable to vehicles used in the transportation of passengers in*

interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, or amounts offering comparable protection to persons or property from damages arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle as provided herewith: Provided, That the Secretary shall have the discretion to issue regulations requiring insurance in the highest amount feasible which are less than the amounts currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, if the Secretary, after due and careful consideration, determines that the insurance coverage in such amounts is not available to farm labor contractors in the same manner and in the same amounts as such coverage is available to other carriers used to transport passengers in interstate commerce;".

(3) has filed, within such time as the Secretary may prescribe, a set of his fingerprints [.] ;

(4) *has filed, under such terms as the Secretary may prescribe, a statement identifying each vehicle to be used by the applicant for the transportation of migrant workers, and all real property to be used by the applicant for the housing of migrant workers, during the period for which registration is sought, along with proof that every such vehicle and all such housing currently conform to all applicable Federal and State safety and health standards to the extent that such vehicle and all such housing are under the applicant's ownership or control; and*

(5) *has consented to designation of the Secretary as the agent available to accept service of summons in any action against such farm labor contractor at any and all times during which such farm labor contractor has departed from the jurisdiction in which such action is commenced or otherwise has become unavailable to accept service, under such terms and conditions as are set by the court in which such action has been commenced.*

(b) Upon notice and hearing in accordance with regulations prescribed by him, the Secretary may refuse to issue, and may suspend, revoke, or refuse to renew a certificate of registration to any farm labor contractor if he finds that such contractor—

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

(2) knowingly has given false or misleading information to migrant workers concerning the terms, conditions, or existence of agricultural employment;

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

(4) has failed, without justification, to comply with the terms of any working arrangements he has made with migrant workers;

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

(6) has recruited, employed, or utilized, [the services of a person with knowledge that such person is violating the provisions of the immigration and nationality laws of the United States;]

with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment;

(7) *has been convicted of any crime under State or Federal law relating to gambling or to the sale, distribution, or possession of alcoholic liquors in connection with or incident to his activities as a farm labor contractor; or has been convicted of any crime under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, [or prostitution] prostitution, or peonage; where the date of the judgment of conviction of any crime as specified herein has been entered within a period of five years preceding the action of the Secretary under this subsection;*

(8) *has failed to comply with rules and regulations promulgated by the Interstate Commerce Commission that are applicable to his activities and operations in interstate commerce;*

(9) *knowingly employs or continues to employ any person to whom subsection (b) of section 4 of this Act applies who has taken any action, except for that listed in paragraph (5) of this subsection, which could be used by the Secretary under this subsection to refuse to issue a certificate of registration; [or]*

(10) *has failed to comply with any of the provisions of this Act or any regulations issued hereunder;*

(11) *is not in fact the real party in interest in any such application or certificate of registration and that the real party in interest is a person, firm, partnership, association, or corporation who previously has been denied a certificate of registration, has had a certificate of registration suspended or revoked, or who does not presently qualify for a certificate of registration; or*

(12) *has used a vehicle for the transportation of migrant workers, or has used real property for the housing of migrant workers, while such vehicle or real property failed to conform to all applicable Federal and State safety and health standards, to the extent any such vehicle or real property has come within the ownership or control of such farm labor contractor.*

(c) A certificate of registration, once issued, may not be transferred or assigned and shall be effective for the remainder of the calendar year during which it is issued, unless suspended or revoked by the Secretary as provided in this Act. A certificate of registration may be renewed each calendar year upon approval by the Secretary of an application for its renewal.

(d) *Persons issued a certificate of registration under this section shall provide to the Secretary a notice of each and every address change within 10 days after such change. The Secretary shall maintain a public central registry of all persons issued certificates of registration under this section. Persons issued a certificate of registration under this section shall provide to the Secretary documentation required under section 5(a)(4) of the Act applicable to any vehicle which the applicant obtains for use in the transportation of migrant workers and any real property which the applicant obtains or learns will be used for the housing of migrant workers during the period for which the certificate of registration is issued, within ten days after he obtains or learns of the intended use of such vehicle or real property, to the extent that such vehicle or such real property is under the ownership or control of such persons who have been issued certificates of registration.*

OBLIGATIONS AND PROHIBITIONS

SEC. 6. Every farm labor contractor shall—

(a) carry his certificate of registration with him at all times while engaging in activities as a farm labor contractor and exhibit the same to all persons with whom he intends to deal in his capacity as a farm labor contractor prior to so dealing *and shall be denied the facilities and services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et seq.), upon refusal or failure to exhibit the same;*

(b) ascertain and disclose to each worker at the time the worker is recruited the following information to the best of his knowledge and belief: (1) the area of employment, (2) the crops and operations on which he may be employed, (3) the transportation, housing, and insurance to be provided him, (4) the wage rates to be paid him, [and] (5) the charges to be made by the contractor for his services [;] (6) *the period of employment, (7) the existence of a strike or other concerted stoppage, slowdown, or interruption of operations by employees at the place of contracted employment, and (8) the existence of any arrangements with any owner, proprietor, or agent of any commercial or retail establishment in the area of employment under which he is to receive a commission or any other benefit resulting from any sales provided to such commercial or retail establishment from the migrant workers whom he recruits. The disclosure required under this subsection shall be in writing in a language in which the worker is fluent, and written in a manner understandable by such workers on such forms and under such terms and conditions as the Secretary shall prescribe.*

(c) upon arrival at a given place of employment, post in a conspicuous place a written statement of the terms and conditions of that employment;

(d) in the event he manages, supervises, or otherwise controls the housing facilities, post in a conspicuous place the terms and conditions of occupancy; [and]

(e) in the event he pays migrant workers engaged in [interstate] agricultural employment, either on his own behalf or on behalf of another person, keep payroll records which shall show for each worker total earnings in each payroll period, all withholdings from wages, and net earnings. In addition, for workers employed on a time basis, the number of units of time employed and the rate per unit of time shall be recorded on the payroll records, and for workers employed on a piece rate basis, the number of units of work, performed and the rate per unit shall be recorded on such records. In addition he shall provide to each migrant worker engaged in [interstate] agricultural employment with whom he deals in a capacity as a farm labor contractor a statement of all sums paid to him (including sums received on behalf of such migrant worker) on account of the labor of such migrant worker. He shall also provide each such worker with an itemized statement showing all sums withheld by him from the amount he received on account of the labor of such worker, and the purpose for which withheld. [The Secretary may prescribe an appropriate form for recording such information.] *He shall additionally provide to the person to whom any migrant worker is furnished all information and records required to be kept by such contractor under this subsection, and all information required to be provided to any migrant worker under this subsection. The Secretary may prescribe appropriate forms for the recording of information required by this subsection;*

(f) refrain from recruiting, employing, or utilizing, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment;

(g) promptly pay or contribute when due to the individuals entitled thereto all moneys or other things of value entrusted to the farm labor contractor by any farm operator for such purposes; and

(h) refrain from requiring any worker to purchase any good solely from such farm labor contractor or any other person.

AUTHORITY TO OBTAIN INFORMATION

SEC. 7. The Secretary or his designated representative may investigate and gather data with respect to matters which may aid in carrying out the provisions of this Act. In any case in which a complaint has been filed with the Secretary regarding a violation of this Act or with respect to which the Secretary has reasonable grounds to believe that a farm labor contractor has violated any provisions of this Act, the Secretary or his designated representative may investigate and gather data respecting such case, and may, in connection therewith, enter and inspect such places and such records (and make such 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 Act has been committed. The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths and affirmations, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this chapter, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50) (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the jurisdiction, powers, and duties of the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary with respect to which the Secretary commences an investigation. The Secretary shall monitor and investigate activities of farm labor contractors in such manner as is necessary to enforce the provisions of this Act.

AGREEMENTS WITH FEDERAL AND STATE AGENCIES

SEC. 8. The Secretary is authorized to enter into agreements with Federal and State agencies, to utilize (pursuant to such agreements) the facilities and services of the agencies, and to delegate to the agencies such authority, other than rulemaking, as he deems necessary in carrying out the provisions of this Act, and to allocate or transfer funds or otherwise to pay or to reimburse such agencies for expenses in connection therewith.

PENALTY PROVISIONS

SEC. 9. (a) Any farm labor contractor or employee thereof who willfully and knowingly violates any provision of this Act [or any regulation prescribed hereunder] shall be fined not more than \$500[.],

sentenced to a prison term not to exceed one year, or both, and upon conviction for any subsequent violation shall be punishable by a fine not to exceed \$10,000 or sentenced to a prison term not to exceed three years, or both. The Secretary shall report on enforcement of the provisions of this Act in the annual report of the Secretary required pursuant to section 9, of the Act entitled "An Act to Create a Department of Labor", approved March 4, 1913 (37 Stat. 738, 29 U.S.C. 560). The reporting hereunder shall include, but shall not be limited to, a description of efforts to monitor and investigate the activities of farm labor contractors, the number of persons to whom certificates of registration have been issued, the number of complaints of violations received by the Secretary and their disposition, and the number and nature of any sanctions imposed.

(b)(1) Any person who commits a violation of this Act or any regulations promulgated under this Act, may be assessed a civil money penalty of not more than \$1,000 for each violation. The penalty shall be assessed by the Secretary upon written notice, under the procedures set forth herein.

(2) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order subject to review only as provided in paragraph (3). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(3) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(4) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(5) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(c) Notwithstanding subsections (a) and (b) of this section, any farm labor contractor who commits a violation of subsection 6(f) of the Act or any regulations promulgated thereunder shall upon conviction be fined not to exceed \$10,000 or sentenced to a prison term not to exceed three years, or both, if the person committing such violation has failed to obtain a certificate of registration pursuant to this Act or is one whose certificate has been suspended or revoked by the Secretary.

APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT

SEC. 10. The provisions of the Administrative Procedure Act (5 U.S.C. 011 and the following) shall apply to all administrative proceedings conducted pursuant to the authority contained in this Act.

JUDICIAL REVIEW

SEC. 11. Any person aggrieved by any order of the Secretary in refusing to issue or renew, or in suspending or revoking, a certificate of registration may obtain a review of any such order by filing in the district court of the United States for the district wherein such person resides or has his principal place of business, or in the United States District Court for the District of Columbia, and serving upon the Secretary, within thirty days after the entry of such order, a written petition praying that the order of the Secretary be modified or set aside in whole or in part. Upon receipt of any such petition, the Secretary shall file in such court a full, true, and correct copy of the transcript of the proceedings upon which the order complained of was entered. Upon the filing of such petition and receipt of such transcript, such court shall have jurisdiction to affirm, set aside, modify, or enforce such order, in whole or in part. In any such review, the finding of fact of the Secretary shall not be set aside if supported by substantial evidence. The judgment and decree of the court shall be final, subject to review as provided in sections 1254 and 1291 of title 28, United States Code.

CIVIL RELIEF

SEC. 12. (a) Any person claiming to be aggrieved by the violation of any provision of this Act or any regulation prescribed hereunder may file suit in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

(b) Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action. If the court finds that the respondent has intentionally violated any provision of this Act or any regulation prescribed hereunder, it may award damages up to and including an amount equal to the amount of actual damages, or \$500 for each violation, or other equitable relief. Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(c) If upon investigation the Secretary determines that the provisions of this Act have been violated, he may petition any appropriate district court of the United States for temporary or permanent injunctive relief.

(d) Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

DISCRIMINATION PROHIBITED

SEC. 13. (a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant worker because such worker has, with just cause, filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceedings or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this Act.

(b) Any worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within 180 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) and order all appropriate relief including rehiring or reinstatement of the worker, with back pay, or damages.

RECORDKEEPING

SEC. 14. Any person who is furnished any migrant worker by a farm labor contractor shall maintain all payroll records required to be kept by such persons under Federal law, and with respect to migrant workers paid by a farm labor contractor such person shall also obtain from the contractor and maintain records containing the information required to be provided to him by the contractor under section 6(e) of the Act.

STATE LAWS AND REGULATIONS

Sec. [12] 15. This Act and the provisions contained herein are intended to supplement State action and compliance with this Act shall not excuse anyone from compliance with appropriate State law and regulation.

SEVERABILITY

Sec. [13] 16. If any provision of this Act, or the application thereof to any person or circumstance, shall be held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

RULES AND REGULATIONS

Sec. [14] 17. The Secretary is authorized to issue such rules and regulations as he determines necessary for the purpose of carrying out the provisions [of sections 4, 5, 6, and 8] of this Act.

WAIVER OF RIGHTS

SEC. 18. Any agreement by an employee purporting to waive or to modify his rights hereunder shall be void as contrary to public policy, except a waiver or modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of the Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated to carry out the purposes of this Act, such sums as may be necessary for the effective enforcement of this Act.

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To amend the Farm Labor Contractor Registration Act of 1963 to provide for the extension of coverage and to further effectuate the enforcement of such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Farm Labor Contractor Registration Act Amendments of 1974".

(b) Unless the context otherwise requires, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision the reference shall be considered to be made to a section or other provision of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.).

SEC. 2. Section 3 of the Act is amended by striking out the word "interstate" each place where it appears therein. The first sentence of section 3(b) is amended to delete therefrom the phrase "ten or more" and the phrase "at any one time in any calendar year". The second sentence of section 3(b) is amended to read as follows: "Such term shall not include—

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

"(2) any farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation;

"(3) any full-time or regular employee of any entity referred to in (1) or (2) above who engages in such activity solely for his employer on no more than an incidental basis;

"(4) any person who engages in any such activity (A) solely within a twenty-five mile intrastate radius of his permanent place of residence and (B) for not more than thirteen weeks per year;

"(5) any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States if the employment is subject to—

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

"(B) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for through the United States by an instrumentality of such foreign nation;

"(6) any full-time or regular employee of any person holding a certificate of registration under this Act; or

"(7) any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers."

SEC. 3. Section 3(d) of the Act is amended to read as follows:

"(d) The term 'agricultural employment' means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state."

SEC. 4. Section 4 of the Act is amended by adding at the end thereof the following new subsections:

“(c) No person shall engage the services of any farm labor contractor to supply farm laborers unless he first determines that the farm labor contractor possesses a certificate from the Secretary that is in full force and effect at the time he contracts with the farm labor contractor.

“(d) Upon determination by the Secretary that any person knowingly has engaged the services of any farm labor contractor who does not possess such certificate as required by subsection (c) of this section, the Secretary is authorized to deny such person the facilities and services authorized by the Act of June 6, 1933 (48 Stat. 113; 29 U.S.C. 49 et seq.), commonly referred to as the Wagner-Peyser Act, for a period of up to three years.”

SEC. 5. Section 5(a) is amended by—

- (1) striking the word “and” after paragraph (2),
- (2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon, and
- (3) adding the following new paragraphs:

“(4) has filed, under such terms as the Secretary may prescribe, a statement identifying each vehicle to be used by the applicant for the transportation of migrant workers, and all real property to be used by the applicant for the housing of migrant workers, during the period for which registration is sought, along with proof that every such vehicle and all such housing currently conform to all applicable Federal and State safety and health standards to the extent that such vehicle and all such housing are under the applicant’s ownership or control; and

“(5) has consented to designation of the Secretary as the agent available to accept service of summons in any action against such farm labor contractor at any and all times during which such farm labor contractor has departed from the jurisdiction in which such action is commenced or otherwise has become unavailable to accept service, under such terms and conditions as are set by the court in which such action has been commenced.”

SEC. 6. Section 5(a) (2) is amended by striking the second sentence and inserting in lieu thereof the following: “In no event shall the amount of such insurance be less than the amount currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, or amounts offering comparable protection to persons or property from damages arising out of the applicant’s ownership of, operation of, or his causing to be operated any vehicle as provided herewith: *Provided*, That the Secretary shall have the discretion to issue regulations requiring insurance in the highest amounts feasible which are less than the amounts currently applicable to vehicles used in the transportation of passengers in interstate commerce under the Interstate Commerce Act and regulations promulgated pursuant thereto, if the Secretary, after due and careful consideration, determines that the insurance coverage in such amounts is not available to farm labor contractors in the same manner and in the same amounts as such coverage is available to other carriers used to transport passengers in interstate commerce;”.

SEC. 7. Section 5(b) is amended by—

- (1) striking “or” at the end of paragraph (9);
- (2) striking the period at the end of paragraph (10) and inserting a semicolon in lieu thereof; and

(3) adding after paragraph (10) the following new paragraphs:

"(11) is not in fact the real party in interest in any such application or certificate of registration and that the real party in interest is a person, firm, partnership, association, or corporation who previously has been denied a certificate of registration, has had a certificate of registration suspended or revoked, or who does not presently qualify for a certificate or registration; or

"(12) has used a vehicle for the transportation of migrant workers, or has used real property for the housing of migrant workers, while such vehicle or real property failed to conform to all applicable Federal and State safety and health standards, to the extent any such vehicle or real property has come within the ownership or control of such farm labor contractor."

(4) striking "or prostitution", at the end of paragraph (7) and adding in lieu thereof the following: "prostitution, or peonage; where the date of the judgment of conviction of any crime as specified herein has been entered within a period of five years preceding the action of the Secretary under this subsection";

(5) striking all after the word "utilized" in paragraph (6) and inserting in lieu thereof the following: ", with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment;".

SEC. 8. Section 5 is amended by adding at the end thereof the following new subsection:

"(d) Persons issued a certificate of registration under this section shall provide the Secretary a notice of each and every address change within ten days after such change. The Secretary shall maintain a public central registry of all persons issued certificates of registration under this section. Persons issued a certificate of registration under this section shall provide to the Secretary documentation required under section 5(a)(4) of the Act applicable to any vehicle which the applicant obtains for use in the transportation of migrant workers and any real property which the applicant obtains or learns will be used for the housing of migrant workers during the period for which the certificate of registration is issued, within ten days after he obtains or learns of the intended use of such vehicle or real property, to the extent that such vehicle or such real property is under the ownership or control of such persons who have been issued certificates of registration."

SEC. 9. Section 6(a) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: "and shall be denied the facilities and services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et seq.), upon refusal or failure to exhibit the same".

SEC. 10. Section 6(b) of the Act is amended by striking the word "and" before paragraph (5), and by striking the semicolon at the end of paragraph (5) and adding at the end thereof the following: "(6) the period of employment, (7) the existence of a strike or other concerted stoppage, slowdown, or interruption of operations by employees at a place of contracted employment, and (8) the existence of any arrangements with any owner, proprietor, or agent of any commercial or retail establishment in the area of employment under which he is to receive a commission or any other benefit resulting from any sales provided to such commercial or retail establishment from the migrant

workers whom he recruits. The disclosure required under this subsection shall be in writing in a language in which the worker is fluent, and written in a manner understandable by such workers on such forms and under such terms and conditions as the Secretary shall prescribe."

SEC. 11. (a) Section 6 is amended by—

- (1) striking "and" after paragraph (d),
- (2) striking the period at the end of paragraph (e) and inserting in lieu thereof a semicolon, and
- (3) adding at the end thereof the following new paragraphs:
 "(f) refrain from recruiting, employing, or utilizing, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment;
 "(g) promptly pay or contribute when due to the individuals entitled thereto all moneys or other things of value entrusted to the farm labor contractor by any farm operator for such purposes; and
 "(h) refrain from requiring any worker to purchase any goods solely from such farm labor contractor or any other person."

(b) Section 6(e) of the Act is amended by striking "interstate" each time it appears.

(c) Section 6(e) of the Act is further amended by striking the last sentence and substituting the following: "He shall additionally provide to the person to whom any migrant worker is furnished all information and records required to be kept by such contractor under this subsection, and all information required to be provided to any migrant worker under this subsection. The Secretary may prescribe appropriate forms for the recording of information required by this subsection;"

(d) Section 2(b) of the Act is amended by striking the word "interstate" the second time it appears.

SEC. 12. Section 7 is amended by adding at the end thereof the following: "The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths and affirmations, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this chapter, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50) (relating to the attendance of witnesses and the production of books, papers, and documents), are made applicable to the jurisdiction, powers, and duties of the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary with respect to which the Secretary commences an investigation. The Secretary shall monitor and investigate activities of farm labor contractors in such manner as is necessary to enforce the provisions of this Act."

SEC. 13. Section 9 of the Act is amended by inserting the subsection designation "(a)" at the beginning thereof; by striking out "or any regulation prescribed hereunder"; and by striking the period at the end thereof and adding the following: ", sentenced to a prison term not to exceed one year, or both, and upon conviction for any subsequent violation, shall be punishable by a fine not to exceed \$10,000 or sentenced to a prison term not to exceed three years, or both. The Secre-

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tary shall report on enforcement of the provisions of this Act in the annual report of the Secretary required pursuant to section 9 of the Act entitled 'An Act to create a Department of Labor', approved March 4, 1913 (37 Stat. 738, 29 U.S.C. 560). The reporting hereunder shall include, but shall not be limited to, a description of efforts to monitor and investigate the activities of farm labor contractors, the number of persons to whom certificates of registration have been issued, the number of complaints of violation received by the Secretary and their disposition, and the number and nature of any sanctions imposed.

"(b) (1) Any person who commits a violation of this Act or any regulations promulgated under this Act, may be assessed a civil money penalty of not more than \$1,000 for each violation. The penalty shall be assessed by the Secretary upon written notice, under the procedures set forth herein.

"(2) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order subject to review only as provided in paragraph (3). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(3) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(4) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(5) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

"(c) Notwithstanding subsections (a) and (b) of this section, any farm labor contractor who commits a violation of subsection 6(f) of the Act or any regulations promulgated thereunder shall upon conviction be fined not to exceed \$10,000 or sentenced to a prison term not to exceed three years, or both, if the person committing such violation has failed to obtain a certificate of registration pursuant to this Act or is one whose certificate has been suspended or revoked by the Secretary."

SEC. 14. (a) The Farm Labor Contractor Registration Act of 1963 is amended by redesignating sections 12, 13, and 14 thereof as sections 15, 16, and 17, respectively, and by inserting after section 11 the following:

"CIVIL RELIEF

"SEC. 12. (a) Any person claiming to be aggrieved by the violation of any provision of this Act or any regulation prescribed hereunder may file suit in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

"(b) Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action. If the court finds that the respondent has intentionally violated any provision of this Act or any regulation prescribed hereunder, it may award damages up to and including an amount equal to the amount of actual damages, or \$500 for each violation, or other equitable relief. Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

"(c) If upon investigation the Secretary determines that the provisions of this Act have been violated, he may petition any appropriate district court of the United States for temporary or permanent injunctive relief.

"(d) Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

"DISCRIMINATION PROHIBITED

"SEC. 13. (a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant worker because such worker has, with just cause, filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceedings or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this Act.

"(b) Any worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within one hundred eighty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action, the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) and order all appropriate relief including rehiring or reinstatement of the worker, with back pay, or damages.

"RECORDKEEPING

"SEC. 14. Any person who is furnished any migrant worker by a farm labor contractor shall maintain all payroll records required to be kept by such person under Federal law, and with respect to migrant

workers paid by a farm labor contractor such person shall also obtain from the contractor and maintain records containing the information required to be provided to him by the contractor under section 6(e) of the Act."

SEC. 15. The Act is amended by addition at the end thereof of the following new sections:

"WAIVER OF RIGHTS

"SEC. 18. Any agreement by an employee purporting to waive or to modify his rights hereunder shall be void as contrary to public policy, except a waiver or modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of the Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated to carry out the purposes of this Act such sums as may be necessary for the effective enforcement of this Act."

SEC. 16. Section 17 of the Act (as redesignated by this Act) is amended by striking "of sections 4, 5, 6, and 8".

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

In the decade since enactment of the "Farm Labor Contractor Registration Act of 1963," it became apparent that the law did not adequately protect migrant farm workers from various abuses. For about a year, the Administration has worked with the Congress to develop legislation to improve the Act. There has been give and take on all sides. I am pleased that this cooperation has greatly strengthened the Act.

On October 29, 1974, I vetoed a similar bill, H. R. 13342. It contained an objectionable rider entirely unrelated to improving the working conditions of migrant workers. The rider would have changed the classifications of certain Department of Labor administrative law judges, members of the Benefits Review Board, and other persons in no way involved with migrant workers. At that time, I urged the Congress to reenact this legislation without the objectionable rider. I am very pleased that it has done so.

This legislation, S. 3202, makes a number of improvements in the Act, including the following:

- The Act's coverage is expanded. Under existing law, a crew leader has to be recruiting migrant workers on an interstate basis--10 or more workers at any one time--before being required to register as a farm labor contractor. This bill removes these restrictions except with respect to those operating with a 25-mile intrastate radius of their homes and for 13 weeks a year or less. This provides protection for many more migrant workers under the Act.
- Sanctions against violators are expanded. The only penalty which may be imposed against crew leaders who violate the present law is a \$500 fine. It has been relatively ineffective against violations. This legislation adds a jail sentence of up to one year to the present \$500 criminal fine, and a maximum fine of \$10,000 as well as a maximum three-year jail sentence for subsequent violations--including unregistered crew leaders who knowingly recruit illegal aliens. The Labor Department is now authorized additionally to seek injunctions and assess administrative civil money penalties. Private individuals also have the right to bring civil suits. Those discriminated against are offered means to exercise their rights under the Act. The Labor Department is also given increased investigatory authority. In short, crew leaders now have greater responsibilities toward the migrant workers they recruit.
- Other leaders' responsibilities are increased. Under this legislation, crew leaders must obtain increased vehicle insurance coverage, and provide transportation and housing which satisfy State and Federal health and safety requirements. Crew leaders must make a complete employment disclosure to the migrant workers they recruit. This disclosure must now be written, and in a language in which the workers are fluent.

(MORE)

-- The Act prohibits use of unregistered crew leaders and calls
 for improved record keeping.

I strongly believe that these and the other amendments to the Farm Labor
Contractor Registration Act will go a long way toward improving the working
conditions of our Nation's migrant farm workers. I therefore am pleased
to have signed into law the Farm Labor Contractor Registration Act
Amendments of 1974

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(3)

November 27, 1974

Dear Mr. Director:

The following bills were received at the White House on November 27th:

S. 3202 ✓
H.R. 342 ✓
H.R. 15580 ✓
H.R. 17503 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.