

SENATE BILL 742

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By: **Senator Lee**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Fair Recruitment and Transparency Act**

3 FOR the purpose of establishing licensing and regulatory requirements for foreign labor
4 contractors; providing that an agreement by a foreign migrant worker to waive
5 certain rights is void as contrary to public policy; authorizing the Commissioner of
6 Labor and Industry to enter certain housing at certain times for a certain purpose;
7 requiring the Commissioner to keep a certain public registry of all licensed foreign
8 labor contractors beginning on a certain date; authorizing the Attorney General,
9 under certain circumstances, to investigate certain allegations and proceed in a court
10 to enforce certain provisions of law; requiring an individual to be licensed by the
11 Commissioner before the individual may perform a foreign labor contracting service
12 in the State for consideration; altering the contents of a certain application;
13 providing that a certain license authorizes the licensee to perform foreign labor
14 contracting services for consideration; requiring a licensee to take certain actions
15 while performing a foreign labor contracting service in the State; altering the
16 grounds on which the Commissioner is authorized to deny a certain license or
17 suspend or revoke a certain license; authorizing the Commissioner to suspend a
18 license summarily under certain circumstances; authorizing the Commissioner to
19 pass an order under certain circumstances to require a person immediately to cease
20 performing a foreign labor contracting service; requiring the Commissioner to
21 require, except under certain circumstances, a foreign labor contractor to post a
22 surety bond or other security under certain circumstances; authorizing the
23 Commissioner to require security in a certain amount; requiring each foreign labor
24 contractor to provide each foreign migrant worker with a certain contract at a certain
25 time and in a certain language; prohibiting changes to a certain contract from being
26 made except under certain circumstances; requiring a foreign labor contractor who
27 provides certain housing to ensure that certain conditions of occupancy are posted
28 conspicuously while the foreign migrant worker stays in the housing; requiring the
29 Commissioner to make available to a foreign labor contractor a certain contract;
30 requiring a foreign labor contractor to file with the Commissioner certain contracts;
31 prohibiting a foreign labor contractor or an employer that uses a foreign labor

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 contractor from assessing to a foreign migrant worker certain costs, fees, and
2 expenses; requiring a foreign labor contractor to immediately repay a foreign
3 migrant worker and provide the foreign migrant worker with certain employment
4 under certain circumstances; requiring certain employers to file with the
5 Commissioner certain information; providing that a certain employer is jointly and
6 severally liable for a violation of certain provisions of this Act committed by a foreign
7 labor contractor except under certain circumstances; requiring that a foreign labor
8 contractor is jointly and severally liable for certain violations committed by the
9 foreign labor contractor's agents; authorizing a certain employer to provide
10 information to the Commissioner regarding a certain foreign migrant worker;
11 requiring a certain employer to provide certain information to the Commissioner
12 regarding uncovered fees; requiring the Commissioner to include certain information
13 in a certain report; requiring a certain employer to provide a certain orientation and
14 training to a foreign migrant worker; prohibiting a certain employer from interfering
15 with an individual conducting outreach to a foreign migrant worker employed by the
16 employer; requiring the Commissioner to require by regulation a foreign labor
17 contractor to keep certain records; requiring a foreign labor contractor to keep
18 certain records even if the foreign labor contractor is not responsible for paying a
19 foreign migrant worker; requiring that certain information be included on a certain
20 pay stub; requiring each foreign labor contractor to ensure that certain vehicles meet
21 certain standards and that certain drivers are authorized under certain provisions
22 of law to drive certain vehicles; requiring that each foreign labor contractor ensure
23 that owners of certain vehicles have certain liability policies; prohibiting a person
24 from performing a foreign labor contracting service in the State for consideration
25 except under certain circumstances; prohibiting a foreign labor contractor from
26 discriminating against a foreign migrant worker to the same extent an employer is
27 prohibited from discriminating under certain provisions of law; prohibiting a person
28 from making certain representations to the public except under certain
29 circumstances; prohibiting a person from using a foreign labor contractor to perform
30 a foreign labor contracting service except under certain circumstances; providing
31 that a person is not liable for hiring a certain person under certain circumstances;
32 altering certain penalties; requiring the Commissioner to consider certain factors
33 before assessing a certain penalty against a foreign labor contractor; establishing
34 certain penalties for a willful violation of certain provisions of law by a foreign labor
35 contractor; prohibiting a foreign labor contractor from taking adverse action against
36 a foreign migrant worker for a certain reason; authorizing a foreign migrant worker,
37 under certain circumstances, to bring an action in a certain court to recover certain
38 damages; establishing a Workgroup to Study the International Exchange Visitor
39 Workers in Maryland; providing for the composition, chair, and staffing of the
40 Workgroup; prohibiting a member of the Workgroup from receiving certain
41 compensation, but authorizing the reimbursement of certain expenses; requiring the
42 Workgroup to study and make recommendations regarding J-1 visa holders and
43 temporary worker visa holders; requiring the Workgroup to report its findings and
44 recommendations to the Governor and the General Assembly on or before a certain
45 date; making conforming changes; defining certain terms; altering certain
46 definitions; providing for the construction of this Act; providing for the termination

1 of certain provisions of this Act; and generally relating to regulation of farm labor
2 contractors and foreign labor contractors.

3 BY repealing and reenacting, with amendments,

4 Article – Labor and Employment

5 Section 7–101, 7–103, 7–202, 7–203, 7–205, 7–301, 7–302, 7–305, 7–307, 7–308,
6 7–310, and 7–311; 7–403 and 7–404 to be under the amended subtitle “Subtitle
7 4. Responsibilities of Farm Labor and Foreign Labor Contractors”; and 7–501,
8 7–502, 7–503, 7–506, and 7–507 to be under the amended title “Title 7. Farm
9 Labor and Foreign Labor Contractors”

10 Annotated Code of Maryland

11 (2016 Replacement Volume and 2019 Supplement)

12 BY adding to

13 Article – Labor and Employment

14 Section 7–312.1, 7–401.1, 7–401.2, 7–401.3, and 7–508

15 Annotated Code of Maryland

16 (2016 Replacement Volume and 2019 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Labor and Employment**

20 **Title 7. Farm Labor AND FOREIGN LABOR Contractors.**

21 7–101.

22 (a) In this title the following words have the meanings indicated.

23 (b) “Agricultural operation” means:

24 (1) a person:

25 (i) who performs a farm labor contracting service; and

26 (ii) who:

27 1. owns or operates a farm;

28 2. owns or operates a cannery, packing shed, or other
29 processing establishment; or

30 3. produces or conditions seed; or

31 (2) a nonprofit or cooperative association that:

- 1 (i) performs a farm labor contracting service;
- 2 (ii) consists of owners or operators of farms; and
- 3 (iii) is incorporated or qualified under the laws of the State.

4 (c) "Agricultural work" means employment:

5 (1) on a farm, in any activity that relates to the maintenance, management,
6 or operation of the farm or its tools or other equipment, including cultivation of soil, raising
7 of bees, or the growing, harvesting, or producing of an agricultural or horticultural
8 commodity; or

9 (2) by the owner or operator of a farm, to dry, to freeze, to grade, to pack,
10 to package, to plant, to process, or otherwise to handle an agricultural or horticultural
11 commodity in its unmanufactured state before delivery for storage.

12 (d) "Commissioner" means the Commissioner of Labor and Industry.

13 **(E) "EMPLOYER" MEANS ANY PERSON THAT EMPLOYS AN INDIVIDUAL IN**
14 **THE STATE.**

15 **(F) "EMPLOYMENT" INCLUDES CULTURAL EXCHANGE, TRAINING, OR**
16 **BUSINESS ACTIVITIES FOR WHICH A FOREIGN MIGRANT WORKER RECEIVES ANY**
17 **FORM OF COMPENSATION, INCLUDING A STIPEND, FROM ANY SOURCE, WHETHER**
18 **PAID IN THE UNITED STATES OR IN THE FOREIGN MIGRANT WORKER'S COUNTRY OF**
19 **ORIGIN.**

20 **[(e)] (G) (1) "Farm" means an area that is used primarily to raise an**
21 **agricultural or horticultural commodity.**

22 (2) "Farm" includes:

- 23 (i) a dairy farm;
- 24 (ii) a fruit farm;
- 25 (iii) a furbearing animal farm;
- 26 (iv) a greenhouse;
- 27 (v) a nursery;
- 28 (vi) an orchard;
- 29 (vii) a poultry farm;

- 1 (viii) a ranch;
- 2 (ix) a stock farm; and
- 3 (x) a truck farm.

4 **[(f)] (H)** “Farm labor contractor” means a person, other than an agricultural
5 operation or an employee of an agricultural operation, who performs a farm labor
6 contracting service for consideration.

7 **(I) (1) “FOREIGN LABOR CONTRACTOR” MEANS A PERSON THAT**
8 **PERFORMS A FOREIGN LABOR CONTRACTING SERVICE.**

9 **(2) “FOREIGN LABOR CONTRACTOR” INCLUDES:**

10 **(I) A PERSON WORKING ON BEHALF OF AN EMPLOYER LOCATED**
11 **IN THE STATE REGARDLESS OF WHETHER THE FOREIGN MIGRANT WORKER IN**
12 **RELATION TO WHOM THE FOREIGN LABOR CONTRACTING SERVICE IS PERFORMED**
13 **IS LOCATED IN THE UNITED STATES; AND**

14 **(II) A PERSON THAT PERFORMS A FOREIGN LABOR**
15 **CONTRACTING SERVICE WHOLLY OUTSIDE THE UNITED STATES.**

16 **(J) (1) “FOREIGN MIGRANT WORKER” MEANS AN INDIVIDUAL WHO:**

17 **(I) IS SEEKING EMPLOYMENT;**

18 **(II) IS NOT A UNITED STATES CITIZEN OR A PERMANENT**
19 **RESIDENT; AND**

20 **(III) IS AUTHORIZED BY THE FEDERAL GOVERNMENT TO WORK**
21 **IN THE UNITED STATES UNDER A NONIMMIGRANT VISA CLASSIFICATION OR STATUS**
22 **UNDER 8 U.S.C. § 1101(A)(15)(H)(II)(A).**

23 **(2) “FOREIGN MIGRANT WORKER” DOES NOT INCLUDE AN**
24 **INDIVIDUAL WHO RECEIVED A GREEN CARD ON ADMISSION TO THE UNITED STATES.**

25 **[(g)] (K)** “License” means a license issued by the Commissioner to perform farm
26 labor contracting services **OR FOREIGN LABOR CONTRACTING SERVICES** for
27 consideration.

28 **[(h)] (L)** “Licensed farm labor contractor” means an individual who is licensed
29 by the Commissioner to perform farm labor contracting services for consideration.

1 **(M) “LICENSED FOREIGN LABOR CONTRACTOR” MEANS AN INDIVIDUAL**
 2 **WHO IS LICENSED BY THE COMMISSIONER TO PERFORM FOREIGN LABOR**
 3 **CONTRACTING SERVICES.**

4 **[(i)] (N)** (1) “Migrant agricultural worker” means, except as provided in
 5 paragraph (2) of this subsection, an individual who:

6 (i) is employed to perform agricultural work of a seasonal or other
 7 temporary nature; and

8 (ii) in the course of employment:

9 1. is absent overnight from the permanent place of residence
 10 of the individual; or

11 2. as part of a day-haul operation, is transported or caused
 12 to be transported by a farm labor contractor or an agent of a farm labor contractor to or
 13 from the place of employment.

14 (2) “Migrant agricultural worker” does not include:

15 (i) an immediate family member of the owner or operator of a farm
 16 or a cannery, packing shed, or other processing establishment;

17 (ii) an immediate family member of an individual who produces or
 18 conditions seeds; **OR**

19 (iii) an immediate family member of a farm labor contractor[; or

20 (iv) a nonimmigrant alien, as defined in 8 U.S.C. §
 21 1101(a)(15)(H)(ii)(a), who is authorized under federal law to work in agricultural
 22 employment in the United States].

23 **[(j)] (O)** “Perform a farm labor contracting service” means to recruit, to employ,
 24 to hire, to provide, to solicit, to transport, or to provide housing for a migrant agricultural
 25 worker.

26 **(P) (1) “PERFORM A FOREIGN LABOR CONTRACTING SERVICE” MEANS TO**
 27 **RECRUIT, TO EMPLOY, TO HIRE, TO CONTRACT WITH, TO PURPORT TO EMPLOY,**
 28 **HIRE, OR CONTRACT WITH, TO PROVIDE, TO SOLICIT, TO TRANSPORT, OR TO**
 29 **PROVIDE HOUSING FOR A FOREIGN MIGRANT WORKER DIRECTLY OR THROUGH AN**
 30 **AGENT REGARDLESS OF WHETHER THE SERVICE IS PERFORMED IN THE UNITED**
 31 **STATES.**

32 **(2) “PERFORM A FOREIGN LABOR CONTRACTING SERVICE”**

1 INCLUDES ANY ACTIVITY LEADING TO POTENTIAL EMPLOYMENT OF A FOREIGN
2 MIGRANT WORKER BEGINNING WITH THE INITIAL CONTACT WITH THE FOREIGN
3 MIGRANT WORKER OUTSIDE THE UNITED STATES THROUGH THE ARRIVAL OF THE
4 FOREIGN MIGRANT WORKER AT THE ASSIGNED WORKSITE IN THE STATE.

5 7-103.

6 An agreement by a migrant agricultural worker **OR A FOREIGN MIGRANT WORKER**
7 to waive or modify a right of the migrant agricultural worker **OR FOREIGN MIGRANT**
8 **WORKER** under this title is void as contrary to public policy.

9 7-202.

10 (a) The Commissioner shall administer and enforce this title.

11 (b) To administer or enforce this title, the Commissioner may:

12 (1) conduct necessary investigations; and

13 (2) enter, at reasonable times, without delay:

14 (i) a migratory labor camp;

15 (ii) a place of employment; or

16 (iii) housing that [a farm labor contractor provides to a migrant
17 agricultural worker] **IS PROVIDED TO A FOREIGN MIGRANT WORKER BY A FARM**
18 **LABOR CONTRACTOR, A FOREIGN LABOR CONTRACTOR, OR AN EMPLOYER.**

19 (c) To administer or enforce this title, the Commissioner may administer oaths
20 and depose witnesses.

21 (d) (1) To administer or enforce this title, the Commissioner may issue a
22 subpoena for the attendance of a witness to testify or the production of books, documents,
23 papers, and records.

24 (2) If a person fails to comply with a subpoena issued under this subsection
25 or fails to testify on any matter on which the person lawfully may be interrogated, on a
26 complaint filed by the Commissioner, the circuit court for the county where the person
27 resides or is then present may pass an order directing compliance with the subpoena or
28 compelling testimony.

29 7-203.

30 (a) In addition to any powers set forth elsewhere, the Commissioner:

1 (1) may accept from any source a grant to carry out this title; and

2 (2) to administer or enforce this title, may certify to official acts.

3 (b) In addition to any duties set forth elsewhere, the Commissioner shall keep:

4 (1) a central public registry of all licensed farm labor contractors; AND

5 (2) BEGINNING JULY 1, 2020, A CENTRAL PUBLIC REGISTRY OF ALL
6 LICENSED FOREIGN LABOR CONTRACTORS THAT:

7 (I) IS AVAILABLE ONLINE IN A USER-FRIENDLY FORMAT;

8 (II) IS AVAILABLE IN ENGLISH AND SPANISH;

9 (III) IS UPDATED WITHIN 5 BUSINESS DAYS AFTER A MATERIAL
10 CHANGE IS MADE IN THE INFORMATION PREVIOUSLY PROVIDED BY A LICENSED
11 FOREIGN LABOR CONTRACTOR; AND

12 (IV) INCLUDES THE FOLLOWING INFORMATION:

13 1. FOR EACH EMPLOYER FOR WHOM THE FOREIGN
14 LABOR CONTRACTOR PERFORMS FOREIGN LABOR CONTRACTING SERVICES:

15 A. THE NAME AND CONTACT INFORMATION OF THE
16 EMPLOYER; AND

17 B. THE NUMBER, OCCUPATIONS, WAGES, VISA
18 CLASSIFICATIONS, AND EMPLOYMENT DATES OF FOREIGN MIGRANT WORKERS WHO
19 WERE HIRED BY THE EMPLOYER AND WITH RESPECT TO WHOM THE FOREIGN LABOR
20 CONTRACTOR PERFORMED A FOREIGN LABOR CONTRACTING SERVICE FOR THE
21 PERSON;

22 2. THE INDUSTRY FOR WHICH THE FOREIGN LABOR
23 CONTRACTOR PERFORMS FOREIGN LABOR CONTRACTING SERVICES; AND

24 3. THE NAMES OF ALL PERSONS EMPLOYED BY OR
25 CONTRACTED BY THE LICENSED FOREIGN LABOR CONTRACTOR TO PERFORM
26 FOREIGN LABOR CONTRACTING SERVICES AND THE CITIES, STATES, AND FOREIGN
27 COUNTRIES WHERE THE FOREIGN LABOR CONTRACTING SERVICES WILL BE
28 PERFORMED BY THE PERSONS.

1 **(A)** On request of the Commissioner, the Attorney General may proceed in a court
2 or before a federal unit to enforce:

- 3 (1) a decision of the Commissioner made under this title;
- 4 (2) a subpoena issued under this title;
- 5 (3) an order of the Commissioner passed under this title; or
- 6 (4) the collection of a civil penalty assessed under this title.

7 **(B) ON THE ATTORNEY GENERAL'S OWN INITIATIVE, THE ATTORNEY**
8 **GENERAL MAY:**

9 **(1) INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE; AND**

10 **(2) PROCEED IN A COURT TO ENFORCE THIS TITLE.**

11 7-301.

12 Except as otherwise provided in this title, an individual shall be licensed by the
13 Commissioner before the individual may perform a farm labor contracting service **OR A**
14 **FOREIGN LABOR CONTRACTING SERVICE** in the State for consideration.

15 7-302.

16 (a) An applicant for a license shall:

17 (1) submit to the Commissioner:

18 (i) an application on the form that the Commissioner provides; and

19 (ii) two recent, passport sized, color photographs of the applicant;

20 and

21 (2) pay to the Commissioner an application fee of \$25.

22 (b) The application shall state:

23 (1) the permanent place of residence of the applicant;

24 (2) each address where the applicant expects to reside while in the State;

25 (3) each farm labor contracting service **OR FOREIGN LABOR**
26 **CONTRACTING SERVICE** that the applicant will perform for consideration;

1 (4) IF THE APPLICANT WILL BE PERFORMING A FARM LABOR
2 CONTRACTING SERVICE, the name and address of each agricultural operation for whom
3 the applicant will perform [a] THE farm labor contracting service, in the State, for
4 consideration;

5 (5) the name and permanent address of each person who will act as
6 custodian of records of wages that are required under this title to be kept;

7 (6) IF THE APPLICANT WILL BE PERFORMING A FARM LABOR
8 CONTRACTING SERVICE, the number of migrant agricultural workers that the applicant
9 expects to use in the State to perform [a] THE farm labor contracting service for
10 consideration;

11 (7) IF THE APPLICANT WILL BE PERFORMING A FOREIGN LABOR
12 CONTRACTING SERVICE, THE NUMBER OF FOREIGN MIGRANT WORKERS WITH
13 RESPECT TO WHOM THE APPLICANT EXPECTS TO PERFORM THE FOREIGN LABOR
14 CONTRACTING SERVICE;

15 [(7)] (8) if the applicant will provide housing or cause housing to be
16 provided to a migrant agricultural worker OR A FOREIGN MIGRANT WORKER:

17 (i) the name of each person who will provide the housing; and

18 (ii) each address where the housing will be provided;

19 [(8)] (9) if registration is required under the federal Migrant and
20 Seasonal Agricultural Worker Protection Act, the registration identification number of the
21 applicant;

22 [(9)] (10) the name of a resident agent who is acceptable to the
23 Commissioner;

24 [(10)] (11) the consent of the applicant to service of process on the resident
25 agent whenever the applicant leaves the State or otherwise is unavailable to accept service;
26 [and]

27 (12) IF THE APPLICANT WILL BE PERFORMING A FOREIGN LABOR
28 CONTRACTING SERVICE:

29 (I) WHETHER THE APPLICANT HAS VIOLATED ANY
30 EMPLOYMENT, LABOR, OR IMMIGRATION LAWS;

31 (II) THE LENGTH OF TIME THE APPLICANT HAS BEEN
32 PERFORMING FOREIGN LABOR CONTRACTING SERVICES;

1 **(III) THE APPLICANT’S REVENUE AND OPERATING BUDGET;**

2 **(IV) THE MANNER IN WHICH THE FOREIGN LABOR CONTRACTING**
3 **SERVICE WILL BE PERFORMED;**

4 **(V) WHETHER THE APPLICANT IS OR HAS BEEN REGISTERED**
5 **WITH ANY OTHER STATE OR THE FEDERAL GOVERNMENT TO PERFORM A FOREIGN**
6 **LABOR CONTRACTING SERVICE;**

7 **(VI) IF THE APPLICANT IS OR HAS BEEN REGISTERED WITH ANY**
8 **OTHER STATE OR THE FEDERAL GOVERNMENT TO PERFORM A FOREIGN LABOR**
9 **CONTRACTING SERVICE:**

10 **1. WHETHER THE REGISTRATION HAS EVER BEEN**
11 **REVOKED OR SUSPENDED AND, IF SO, THE REASONS FOR THE REVOCATION OR**
12 **SUSPENSION; AND**

13 **2. WHETHER THE OTHER STATE OR THE FEDERAL**
14 **GOVERNMENT HAS EVER REFUSED TO REISSUE THE REGISTRATION AND, IF SO, THE**
15 **REASONS FOR THE REFUSAL;**

16 **(VII) ANY PROFESSIONAL ORGANIZATIONS OF WHICH THE**
17 **APPLICANT IS A MEMBER;**

18 **(VIII) A LIST OF EMPLOYERS WHO HAVE USED THE SERVICES OF**
19 **THE APPLICANT WITHIN THE IMMEDIATELY PRECEDING 2 YEARS THAT INCLUDES:**

20 **1. THE NAME OF EACH EMPLOYER;**

21 **2. REGARDING FOREIGN MIGRANT WORKERS WITH**
22 **RESPECT TO WHOM THE APPLICANT PERFORMED A FOREIGN LABOR CONTRACTING**
23 **SERVICE FOR EACH EMPLOYER:**

24 **A. THE NUMBER OF FOREIGN MIGRANT WORKERS HIRED**
25 **BY THE EMPLOYER;**

26 **B. THE CITIES AND COUNTRIES OF ORIGIN OF THE**
27 **FOREIGN MIGRANT WORKERS;**

28 **C. THE CITIES AND STATES WHERE THE FOREIGN**
29 **MIGRANT WORKERS WERE EMPLOYED;**

30 **D. THE RANGE OF WAGES PAID TO THE FOREIGN**

1 **MIGRANT WORKERS; AND**

2 **E. THE INDUSTRIES AND OCCUPATIONS IN WHICH THE**
3 **FOREIGN MIGRANT WORKERS WERE EMPLOYED; AND**

4 **3. THE VALUE OF THE CONTRACT ENTERED INTO BY THE**
5 **EMPLOYER AND THE APPLICANT;**

6 **(IX) THE NAMES AND ADDRESSES OF ALL REGISTERED BUSINESS**
7 **AGENTS IN THE UNITED STATES OR IN A FOREIGN JURISDICTION;**

8 **(X) ALL TAX IDENTIFICATION NUMBERS ISSUED TO THE**
9 **APPLICANT; AND**

10 **(XI) THE NAMES OF ALL INDIVIDUALS AND COMPANIES**
11 **EMPLOYED OR USED BY THE APPLICANT TO PERFORM A FOREIGN LABOR**
12 **CONTRACTING SERVICE; AND**

13 **[(11)] (13)** other relevant information that the Commissioner requires.

14 (c) If information required under subsection (b) of this section changes, the
15 applicant or, if a license has been issued, the licensee shall give the Commissioner notice of
16 the change within 10 days after the applicant or licensee knows or should have known of
17 the change.

18 (d) Information in an application or in a notice of change may not be used to imply
19 legal responsibility on an agricultural operation for the care, custody, or activities of a
20 migrant agricultural worker whom a farm labor contractor provides.

21 (e) The Commissioner shall make application forms reasonably available at
22 convenient locations throughout the State.

23 7-305.

24 While a license is in effect, it authorizes the licensee to:

25 **(1) IF THE LICENSEE IS A FARM LABOR CONTRACTOR, perform farm**
26 **labor contracting services for consideration; OR**

27 **(2) IF THE LICENSEE IS A FOREIGN LABOR CONTRACTOR, PERFORM**
28 **FOREIGN LABOR CONTRACTING SERVICES FOR CONSIDERATION.**

29 7-307.

30 While a licensee is performing a farm labor contracting service **OR A FOREIGN**

1 **LABOR CONTRACTING SERVICE** in the State, the licensee shall:

2 (1) carry the license; and

3 (2) show the license:

4 (i) to each person with whom the licensee intends to deal as a farm
5 labor contractor **OR A FOREIGN LABOR CONTRACTOR**; and

6 (ii) on request, to an authorized employee or official of the State.

7 7-308.

8 Subject to the hearing provisions of § 7-309 of this subtitle, the Commissioner may
9 deny a license to any applicant or suspend or revoke a license if the applicant or licensee:

10 (1) fraudulently or deceptively obtains or attempts to obtain a license for
11 the applicant or licensee or for another;

12 (2) fraudulently or deceptively uses a license;

13 (3) knowingly makes any misrepresentation in the application;

14 (4) is not the real party in interest in the application for a license and the
15 real party in interest:

16 (i) has been refused a license;

17 (ii) has had a license suspended or revoked; or

18 (iii) otherwise fails to qualify under this section for a license;

19 (5) fails to comply with any provision of this title;

20 (6) fails to comply with any regulation that the Commissioner adopts;

21 (7) fails to comply with an order that the Commissioner passes;

22 (8) fails to satisfy a judgment that the Commissioner obtains under this
23 title;

24 (9) knowingly gives a migrant agricultural worker **OR A FOREIGN**
25 **MIGRANT WORKER** who is recruited or hired false or misleading information about the
26 existence or conditions of employment;

27 (10) fails, without just cause, to comply with any agreement or arrangement
28 with an agricultural operation or with a migrant agricultural worker **OR FOREIGN**

1 **MIGRANT WORKER;**

2 (11) is found by the Secretary of Health to have violated a regulation of the
3 Secretary on housing, sanitation, or safety for migrant agricultural workers **OR FOREIGN**
4 **MIGRANT WORKERS;**

5 (12) has had a farm labor contractor registration certificate suspended or
6 revoked by the United States Department of Labor or by another state for a reason that
7 would justify suspension or revocation of a license in this State;

8 (13) has been convicted of a felony under a law of the State or under federal
9 law; [or]

10 (14) during the past 5 years, has been convicted of a misdemeanor in
11 connection with performing a farm labor contracting service **OR A FOREIGN LABOR**
12 **CONTRACTING SERVICE** if the misdemeanor relates to:

13 (i) gambling;

14 (ii) sale, distribution, or possession of an alcoholic beverage; or

15 (iii) sale, distribution, or possession of a controlled dangerous
16 substance; **OR**

17 **(15) ASSESSES TO A FOREIGN MIGRANT WORKER PERMITTED TO WORK**
18 **IN THE UNITED STATES UNDER 8 U.S.C. § 1101(A)(15)(H)(II)(A) ANY COSTS, FEES,**
19 **OR EXPENSES RELATED TO THE PERFORMANCE OF A FOREIGN LABOR CONTRACTING**
20 **SERVICE.**

21 7-310.

22 The Commissioner may suspend a license summarily pending the determination of
23 a hearing under § 7-309 of this subtitle if the Commissioner finds suspension necessary to
24 prevent abuse of or injury to a migrant agricultural worker **OR A FOREIGN MIGRANT**
25 **WORKER.**

26 7-311.

27 (a) If, after an investigation, the Commissioner has reason to believe that a
28 person is performing a farm labor contracting service **OR A FOREIGN LABOR**
29 **CONTRACTING SERVICE** for consideration in the State without a license, the
30 Commissioner may pass an order to require the person immediately to cease performing
31 the farm labor contracting service **OR FOREIGN LABOR CONTRACTING SERVICE.**

32 (b) The Commissioner shall give notice of the order and, if requested under
33 subsection (d) of this section, hold a hearing in accordance with Title 10, Subtitle 2 of the

1 State Government Article.

2 (c) An order passed under this section shall be:

3 (1) served personally; or

4 (2) sent by certified mail to the last known address of the person.

5 (d) (1) Within 7 days after service of an order under this section, the person
6 may submit to the Commissioner a written request for a hearing.

7 (2) Unless a person requests a hearing in accordance with paragraph (1) of
8 this subsection, the order is final.

9 **7-312.1.**

10 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
11 COMMISSIONER SHALL REQUIRE A FOREIGN LABOR CONTRACTOR TO POST A
12 SURETY BOND OR OTHER SECURITY IF THE COMMISSIONER:

13 (1) FINDS THAT THE FOREIGN LABOR CONTRACTOR HAS VIOLATED A
14 PROVISION OF THIS TITLE OR ANY ORDER THAT THE COMMISSIONER ISSUES OR
15 REGULATION THAT THE COMMISSIONER ADOPTS; OR

16 (2) RECEIVES A CERTIFIED RECORD OF THE FINDING OF A UNIT OF
17 ANOTHER STATE OR THE UNITED STATES THAT THE FOREIGN LABOR CONTRACTOR
18 HAS VIOLATED ANY LAW THAT RELATES TO:

19 (I) REGISTRATION AS A FOREIGN LABOR CONTRACTOR; OR

20 (II) THE EMPLOYMENT OF, PROVISION OF HOUSING FOR, OR
21 TRANSPORTATION OF A FOREIGN MIGRANT WORKER.

22 (B) THE COMMISSIONER MAY NOT REQUIRE SECURITY ON THE BASIS OF AN
23 ADMINISTRATIVE DECISION THAT A COURT NULLIFIES.

24 (C) THE COMMISSIONER MAY REQUIRE SECURITY IN AN AMOUNT THAT THE
25 COMMISSIONER CONSIDERS ADEQUATE TO ENSURE COMPLIANCE WITH THE LAWS
26 OF THE STATE.

27 Subtitle 4. Responsibilities of Farm Labor AND FOREIGN LABOR Contractors.

28 **7-401.1.**

29 (A) (1) IN ACCORDANCE WITH THIS SECTION, EACH FOREIGN LABOR

1 CONTRACTOR SHALL PROVIDE EACH FOREIGN MIGRANT WORKER WITH AN
2 EMPLOYMENT CONTRACT SIGNED BY THE FOREIGN LABOR CONTRACTOR AND THE
3 FOREIGN MIGRANT WORKER THAT INCLUDES:

4 (I) EACH PLACE OF EMPLOYMENT IN THE STATE;

5 (II) THE NAME OF THE EMPLOYER AND ANY AGENTS OF THE
6 EMPLOYER OR THE FOREIGN LABOR CONTRACTOR;

7 (III) A DESCRIPTION OF THE WORK ACTIVITIES INVOLVED;

8 (IV) EACH CONDITION OF EMPLOYMENT AT EACH PLACE OF
9 EMPLOYMENT, INCLUDING:

10 1. THE WAGE TO BE PAID;

11 2. THE PERSON WHO WILL PAY THE WAGE;

12 3. WHEN THE WAGE IS DUE;

13 4. THE HOURS TO BE WORKED;

14 5. INFORMATION ABOUT MEALS AND REST PERIODS TO
15 BE PROVIDED TO THE FOREIGN MIGRANT WORKER;

16 6. ANY PRODUCTION STANDARDS; AND

17 7. THE LENGTH OF TIME FOR WHICH THE FOREIGN
18 MIGRANT WORKER IS TO BE EMPLOYED;

19 (V) THE HOUSING, INSURANCE, OR TRANSPORTATION THAT
20 WILL BE PROVIDED TO THE FOREIGN MIGRANT WORKER;

21 (VI) ANY COST THAT THE FOREIGN MIGRANT WORKER WILL BE
22 CHARGED OR THAT WILL BE DEDUCTED FROM THE FOREIGN MIGRANT WORKER'S
23 WAGES TO COVER HOUSING OR INSURANCE;

24 (VII) EACH LABOR DISPUTE THAT THE FOREIGN LABOR
25 CONTRACTOR KNOWS EXISTS AT A PLACE OF EMPLOYMENT;

26 (VIII) A DISCLOSURE REGARDING THE ABILITY OF THE FOREIGN
27 MIGRANT WORKER TO ENGAGE IN A STRIKE OR LOCKOUT;

1 **(IX) THE INFORMATION TO BE INCLUDED ON EACH PAY STUB IN**
2 **ACCORDANCE WITH 20 C.F.R. § 655.12(k);**

3 **(X) ANY AMOUNTS THAT WILL BE WITHHELD OR DEDUCTED**
4 **FROM THE PAY OF THE FOREIGN MIGRANT WORKER;**

5 **(XI) ANY APPLICABLE PENALTIES FOR EARLY TERMINATION OF**
6 **EMPLOYMENT;**

7 **(XII) THE FOLLOWING INFORMATION REGARDING THE VISA**
8 **UNDER WHICH THE FOREIGN MIGRANT WORKER IS TO BE EMPLOYED:**

9 1. **THE TYPE OF VISA;**

10 2. **THE LENGTH OF TIME FOR WHICH THE VISA IS VALID;**

11 3. **THE TERMS AND CONDITIONS UNDER WHICH THE VISA**
12 **WILL BE RENEWED;**

13 4. **WHETHER THE EMPLOYER OR THE FOREIGN MIGRANT**
14 **WORKER IS RESPONSIBLE FOR SECURING THE RENEWAL OF THE VISA; AND**

15 5. **ANY EXPENSES ASSOCIATED WITH THE RENEWAL;**

16 **(XIII) CONTACT INFORMATION, INCLUDING THE PHONE NUMBER**
17 **AND ADDRESS, FOR THE INDIVIDUAL, INDEPENDENT CONTRACTOR,**
18 **SUBCONTRACTOR, OR AGENT WHO WILL BE IN DIRECT CONTACT WITH THE FOREIGN**
19 **MIGRANT WORKER;**

20 **(XIV) WHETHER THE FOREIGN MIGRANT WORKER IS COVERED BY**
21 **WORKERS' COMPENSATION, PRIVATE INSURANCE, OR OTHER COVERAGE FOR**
22 **INJURIES OR DEATH SUSTAINED DURING THE COURSE OF EMPLOYMENT;**

23 **(XV) A REQUIREMENT THAT THE FOREIGN LABOR CONTRACTOR**
24 **OR THE EMPLOYER PAY ALL FEES, INCLUDING VISA APPLICATION FEES, BORDER**
25 **CROSSING FEES, TRANSPORTATION COSTS, OR ANY OTHER COST OR FEE RELATED**
26 **TO RECRUITMENT FOR EMPLOYMENT IN THE UNITED STATES;**

27 **(XVI) PROOF OF COMPLIANCE WITH THE LOCAL HOUSING CODE**
28 **FOR THE AREA WHERE THE FOREIGN MIGRANT WORKER WILL BE HOUSED;**

29 **(XVII) WHETHER ANY EDUCATION OR TRAINING WILL BE**
30 **PROVIDED TO THE FOREIGN MIGRANT WORKER AND, IF SO, ANY ASSOCIATED COSTS**

1 AND WHETHER THE FOREIGN MIGRANT WORKER IS RESPONSIBLE FOR PAYING THE
2 ASSOCIATED COSTS;

3 (XVIII) A DESCRIPTION OF PROTECTIONS AVAILABLE TO THE
4 FOREIGN MIGRANT WORKER UNDER THE FEDERAL TRAFFICKING VICTIMS
5 PROTECTION ACT; AND

6 (XIX) CONTACT INFORMATION FOR INDIVIDUALS OR DIVISIONS
7 WITHIN THE MARYLAND DEPARTMENT OF LABOR AND THE OFFICE OF THE
8 ATTORNEY GENERAL TO WHICH THE FOREIGN MIGRANT WORKER MAY REPORT ANY
9 POTENTIAL INCIDENTS OF TRAFFICKING OR LABOR RIGHTS VIOLATIONS.

10 (2) EACH FOREIGN LABOR CONTRACTOR SHALL PROVIDE THE
11 EMPLOYMENT CONTRACT REQUIRED UNDER THIS SUBSECTION TO THE FOREIGN
12 MIGRANT WORKER:

13 (I) AT THE TIME THE RECRUITMENT PROCESS BEGINS; AND

14 (II) IN THE PRIMARY LANGUAGE OF THE FOREIGN MIGRANT
15 WORKER.

16 (3) CHANGES TO THE EMPLOYMENT CONTRACT REQUIRED UNDER
17 THIS SUBSECTION MAY NOT BE MADE UNLESS THE FOREIGN MIGRANT WORKER:

18 (I) IS PROVIDED WITH THE CHANGES IN WRITING;

19 (II) IS GIVEN 48 HOURS TO REVIEW AND CONSIDER THE
20 CHANGES; AND

21 (III) VOLUNTARILY CONSENTS TO THE CHANGES.

22 (B) EACH FOREIGN LABOR CONTRACTOR WHO PROVIDES HOUSING FOR A
23 FOREIGN MIGRANT WORKER SHALL ENSURE THAT ALL OF THE CONDITIONS OF
24 OCCUPANCY ARE POSTED CONSPICUOUSLY THROUGHOUT THE FOREIGN MIGRANT
25 WORKER'S STAY IN THE HOUSING.

26 (C) ON REQUEST, THE COMMISSIONER SHALL MAKE AVAILABLE TO A
27 FOREIGN LABOR CONTRACTOR A STANDARD EMPLOYMENT CONTRACT THAT CAN BE
28 USED TO MEET THE REQUIREMENTS OF THIS SECTION.

29 (D) A FOREIGN LABOR CONTRACTOR SHALL FILE WITH THE COMMISSIONER
30 EACH EMPLOYMENT CONTRACT PROVIDED TO A FOREIGN MIGRANT WORKER UNDER
31 SUBSECTION (A) OF THIS SECTION.

1 **7-401.2.**

2 (A) A FOREIGN LABOR CONTRACTOR OR AN EMPLOYER THAT USES A
3 FOREIGN LABOR CONTRACTOR MAY NOT ASSESS TO A FOREIGN MIGRANT WORKER
4 ANY COSTS, FEES, OR EXPENSES RELATED TO THE PERFORMANCE OF A FOREIGN
5 LABOR CONTRACTING SERVICE.

6 (B) IF A FOREIGN LABOR CONTRACTOR OR EMPLOYER VIOLATES
7 SUBSECTION (A) OF THIS SECTION BEFORE THE FOREIGN MIGRANT WORKER BEGINS
8 WORK FOR WHICH THE FOREIGN LABOR CONTRACTING SERVICE WAS PERFORMED,
9 THE FOREIGN LABOR CONTRACTOR SHALL:

10 (1) IMMEDIATELY REPAY THE FOREIGN MIGRANT WORKER; AND

11 (2) PROVIDE THE EXACT OR COMPARABLE EMPLOYMENT FOR THE
12 FOREIGN MIGRANT WORKER.

13 **7-401.3.**

14 (A) EACH EMPLOYER THAT USES A FOREIGN LABOR CONTRACTOR SHALL
15 FILE WITH THE COMMISSIONER THE NAME AND CONTACT INFORMATION FOR THE
16 FOREIGN LABOR CONTRACTOR.

17 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN
18 EMPLOYER THAT USES A FOREIGN LABOR CONTRACTOR IS JOINTLY AND SEVERALLY
19 LIABLE FOR ANY VIOLATION OF THIS TITLE COMMITTED BY THE FOREIGN LABOR
20 CONTRACTOR.

21 (C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO AN EMPLOYER
22 THAT USES ONLY FOREIGN LABOR CONTRACTORS THAT HAVE VALID LICENSES
23 UNDER THIS TITLE:

24 (1) UNLESS THE FOREIGN LABOR CONTRACTOR CHARGED A FEE TO A
25 FOREIGN MIGRANT WORKER IN VIOLATION OF THIS TITLE; OR

26 (2) IF THE EMPLOYER:

27 (I) KNEW THAT THE FOREIGN LABOR CONTRACTOR HAD
28 COMMITTED THE VIOLATION;

29 (II) DEMONSTRATED DELIBERATE IGNORANCE OR RECKLESS
30 DISREGARD WITH RESPECT TO THE VIOLATION; OR

1 (III) WAS AWARE AT THE TIME OF THE VIOLATION THAT A
2 COMPLAINT INVOLVING THE CONTRACTOR HAD RESULTED IN A FINDING BY THE
3 COMMISSIONER THAT THE FOREIGN LABOR CONTRACTOR HAD ACTED
4 INCONSISTENTLY WITH THIS TITLE.

5 (D) A FOREIGN LABOR CONTRACTOR SHALL BE JOINTLY AND SEVERALLY
6 LIABLE FOR VIOLATIONS OF THIS SUBTITLE COMMITTED BY THE FOREIGN LABOR
7 CONTRACTOR'S AGENTS IN RELATION TO THE FOREIGN LABOR CONTRACTING
8 ACTIVITY OF THE FOREIGN LABOR CONTRACTOR TO THE SAME EXTENT AS IF THE
9 FOREIGN LABOR CONTRACTOR HAD COMMITTED THE VIOLATION.

10 (E) (1) EACH EMPLOYER THAT USES A FOREIGN LABOR CONTRACTOR
11 LICENSED UNDER THIS TITLE MAY PROVIDE THE COMMISSIONER WITH ANY
12 INFORMATION REGARDING A FOREIGN MIGRANT WORKER WHO WAS RECRUITED BY
13 THE FOREIGN LABOR CONTRACTOR AND WHO DID NOT ENTER INTO THE UNITED
14 STATES TO PERFORM WORK FOR THE EMPLOYER.

15 (2) AN EMPLOYER THAT PROVIDES INFORMATION TO THE
16 COMMISSIONER UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE
17 INFORMATION REGARDING ANY FEES PAID BY THE EMPLOYER THAT THE EMPLOYER
18 WAS NOT ABLE TO RECOVER FROM THE RECRUITER OR FOREIGN MIGRANT WORKER.

19 (3) THE COMMISSIONER SHALL INCLUDE IN THE REPORT REQUIRED
20 UNDER § 7-206 OF THIS TITLE:

21 (I) A SUMMARY OF THE NUMBER OF WORKERS REPORTED TO
22 THE COMMISSIONER UNDER THIS SECTION;

23 (II) THE AVERAGE UNRECOVERED FEE PER WORKER PAID BY
24 THE EMPLOYER; AND

25 (III) ANY RECOMMENDATIONS BY THE COMMISSIONER WITH
26 REGARD TO THE UNRECOVERED FEES.

27 (F) (1) AN EMPLOYER THAT USES A FOREIGN LABOR CONTRACTOR
28 SHALL PROVIDE AN ORIENTATION AND TRAINING TO ANY FOREIGN MIGRANT
29 WORKER RECRUITED BY THE FOREIGN LABOR CONTRACTOR TO ENSURE THAT THE
30 FOREIGN MIGRANT WORKER UNDERSTANDS THE RIGHTS AND OBLIGATIONS UNDER
31 THE FEDERAL AND STATE LAW, INCLUDING LABOR LAWS, AND LAWS RELATED TO
32 COMBATING HUMAN TRAFFICKING IN THE UNITED STATES.

33 (2) THE ORIENTATION AND TRAINING SHALL BE IN THE FORMAT

1 **REQUIRED BY THE COMMISSIONER AND CONDUCTED, TO THE EXTENT RELEVANT,**
2 **BY ORGANIZATIONS EXPERIENCED IN THE LAWS AS DESCRIBED UNDER PARAGRAPH**
3 **(1) OF THIS SUBSECTION.**

4 **(G) AN EMPLOYER THAT USES A FOREIGN LABOR CONTRACTOR MAY NOT**
5 **INTERFERE WITH AN INDIVIDUAL CONDUCTING OUTREACH TO A FOREIGN MIGRANT**
6 **WORKER EMPLOYED BY THE EMPLOYER.**

7 7-403.

8 **(a) (1)** The Commissioner may require, by regulation, a farm labor contractor
9 to keep records of:

10 **[(1)] (I)** wages owed to each migrant agricultural worker for agricultural
11 work performed in the State; and

12 **[(2)] (II)** wages paid to each migrant agricultural worker for agricultural
13 work performed in the State.

14 **[(b)] (2)** A farm labor contractor shall keep all of the records required under
15 **[subsection (a) of this section] PARAGRAPH (1) OF THIS SUBSECTION** even if the farm
16 labor contractor is not responsible for paying a migrant agricultural worker.

17 **(B) (1) THE COMMISSIONER SHALL REQUIRE, BY REGULATION, A**
18 **FOREIGN LABOR CONTRACTOR TO KEEP RECORDS OF:**

19 **(I) WAGES OWED TO EACH FOREIGN MIGRANT WORKER FOR**
20 **WORK PERFORMED IN THE STATE FOR WHICH THE FOREIGN LABOR CONTRACTING**
21 **SERVICE WAS PERFORMED; AND**

22 **(II) WAGES PAID TO EACH FOREIGN MIGRANT WORKER FOR**
23 **WORK PERFORMED IN THE STATE FOR WHICH THE FOREIGN LABOR CONTRACTING**
24 **SERVICE WAS PERFORMED.**

25 **(2) A FOREIGN LABOR CONTRACTOR SHALL KEEP ALL THE RECORDS**
26 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION EVEN IF THE FOREIGN**
27 **LABOR CONTRACTOR IS NOT RESPONSIBLE FOR PAYING A FOREIGN MIGRANT**
28 **WORKER.**

29 **(3) THE INFORMATION LISTED IN PARAGRAPH (1) OF THIS**
30 **SUBSECTION SHALL BE INCLUDED IN THE PAY STUB OF A FOREIGN MIGRANT**
31 **WORKER.**

32 7-404.

1 (a) Each farm labor contractor **AND EACH FOREIGN LABOR CONTRACTOR** shall
2 ensure that each vehicle that the farm labor contractor **OR FOREIGN LABOR**
3 **CONTRACTOR** uses or causes to be used to transport a migrant agricultural worker **OR A**
4 **FOREIGN MIGRANT WORKER** in the State meets applicable federal and State standards
5 for safety.

6 (b) Each farm labor contractor **AND EACH FOREIGN LABOR CONTRACTOR** shall
7 ensure that the driver of each vehicle that the farm labor contractor **OR FOREIGN LABOR**
8 **CONTRACTOR** uses or causes to be used to transport a migrant agricultural worker **OR A**
9 **FOREIGN MIGRANT WORKER** in the State is authorized under Title 16 of the
10 Transportation Article to drive the vehicle.

11 (c) (1) Each farm labor contractor **AND EACH FOREIGN LABOR**
12 **CONTRACTOR** shall ensure that the owner of each vehicle that the farm labor contractor
13 **OR FOREIGN LABOR CONTRACTOR** uses or causes to be used to transport a migrant
14 agricultural worker **OR FOREIGN MIGRANT WORKER** in the State has a policy that insures
15 against liability for bodily injury and damage to property that arises from the ownership or
16 operation of the vehicle.

17 (2) The Commissioner shall set, by regulation, the minimum amount of
18 insurance coverage required under paragraph (1) of this subsection, but the amount may
19 not exceed the coverage required under federal law.

20 7-501.

21 (A) Except as otherwise provided in this title, a person may not perform a farm
22 labor contracting service **OR A FOREIGN LABOR CONTRACTING SERVICE** in the State for
23 consideration unless licensed by the Commissioner.

24 (B) **A FOREIGN LABOR CONTRACTOR MAY NOT DISCRIMINATE AGAINST A**
25 **FOREIGN MIGRANT WORKER, WHETHER DURING THE COURSE OF RECRUITMENT IN**
26 **THE FOREIGN MIGRANT WORKER'S COUNTRY OF ORIGIN OR IN THE UNITED STATES,**
27 **TO THE SAME EXTENT AN EMPLOYER IS PROHIBITED FROM DISCRIMINATING UNDER**
28 **TITLE 20, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.**

29 7-502.

30 (A) Unless authorized under this title to perform a farm labor contracting service
31 for consideration, a person may not represent to the public, by the use of a title, including
32 "licensed farm labor contractor", by description of services, methods, or procedures, or
33 otherwise, that the person is authorized to perform a farm labor contracting service in the
34 State for consideration.

35 (B) **UNLESS AUTHORIZED UNDER THIS TITLE TO PERFORM A FOREIGN**

1 LABOR CONTRACTING SERVICE FOR CONSIDERATION, A PERSON MAY NOT
2 REPRESENT TO THE PUBLIC, BY THE USE OF A TITLE, INCLUDING “LICENSED
3 FOREIGN LABOR CONTRACTOR”, BY DESCRIPTION OF SERVICES, METHODS, OR
4 PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PERFORM A
5 FOREIGN LABOR CONTRACTING SERVICE IN THE STATE FOR CONSIDERATION.

6 7-503.

7 (a) Except as otherwise provided in this title, a person may not use a farm labor
8 contractor to perform a farm labor contracting service **OR A FOREIGN LABOR**
9 **CONTRACTOR TO PERFORM A FOREIGN LABOR CONTRACTING SERVICE** unless the
10 person ascertains that the farm labor contractor **OR FOREIGN LABOR CONTRACTOR** is
11 licensed by:

12 (1) requesting confirmation from the Commissioner that the farm labor
13 contractor **OR FOREIGN LABOR CONTRACTOR** is licensed; or

14 (2) examining the license.

15 (b) (1) Whenever a person makes a request under subsection (a)(1) of this
16 section, the Commissioner shall inform the person whether the farm labor contractor **OR**
17 **FOREIGN LABOR CONTRACTOR** is licensed.

18 (2) Within 5 working days after a person makes a request under subsection
19 (a)(1) of this section, the Commissioner shall respond in writing.

20 (3) If the status changes during the term of the license, the Commissioner
21 shall give the person who made the request written notice of the change.

22 (4) If the Commissioner fails to provide the notice required under this
23 subsection, a person is not liable for hiring a person who is not authorized to perform farm
24 labor contracting services **OR FOREIGN LABOR CONTRACTING SERVICES** in the State.

25 (c) Notwithstanding subsection (b)(4) of this section, a person may not hire or
26 continue to use a farm labor contractor to perform a farm labor contracting service **OR A**
27 **FOREIGN LABOR CONTRACTOR TO PERFORM A FOREIGN LABOR CONTRACTING**
28 **SERVICE** after the person receives notice from the Commissioner or otherwise learns that
29 the farm labor contractor **OR FOREIGN LABOR CONTRACTOR** is not licensed.

30 7-506.

31 (a) Subject to the limitations in this section, the Commissioner may assess a civil
32 penalty against a person who willfully or repeatedly violates:

33 (1) any provision of this title;

1 (2) any order passed under this title; or

2 (3) any regulation adopted to carry out this title.

3 (b) A civil penalty under this section may not exceed ~~[\$5,000]~~ **\$50,000** for each
4 violation.

5 (c) (1) Before the Commissioner assesses a civil penalty against an
6 agricultural operation, the Commissioner shall consider the appropriateness of the penalty
7 in relation to:

8 (i) the size of the business;

9 (ii) any good faith effort to comply with § 7-503 of this subtitle; and

10 (iii) the history of previous violations.

11 (2) Before the Commissioner assesses a civil penalty against a farm labor
12 contractor **OR FOREIGN LABOR CONTRACTOR**, the Commissioner shall consider the
13 appropriateness of the penalty in relation to:

14 (i) the size of the business;

15 (ii) the gravity of the violation;

16 (iii) the good faith of the farm labor contractor **OR THE FOREIGN**
17 **LABOR CONTRACTOR**; and

18 (iv) the history of previous violations in this State or in any other
19 state that relate to licensing or to the treatment of a migrant agricultural worker **OR**
20 **FOREIGN MIGRANT WORKER**.

21 7-507.

22 A farm labor contractor **OR FOREIGN LABOR CONTRACTOR** who willfully violates
23 any provision of this title or any regulation adopted to carry out this title is guilty of a
24 misdemeanor and on conviction is subject:

25 (1) for a first offense, to a fine not exceeding ~~[\$5,000]~~ **\$50,000** or
26 imprisonment not exceeding 1 year or both; and

27 (2) for a subsequent offense, to a fine not exceeding ~~[\$10,000]~~ **\$100,000** or
28 imprisonment not exceeding 3 years or both.

29 **7-508.**

1 **(A) A FOREIGN LABOR CONTRACTOR MAY NOT TAKE ANY ADVERSE ACTION**
2 **AGAINST A FOREIGN MIGRANT WORKER BECAUSE THE FOREIGN MIGRANT WORKER**
3 **EXERCISED ANY RIGHT GRANTED UNDER THIS TITLE.**

4 **(B) IF A FOREIGN MIGRANT WORKER BELIEVES THAT A FOREIGN LABOR**
5 **CONTRACTOR HAS VIOLATED THIS TITLE OR HAS CAUSED THIS TITLE TO BE**
6 **VIOLATED, THE FOREIGN MIGRANT WORKER MAY BRING AN ACTION IN A COURT OF**
7 **COMPETENT JURISDICTION TO RECOVER ANY DAMAGES SUSTAINED BY THE**
8 **FOREIGN MIGRANT WORKER DUE TO THE VIOLATION.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That:

10 (a) There is a Workgroup to Study the International Exchange Visitor Workers
11 in Maryland.

12 (b) The Workgroup consists of the following members:

13 (1) two members of the Senate of Maryland, appointed by the President of
14 the Senate;

15 (2) two members of the House of Delegates, appointed by the Speaker of
16 the House;

17 (3) the Secretary of Labor, or the Secretary's designee;

18 (4) the Secretary of Commerce, or the Secretary's designee;

19 (5) the Secretary of Health, or the Secretary's designee;

20 (6) one representative of the Maryland State AFL-CIO, designated by the
21 President of the Maryland State AFL-CIO; and

22 (7) the following members, appointed by the Governor:

23 (i) one member of a foreign labor advocacy group;

24 (ii) two members of the nonprofit community with an expertise in
25 migrant worker issues;

26 (iii) two members of the business community with an expertise in
27 migrant worker issues;

28 (iv) two members of the public with an expertise in migrant worker
29 issues;

30 (v) two members of the public with an expertise in education;

1 (vi) two members of the public with an expertise in young adult
2 issues;

3 (vii) one member of an affected business;

4 (viii) one member of the affected workforce; and

5 (ix) one member of the public.

6 (c) The Secretary of Labor, or the Secretary's designee, shall chair the
7 Workgroup.

8 (d) The Maryland Department of Labor shall provide staff for the Workgroup.

9 (e) A member of the Workgroup:

10 (1) may not receive compensation as a member of the Workgroup; but

11 (2) is entitled to reimbursement for expenses under the Standard State
12 Travel Regulations, as provided in the State budget.

13 (f) The Workgroup shall:

14 (1) study:

15 (i) the work conditions of J-1 visa holders in the State, including
16 application processes, housing, health care, rates of pay, recruitment fees, and program
17 fees;

18 (ii) best practices in other states that may be used to ensure J-1 visa
19 holders are achieving maximum potential in the State;

20 (iii) the demographic and socioeconomic profiles of individuals
21 coming to work in the State with a J-1 visa;

22 (iv) the geographic and age distribution of J-1 visa holders in the
23 State;

24 (v) the participation rate, impact, and growth rate of J-1 visa
25 holders in the State workforce;

26 (vi) the industries and business locations of where J-1 visa holders
27 in the State work and the terms for which the holders have agreed to work;

28 (vii) whether J-1 visa holders perform any work outside of the agreed
29 terms of the work and the reasons for performing any work outside of the agreed terms of

1 the work;

2 (viii) the demographics of temporary worker visa holders of the State;

3 (ix) the industries that employ workers with temporary visas,
4 including the impact these workers have on the State;

5 (x) the current State labor laws and their impact on J-1 visa holders
6 and temporary worker visa holders; and

7 (xi) the impact of potential changes to the State labor laws to the
8 benefit of J-1 visa holders or temporary worker visa holders; and

9 (2) make recommendations regarding any changes or improvements to
10 State law based on the Workgroup's findings.

11 (g) On or before December 1, 2020, the Workgroup shall report its findings and
12 recommendations to the Governor and, in accordance with § 2-1257 of the State
13 Government Article, the General Assembly.

14 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not
15 be construed to preempt or alter any rights or remedies, including any causes of action,
16 available under federal law or any other State law.

17 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
18 1, 2020. Section 2 of this Act shall remain effective for a period of 1 year and, at the end of
19 June 30, 2021, Section 2 of this Act, with no further action required by the General
20 Assembly, shall be abrogated and of no further force and effect.