
SUBSTITUTE SENATE BILL 6261

State of Washington

66th Legislature

2020 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators McCoy, Saldaña, Conway, Kuderer, Hasegawa, Wilson, C., Das, Nguyen, and Keiser)

1 AN ACT Relating to strengthening the farm labor contractor system
2 by removing an exemption for nonprofits, prohibiting retaliation and
3 the use of farm labor contractors in certain circumstances, and
4 establishing liability for related violations; amending RCW 19.30.190
5 and 19.30.200; and reenacting and amending RCW 19.30.010.

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

7 **Sec. 1.** RCW 19.30.010 and 2017 c 253 s 1 are each reenacted and
8 amended to read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Agricultural employee" means any person who renders, or has
12 rendered, personal services to, or under the direction of, an
13 agricultural employer in connection with the employer's agricultural
14 activity.

15 (2) "Agricultural employer" means any person engaged in
16 agricultural activity, including the growing, producing, or
17 harvesting of farm or nursery products, or engaged in the forestation
18 or reforestation of lands, which includes but is not limited to the
19 planting, transplanting, tubing, precommercial thinning, and thinning
20 of trees and seedlings, the clearing, piling, and disposal of brush

1 and slash, the harvest of Christmas trees, and other related
2 activities.

3 (3) "Director" as used in this chapter means the director of the
4 department of labor and industries of the state of Washington.

5 (4) "Farm labor contracting activity" means recruiting,
6 soliciting, employing, supplying, transporting, or hiring
7 agricultural employees.

8 (5) "Farm labor contractor" means any person, or his or her agent
9 or subcontractor, who, for a fee, performs any farm labor contracting
10 activity. "Farm labor contractor" does not include a person
11 performing farm labor contracting activity solely for a small
12 forestland owner as defined in RCW 76.09.450 who receives services of
13 no more than two agricultural employees at any given time.

14 (6) "Fee" means:

15 (a) Any money or other valuable consideration paid or promised to
16 be paid for services rendered or to be rendered by a farm labor
17 contractor.

18 (b) Any valuable consideration received or to be received by a
19 farm labor contractor for or in connection with any of the services
20 described in subsection (4) of this section, and shall include the
21 difference between any amount received or to be received by him, and
22 the amount paid out by him for or in connection with the rendering of
23 such services.

24 (7) "Person" includes any individual, firm, partnership,
25 association, corporation, or unit or agency of state or local
26 government.

27 (8) This chapter shall not apply to employees of the employment
28 security department acting in their official capacity or their
29 agents, nor to any common carrier or full time regular employees
30 thereof while transporting agricultural employees, nor to any person
31 who performs any of the services enumerated in subsection (4) of this
32 section only within the scope of his or her regular employment for
33 one agricultural employer on whose behalf he or she is so acting,
34 unless he or she is receiving a commission or fee, which commission
35 or fee is determined by the number of workers recruited(~~(, or to a~~
36 ~~nonprofit corporation or organization which performs the same~~
37 ~~functions for its members. Such nonprofit corporation or organization~~
38 ~~shall be one in which:~~

1 ~~(a) None of its directors, officers, or employees are deriving~~
2 ~~any profit beyond a reasonable salary for services performed in its~~
3 ~~benefit.~~

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

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

8 (1) No farm labor contractor ((~~or~~), agricultural employer, or
9 any person acting on behalf of a farm labor contractor or
10 agricultural employer, including, but not limited to, agents and
11 subcontractors, may ((discharge or in any other manner discriminate))
12 take adverse action against any employee ((because)) or former
13 employee because:

14 ~~((1) The employee))~~ (a) The employee or former employee has made
15 a claim against the farm labor contractor or agricultural employer
16 ((for compensation for the employee's personal services.)) related to
17 the employee or former employee's employment;

18 ~~((2) The employee))~~ (b) The employee or former employee has
19 caused to be instituted, or if the employer knew an employee or
20 former employee was about to cause to be instituted, any proceedings
21 under or related to ((RCW 19.30.180.)) this chapter;

22 ~~((3) The employee))~~ (c) The employee or former employee has
23 testified or is about to testify in any such proceedings((-));

24 ~~((4) The employee))~~ (d) The employee or former employee has
25 discussed or consulted with anyone concerning the employee((-s)) or a
26 coworker's employment rights ((under this chapter.)) or safety and
27 health laws or regulations;

28 (e) The employee or former employee has informed or made a
29 complaint to the employer, the director, or the attorney general that
30 the employer engaged in conduct that the employee or former employee
31 reasonably believes violates this chapter or any employment or safety
32 and health laws or regulations, regardless of whether the information
33 was provided in writing;

34 (f) The employee or former employee has refused to participate in
35 an activity that would result in a violation of any state or federal
36 employment or safety and health laws or regulations;

37 (g) The employee or former employee has sought information orally
38 or in writing about the employee or former employee's rights under

1 any employment or safety and health laws or regulations, or informed
2 others about their rights;

3 (h) The employee or former employee has, or the employer believes
4 the employee or former employee has, otherwise exercised rights under
5 any employment or safety and health laws or regulations; or

6 (i) The employee or former employee has engaged in, or benefited
7 from, any concerted activity to improve working conditions as
8 protected by RCW 49.32.020.

9 (2) For purposes of this section:

10 (a) "Adverse action" means discharging, denying a promotion,
11 demoting, failing to rehire after seasonal interruption of work,
12 intimidating, threatening, coercing, blacklisting, penalizing,
13 retaliating against, engaging in unfair immigration-related
14 practices, filing a false report with a government agency, changing
15 an employee's status to a nonemployee, or otherwise discriminating
16 against an employee. "Adverse action" may involve any aspect of
17 employment, including pay, work hours, responsibilities, or other
18 material change in the terms or conditions of employment.

19 (b) (i) "Unfair immigration-related practice" includes any of the
20 following:

21 (A) Requesting more or different documents than are required
22 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents
23 tendered pursuant to that section that on their face reasonably
24 appear to be genuine;

25 (B) Using the federal e-verify system to check employment
26 authorization status at a time or in a manner not required under 8
27 U.S.C. Sec. 1324a(b), or not authorized under any memorandum of
28 understanding governing the use of the federal e-verify system;

29 (C) Threatening to file or the filing of a false police report;

30 (D) Threatening to contact or contacting immigration authorities;

31 or

32 (E) Withholding or threatening to destroy documents related to a
33 person's immigration status.

34 (ii) "Unfair immigration-related practice" does not include
35 conduct undertaken at the express and specific direction or request
36 of the federal government.

37 **Sec. 3.** RCW 19.30.200 and 2000 c 171 s 48 are each amended to
38 read as follows:

1 No person may utilize the services of any farm labor contractor
2 to recruit, solicit, employ, supply, transport, or hire any
3 agricultural worker unless the person first takes reasonable steps to
4 determine that the farm labor contractor possesses a valid license
5 required by this chapter. Any person who (~~knowingly uses the~~
6 ~~services of an unlicensed farm labor contractor~~) violates this
7 section shall be personally, jointly, and severally liable with the
8 person acting as a farm labor contractor to the same extent and in
9 the same manner as provided in this chapter. (~~In making~~
10 ~~determinations under this section, any user may rely~~) The only
11 defense that may be asserted to avoid liability under this section is
12 that the person relied upon either the license issued by the director
13 to the farm labor contractor under RCW 19.30.030 or the director's
14 representation that such contractor is licensed as required by this
15 chapter.

--- END ---