

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 100

(Chair, Finance Committee)(By Request - Departmental -
Labor, Licensing and Regulation)

Finance

Farm Labor Contracting - State License Requirement - Repeal

This departmental bill repeals the requirement that an individual generally must be licensed by the Commissioner of Labor and Industry before the individual may perform farm labor contracting services in the State for consideration. In addition, the bill repeals the requirement that the commissioner may require a farm labor contractor to post a surety bond or other security. Instead, a person has to have a farm labor contractor certificate of registration from the U.S. Department of Labor (DOL) to perform these services in Maryland. Likewise, a person that uses a farm labor contractor must ascertain that the farm labor contractor is registered with DOL. Even so, the Commissioner of Labor and Industry must keep a central public registry of all farm labor contractors (instead of all licensed farm labor contractors).

Fiscal Summary

State Effect: The bill does not materially affect State finances. Any decrease in general fund revenues from eliminating the farm labor contractor license fee of \$25 per license is not anticipated to be significant since only eight or fewer license applications were received in each of the last five years. Expenditures are not affected, but the bill may create minimal operational efficiencies as the Department of Labor, Licensing, and Regulation (DLLR) no longer has to process license applications.

Local Effect: None.

Small Business Effect: DLLR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: The federal Migrant and Seasonal Agricultural Worker Protection Act requires farm labor contractors to register with DOL. Before performing any farm labor contracting activity, a farm labor contractor must register with DOL and obtain a certificate of registration. A farm labor contractor must be specifically authorized to provide housing or transportation to migrant or seasonal agricultural workers prior to doing so. Persons employed by farm labor contractors to perform farm labor contracting activities also must register with DOL.

In Maryland, generally, an individual must also be licensed by the Commissioner of Labor and Industry before the individual may perform farm labor contracting services in the State for consideration. To “perform farm labor contracting services” means to recruit, employ, hire, provide, solicit, transport, or provide housing for a migrant agricultural worker. A “migrant agricultural worker” is an individual who is employed to do agricultural work of a seasonal or temporary nature. In the course of employment, a migrant agricultural worker must be absent overnight from a permanent residence or, as part of a day-haul operation, be transported by a farm labor contractor or agent to or from the place of employment. A migrant agricultural worker does not include an immediate family member of specified individuals or a nonimmigrant alien who is authorized under federal law to work in agricultural employment in the United States.

A farm labor contractor applicant must submit an application and photographs of the applicant, as well as pay a \$25 application fee. If information provided on the application changes, the licensee must notify the commissioner of the changes within 10 days. The commissioner must determine whether the applicant is entitled to be licensed and, if so, issue a license. While a license is in effect, it authorizes the licensee to perform farm labor contracting services for consideration, and a license expires on the first March 1 after its effective date. The commissioner must keep a central public registry of all licensed farm labor contractors.

The commissioner may deny, suspend, or revoke a license for specified reasons, but the commissioner generally must give the licensee or applicant an opportunity for a hearing before the commissioner. The commissioner may pass an order that requires a person to immediately cease a farm labor contracting service if the commissioner investigates and has reason to believe the person is performing a farm labor contracting service for consideration in the State without a license. The person has seven days to request a hearing. Any person aggrieved by a final decision in a contested case may appeal.

The commissioner may require a farm labor contractor to post a surety bond or other security under specified conditions or to ensure compliance with State laws.

Generally, a person may not use a farm labor contractor to perform a farm labor contracting service unless the person ascertains that the farm labor contractor is licensed.

Background: Maryland is 1 of 10 states that requires a farm labor contractor to be licensed. Other states simply require a farm labor contractor to obtain a certificate of registration from DOL prior to conducting any farm labor contracting activity. Between 2011 and 2015, DLLR has received between four and eight applications annually. In 2015, DLLR received seven applications and issued five licenses. Since farm labor contractors must, under federal law, also obtain federal registration, DLLR refers complaints or reports of unregistered farm labor contractors to DOL to investigate. As of October 1, 2015, three Maryland-based farm labor contractors were registered with DOL.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; U.S. Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - January 25, 2016
mel/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Farm Labor Contracting – Licensure Repeal

BILL NUMBER: SB 100

PREPARED BY: Andi Morony, Policy Director, Division of Labor and Industry

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed action will have minimal or no economic impact on Maryland’s small businesses. Only a minimal number of applicants are received by the Division annually.

LOCAL GOVERNMENT IMPACT

None.