

LEGISLATIVE HISTORY CHECKLIST

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CHAPTER: 49

Bill No: A1747

Sponsor(s): Baer and others

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Senate: Conference and Coordinating

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Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

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Fiscal Note: No

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Following were printed:

Reports: No

Hearings: No

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ASSEMBLY, No. 1747

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1974

By Assemblymen BAER, SALKIND, MARTIN, CONTILLO
and GLADSTONE

Referred to Committee on Labor

AN ACT to amend the title of "An act requiring the registration of farm labor crew leaders, and providing penalties for its violation, repealing P. L. 1961, c. 33 (C. 34:8A-1 et seq.) and supplementing Title 34 of the Revised Statutes," approved June 7, 1971 (P. L. 1971, c. 192), so that the same shall read "An act providing for the registration and regulation of farm labor crew leaders, and providing penalties for its violation, repealing P. L. 1961, c. 33 (C. 34:8A-1 et seq.) and supplementing Title 34 of the Revised Statutes," and to amend and supplement the body of said act.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The title of P. L. 1971, c. 192 is amended to read as follows:
2 An act **[requiring]** *providing for the registration and regulation*
3 *of farm labor crew leaders, and providing penalties for its violation,*
4 *repealing P. L. 1961, c. 33 (C. 34:8A-1 et seq.) and supplementing*
5 *Title 34 of the Revised Statutes.*

1 2. Section 1 of P. L. 1971, c. 192 (C. 34:8A-7) is amended to read
2 as follows:

3 1. As used in this act:

4 a. "Crew leader" means ***any person who transports, recruits,*
5 *supplies or hires farm or food processing laborers and who, for*
6 *any money or other valuable consideration paid, anticipated or*
7 *promised to be paid, directly or indirectly by any farm operator*
8 *or laborer, directs all or any part of the work of such workers, or***
9 any person who **[transports,]** recruits, supplies, or hires farm or
10 food processing laborers **[and who,]** for any money or other

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

11 valuable consideration paid*, *anticipated** or promised to be paid,
 11A **directly or indirectly by any farm operator or laborer** [directs,
 11B supervises or controls all or any part of the work of such workers],
 11C but shall not include any owner or lessee of a farm or food
 11D processing plant who recruits or hires laborers for work on his
 11E farm or in his plant**, [or any employment agency licensed in this
 11F State].**

12 b. "Commissioner" means the Commissioner of the Department
 13 of Labor and Industry or his authorized representative.

14 c. "Seasonal farm worker" means any person who is engaged in
 15 seasonal or temporary farm work and is a term that may be used
 16 interchangeably with the terms "migrant laborer" and "temporary
 17 farm worker."

1 3. Section 2 of P. L. 1971, c. 192 (C. 34:8A-8) is amended to read
 2 as follows:

3 2. No person shall act as a crew leader, nor shall any person
 4 employ a crew leader unless he possesses a current and valid
 5 certificate of registration issued by the Department of Labor and
 6 Industry. The application and certificate of registration forms
 7 shall be prescribed by the commissioner.

8 A certificate of registration shall expire at midnight on December
 9 31 of the year for which it is granted unless sooner revoked or
 10 suspended by the commissioner. A certificate of registration may
 11 be renewed each year upon the filing of an application of renewal
 12 on a form prescribed by the commissioner. The certificate of
 13 registration, once issued, shall not be transferable, shall be kept
 14 by the registrant in his immediate personal possession and shall
 15 be displayed by the registrant upon request of the commissioner
 16 or any properly designated representatives of the commissioner
 17 or upon the request of the person by whom the crew leader is
 18 employed *or upon the request of any seasonal farm worker or*
 19 *prospective seasonal farm worker.*

20 *Any person holding a valid certificate of registration pursuant*
 21 *to this act, or any regular employee of such a person, shall wear*
 22 *and display when engaging in activities as a crew leader such*
 23 *identification as the commissioner may require, showing such*
 24 *registration to be duly certified by the State and such regular em-*
 25 *ployee to be the agent of such registrant.*

26 *Every *such* regular employee shall be subject to the provisions*
 27 *of this act and of any rules and regulations promulgated pursuant*
 28 *to this act to the same extent as if he were required to obtain a*
 29 *certificate of registration in his own name. For the purpose of this*

30 act, every ***[registration]*** **registrant** shall be responsible for the
 31 activities of every agent designated by him, and shall be subject to
 32 any penalties ***under this act***, including the refusal, suspension
 33 or revocation of a certificate of registration, proceeding from any
 34 act of any agent designated by him, while such agent is engaged in
 35 activities as crew leader.

1 4. Section 4 of P. L. 1971, c. 192 (C. 34:8A-10) is amended to
 2 read as follows:

3 4. In addition to any other responsibilities imposed by law
 4 upon the crew leader, he shall:

5 a. Keep records of place of work, gross payments, deductions,
 6 and names and addresses of all workers to whom payments are
 7 made, *in those instances where a crew leader is party to the dis-*
 8 *bursement of any wages or other compensation due and payable to*
 9 *any seasonal farm worker for time, labor or employment.* In addi-
 10 tion, for workers employed on a time basis, the number of units of
 11 time employed and the rate per unit of time shall be recorded on
 12 the payroll records, and for workers employed on a piece rate
 13 basis, the number of units of work performed, *the number of units*
 14 *of time employed* and the rate per unit shall be recorded on such
 15 records;

16 b. Ascertain and disclose to each seasonal farm worker at the
 17 time the worker is recruited the following information to the best
 18 of his knowledge and belief: (1) the area of employment, (2) the
 19 crops and operations on which he may be employed, (3) the trans-
 20 portation, housing and insurance to be provided him, (4) the wage
 21 rates to be paid him, and (5) the charges to be made by the crew
 22 leader for his services**[.]**;

23 c. *File with the commissioner a correct change of address*
 24 *immediately upon each occasion such crew leader permanently*
 25 *changes his address;*

26 d. *Display *conspicuously* at all times and offer a copy thereof to*
 27 *each seasonal farm worker or head of a seasonal farm worker house-*
 28 *hold a bilingual (Spanish/English) handbill or similar notice stat-*
 29 *ing the terms and conditions of employment in such form and in*
 30 *such manner as the commissioner may prescribe and which shall*
 31 *include the information required in subsection b. of this section, and*
 32 *in addition the name and address of the crew leader, the name and*
 33 *address of the employer upon whose premises the work is to be per-*
 34 *formed, and the date or period for which such employment is*
 35 *offered. Every such handbill shall have printed thereon a schematic*

36 pay schedule, columnizing on the left under the heading "Hours
37 Worked" the numbers 1 through 10 and to the right under the head-
38 ing "Minimum Wage" the corresponding total minimum wages for
39 each number of hours worked, and preceded by the words, "Even if
40 you work by piece rate, you must receive no less than the
40A following:"

41 e. Designate an agent, in such a manner and on such forms as the
42 commissioner may prescribe, which agent may be the commissioner
43 but who in any case shall be available to accept service of summons
44 in any action against such crew leader at any and all times during
45 which such crew leader is absent from the jurisdiction of the State
46 or otherwise unavailable to accept service.

47 In those instances where a crew leader is party to the disburse-
48 ment of any wages or other compensation due and payable to any
49 seasonal farm worker for time, labor or employment, he shall make,
50 immediately upon termination of the period of employment for
51 which the worker was employed, such payment or compensation to
52 such seasonal farm worker on the same premises where said labor
53 or employment was performed or provided.

1 5. Section 5 of P. L. 1971, c. 192 (C. 34:8A-11) is amended to
2 read as follows:

3 5. The commissioner may refuse to renew and may revoke or
4 suspend any certificate of registration after a hearing upon reason-
5 able notice if the applicant:

6 a. Fails to comply with the provisions of this act or any rules
7 and regulations promulgated hereunder;

8 b. Knowingly misrepresents to any seasonal farm worker facts
9 relating to working conditions and hours or to the wages to be paid;

10 c. Knowingly misrepresents any material fact in his application
11 for a crew leader certificate of registration; **[or]**

12 d. Violates any State or Federal labor or criminal law**[.]**; or

13 e. *Is not in fact the real party in interest in holding such certi-*
14 *ficat*e of registration and that the real party in interest in any such
15 application or certificate of registration is a person, firm, partner-
16 ship, association, or corporation which previously has applied for
17 such certification and has been denied such certification, or which
18 previously has been issued a certificate of registration which was
19 subsequently revoked, suspended, or not renewed in this or any
20 other state requiring the registration of crew leaders.

21 Such action by the commissioner shall be in addition to any
22 other penalties provided by law.

1 6. (New section) It shall be unlawful for any crew leader to
2 terminate, suspend, demote, transfer, or take adverse action against

3 any past, present or prospective seasonal farm worker in retaliation for the exercise by such seasonal farm worker of any right secured under the laws and regulations of the State or Federal Government.

7 A rebuttable presumption that an action is ***[retaliatory]*** **retaliatory** shall arise from any termination, suspension, demotion or taking of adverse action on the part of the crew leader which action occurs within a period of 60 days following any act by a seasonal farm worker to exercise any right secured under the provisions of this act or under the laws and regulations of the State ***[Government]*** or **any** agency or **political** subdivision thereof which establish the rights of persons engaged in farm labor or which establish duties of employers of persons engaged in farm labor.

16 ***[c.]*** Any person aggrieved hereunder may maintain a civil action against the crew leader. Any crew leader found to have violated this act shall be liable to such person aggrieved for full reinstatement and for back wages accumulated during the period of such unlawful retaliation and to exemplary damages in treble the amount of back wages found due, and for costs and attorney's fees.

1 7. (New section) The commissioner or his designated representative shall 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 commissioner regarding a violation of this act or with respect to which the commissioner has reasonable grounds to believe that a crew leader has violated any provisions of this act, the commissioner or his designated representative shall investigate and gather data respecting such case, and may, in connection therewith, issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigation. The commissioner or any agent designated by him for such purposes may administer oaths and affirmations, examine witnesses, and receive evidence.

15 In addition, the commissioner shall affirmatively monitor and investigate the activities and operations of crew leaders as described in this act without respect to specific complaints, at such frequency and in such a manner as is reasonably necessary to assure the enforcement of the provisions of this act by adopting and implementing a plan to include, as a minimum, (1) the interviewing each month, April through November, of a representative ***[cross-section]*** **cross section** of seasonal farm workers employed by virtue

23 of the services of crew leaders registered with the State, and
24 (2) the making of periodic inspections of records such as those
25 required by subsection a. of section 4 (C. 34:8A-10) of the act
26 hereby supplemented.

1 8. (New section) Any agreement by an employee purporting to
2 waive or to modify his rights hereunder, shall be void as contrary
3 to public policy****],** except a waiver or modification of rights or
4 obligations created in a bona fide collective bargaining agree-
5 ment**].****

1 9. (New section) If any provision of this act, or the application
2 thereof to any person or cricumstances, shall be held invalid, the
3 remainder of the act and the application of such provision to other
4 persons or circumstances shall not be affected thereby.

1 10. This act shall take effect immediately.

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STATEMENT

This bill requires crew leaders to meet certain essential requirements heretofore often avoided, such as providing workers with (1) a statement of the terms and conditions of employment, (2) timely payment of wages at the place of employment, and (3) protection from retaliatory action by the crew leader. The bill also requires crew leaders to provide change of address notices and maintain an agent in the State for service of summons.

Further, the authority of the commissioner of the Department of Labor and Industry is expanded to facilitate the enforcement of the act and the weeding out of crew leaders that have moved to New Jersey or operated as agents of other crew leaders to avoid the consequences of having had their own crew leader registration revoked for violations.