

repealing chapter 52 (§2041 et seq.) of Title 7, Agriculture] shall take effect ninety days from the date of enactment [Jan. 14, 1983].”

SHORT TITLE

Section 1 of Pub. L. 97-470 provided in part that this Act [enacting this chapter and repealing chapter 52 (§2041 et seq.) of Title 7, Agriculture] may be cited as the “Migrant and Seasonal Agricultural Worker Protection Act”.

§ 1802. Definitions

As used in this chapter—

(1) The term “agricultural association” means any nonprofit or cooperative association of farmers, growers, or ranchers, incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(2) The term “agricultural employer” means any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(3) 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 title 26 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.

(4) The term “day-haul operation” means the assembly of workers at a pick-up point waiting to be hired and employed, transportation of such workers to agricultural employment, and the return of such workers to a drop-off point on the same day.

(5) The term “employ” has the meaning given such term under section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) for the purposes of implementing the requirements of that Act [29 U.S.C. 201 et seq.].

(6) The term “farm labor contracting activity” means recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker.

(7) The term “farm labor contractor” means any person, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other valuable consideration paid or promised to be paid, performs any farm labor contracting activity.

(8)(A) Except as provided in subparagraph (B), the term “migrant agricultural worker” means an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.

(B) The term “migrant agricultural worker” does not include—

(i) any immediate family member of an agricultural employer or a farm labor contractor; or

(ii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 1101(a)(15)(H)(ii)(a) and 1184(c) of title 8.

(9) The term “person” means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(10)(A) Except as provided in subparagraph (B), the term “seasonal agricultural worker” means an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—

(i) when employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or

(ii) when employed in canning, packing, ginning, seed conditioning or related research, or processing operations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation.

(B) The term “seasonal agricultural worker” does not include—

(i) any migrant agricultural worker;

(ii) any immediate family member of an agricultural employer or a farm labor contractor; or

(iii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 1101(a)(15)(H)(ii)(a) and 1184(c) of title 8.

(11) The term “Secretary” means the Secretary of Labor or the Secretary’s authorized representative.

(12) 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.

(Pub. L. 97-470, §3, Jan. 14, 1983, 96 Stat. 2584; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-603, title I, §101(b)(1)(A), Nov. 6, 1986, 100 Stat. 3372.)

REFERENCES IN TEXT

That Act, referred to in par. (5), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, known as the Fair Labor Standards Act of 1938, which is classified generally to chapter 8 (§201 et seq.) of this title. For complete classification of this Act to the Code, see section 201 of this title and Tables.

AMENDMENTS

1986—Par. (3). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Pars. (8)(B)(ii), (10)(B)(iii). Pub. L. 99-603 substituted “1101(a)(15)(H)(ii)(a)” for “1101(a)(15)(H)(i)”.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 101(b)(2) of Pub. L. 99-603, as amended by Pub. L. 100-525, §2(a)(2), Oct. 24, 1988, 102 Stat. 2610, provided that: “The amendments made by paragraph (1) [amending this section and sections 1813 and 1851 of this title and repealing section 1816 of this title] shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the

first day of the seventh month beginning after the date of the enactment of this Act [Nov. 6, 1986]; except that if the provisions of section 274A of the Immigration and Nationality Act [8 U.S.C. 1324a] are terminated as of a date under [former] subsection (l) of such section, then such amendments shall no longer apply as of such date.” [The provisions of section 1324a of Title 8, Aliens and Nationality, were not terminated under subsection (l) of section 1324a, and that subsection was repealed by Pub. L. 104–208.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1831 of this title; title 8 section 1324a.

§ 1803. Applicability of chapter

(a) The following persons are not subject to this chapter:

(1) **FAMILY BUSINESS EXEMPTION.**—Any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual or an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.

(2) **SMALL BUSINESS EXEMPTION.**—Any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable.

(3) **OTHER EXEMPTIONS.**—(A) Any common carrier which would be a farm labor contractor solely because the carrier is engaged in the farm labor contracting activity of transporting any migrant or seasonal agricultural worker.

(B) Any labor organization, as defined in section 2(5) of the Labor Management Relations Act (29 U.S.C. 152(5)) (without regard to the exclusion of agricultural employees in that Act [29 U.S.C. 141 et seq.]) or as defined under applicable State labor relations law.

(C) Any nonprofit charitable organization or public or private nonprofit educational institution.

(D) Any person who engages in any farm labor contracting activity solely within a twenty-five mile intrastate radius of such person's permanent place of residence and for not more than thirteen weeks per year.

(E) Any custom combine, hay harvesting, or sheep shearing operation.

(F) Any custom poultry harvesting, breeding, debeaking, desexing, or health service operation provided the employees of the operation are not regularly required to be away from their permanent place of residence other than during their normal working hours.

(G)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricul-

tural employment, unless such full-time students or other individuals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(H)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(I) Any employee of any person described in subparagraphs (A) through (H) when performing farm labor contracting activities exclusively for such person.

(b) Subchapter I of this chapter does not apply to any agricultural employer or agricultural association or to any employee of such an employer or association.

(Pub. L. 97–470, § 4, Jan. 14, 1983, 96 Stat. 2585.)

REFERENCES IN TEXT

That Act, referred to in subsec. (a)(3)(B), is act June 23, 1947, ch. 120, 61 Stat. 136, as amended, known as the Labor Management Relations Act, 1947, which is classified principally to chapter 7 (§141 et seq.) of this title. For complete classification of this Act to the Code, see section 141 of this title and Tables.

SUBCHAPTER I—FARM LABOR CONTRACTORS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1803 of this title.

§ 1811. Certificate of registration required

(a) Persons engaged in any farm labor contracting activity

No person shall engage in any farm labor contracting activity, unless such person has a certificate of registration from the Secretary specifying which farm labor contracting activities such person is authorized to perform.

(b) Hire, employ, or use of any individual to perform farm labor contracting activities by farm labor contractor; liability of farm labor contractor for violations

A farm labor contractor shall not hire, employ, or use any individual to perform farm labor contracting activities unless such individual has a certificate of registration, or a certificate of registration as an employee of the farm labor contractor employer, which authorizes the activity for which such individual is hired, em-