

Calendar No. 215

104TH CONGRESS
1ST SESSION

H. R. 1715

IN THE SENATE OF THE UNITED STATES

OCTOBER 18, 1995

Received and read the first time

OCTOBER 23, 1995

Read the second time and placed on the calendar

AN ACT

Respecting the relationship between workers' compensation
benefits and the benefits available under the Migrant
and Seasonal Agricultural Worker Protection Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. WORKERS' COMPENSATION.**

4 (a) AMENDMENTS.—

1 (1) Section 325 of the Legislative Branch Ap-
2 ropriations Act, 1993 (Public Law 102-392) is re-
3 pealed.

4 (2) Section 504(d) of the Migrant and Seasonal
5 Agricultural Worker Protection Act (29 U.S.C.
6 1854(d)) is amended to read as follows:

7 “(d)(1) Notwithstanding any other provision of this
8 Act, where a State workers’ compensation law is applicable
9 and coverage is provided for a migrant or seasonal agricul-
10 tural worker, the workers’ compensation benefits shall be
11 the exclusive remedy for loss of such worker under this
12 Act in the case of bodily injury or death in accordance
13 with such State’s workers’ compensation law.

14 “(2) The exclusive remedy prescribed by paragraph
15 (1) precludes the recovery under subsection (c) of actual
16 damages for loss from an injury or death but does not
17 preclude recovery under subsection (c) for statutory dam-
18 ages or equitable relief, except that such relief shall not
19 include back or front pay or in any manner, directly or
20 indirectly, expand or otherwise alter or affect (A) a recov-
21 ery under a State workers’ compensation law or (B) rights
22 conferred under a State workers’ compensation law.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a)(2) shall apply to all cases in which a final
25 judgment has not been entered.

1 **SEC. 2. EXPANSION OF STATUTORY DAMAGES.**

2 (a) AMENDMENT.—Section 504 of the Migrant and
3 Seasonal Agricultural Worker Protection Act (29 U.S.C.
4 1854) is amended by adding after subsection (d) the fol-
5 lowing:

6 “(e) If the court finds in an action which is brought
7 by or for a worker under subsection (a) in which a claim
8 for actual damages is precluded because the worker’s in-
9 jury is covered by a State workers’ compensation law as
10 provided by subsection (d) that—

11 “(1)(A) the defendant in the action violated
12 section 401(b) by knowingly requiring or permitting
13 a driver to drive a vehicle for the transportation of
14 migrant or seasonal agricultural workers while under
15 the influence of alcohol or a controlled substance (as
16 defined in section 102 of the Controlled Substances
17 Act(21 U.S.C. 802)) and the defendant had actual
18 knowledge of the driver’s condition, and

19 “(B) such violation resulted in injury to or
20 death of the migrant or seasonal worker by or for
21 whom the action was brought and such injury or
22 death arose out of and in the course of employment
23 as determined under the State workers’ compensa-
24 tion law,

25 “(2)(A) the defendant violated a safety stand-
26 ard prescribed by the Secretary under section 401(b)

1 which the defendant was determined in a previous
2 judicial or administrative proceeding to have vio-
3 lated, and

4 “(B) such safety violation resulted in an injury
5 or death described in paragraph (1)(B),

6 “(3)(A)(i) the defendant willfully disabled or re-
7 moved a safety device prescribed by the Secretary
8 under section 401(b), or

9 “(ii) the defendant in conscious disregard of the
10 requirements of section 401(b) failed to provide a
11 safety device required under such section, and

12 “(B) such disablement, removal, or failure to
13 provide a safety device resulted in an injury or death
14 described in paragraph (1)(B), or

15 “(4)(A) the defendant violated a safety stand-
16 ard prescribed by the Secretary under section
17 401(b),

18 “(B) such safety violation resulted in an injury
19 or death described in paragraph (1)(B), and

20 “(C) the defendant at the time of the violation
21 of section 401(b) also was—

22 “(i) an unregistered farm labor contractor
23 in violation of section 101(a), or

24 “(ii) a person who utilized the services of
25 a farm labor contractor of the type specified in

1 clause (i) without taking reasonable steps to de-
2 termine that the farm labor contractor pos-
3 sessed a valid certificate of registration author-
4 izing the performance of the farm labor con-
5 tracting activities which the contractor was re-
6 quested or permitted to perform with the
7 knowledge of such person,

8 the court shall award not more than \$10,000 per plaintiff
9 per violation with respect to whom the court made the
10 finding described in paragraph (1), (2), (3), or (4), except
11 that multiple infractions of a single provision of this Act
12 shall constitute only one violation for purposes of deter-
13 mining the amount of statutory damages due to a plaintiff
14 under this subsection and in the case of a class action,
15 the court shall award not more than the lesser of up to
16 \$10,000 per plaintiff or up to \$500,000 for all plaintiffs
17 in such class action.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to all cases in which a final judg-
20 ment has not been entered.

21 **SEC. 3. TOLLING OF STATUTE OF LIMITATIONS.**

22 Section 504 of the Migrant and Seasonal Agricultural
23 Worker Protection Act (29 U.S.C. 1854), as amended by
24 section 2, is amended by adding after subsection (e) the
25 following:

1 “(f) If it is determined under a State workers’ com-
2 pensation law that the workers’ compensation law is not
3 applicable to a claim for bodily injury or death of a mi-
4 grant or seasonal agricultural worker, the statute of limi-
5 tations for bringing an action for actual damages for such
6 injury or death under subsection (a) shall be tolled for
7 the period during which the claim for such injury or death
8 under such State workers’ compensation law was pending.
9 The statute of limitations for an action for other actual
10 damages, statutory damages, or equitable relief arising out
11 of the same transaction or occurrence as the injury or
12 death of the migrant or seasonal agricultural worker shall
13 be tolled for the period during which the claim for such
14 injury or death was pending under the State workers’
15 compensation law.”.

16 **SEC. 4. DISCLOSURE OF WORKERS’ COMPENSATION COV-**
17 **ERAGE.**

18 (a) **MIGRANT WORKERS.**—Section 201(a) of the Mi-
19 grant and Seasonal Agricultural Worker Protection Act
20 (29 U.S.C. 1821(a)) is amended by striking “and” at the
21 end of paragraph (6), by striking the period at the end
22 of paragraph (7) and inserting “; and”, and by adding
23 after paragraph (7) the following:

24 “(8) whether State workers’ compensation in-
25 surance is provided, and, if so, the name of the

1 State workers' compensation insurance carrier, the
2 name of the policyholder of such insurance, the
3 name and the telephone number of each person who
4 must be notified of an injury or death, and the time
5 period within which such notice must be given.

6 Compliance with the disclosure requirement of paragraph
7 (8) for a migrant agricultural worker may be met if such
8 worker is given a photocopy of any notice regarding work-
9 ers' compensation insurance required by law of the State
10 in which such worker is employed. Such worker shall be
11 given such disclosure regarding workers' compensation at
12 the time of recruitment or if sufficient information is un-
13 available at that time, at the earliest practicable time but
14 in no event later than the commencement of work.”.

15 (b) SEASONAL WORKERS.—Section 301(a)(1) of the
16 Migrant and Seasonal Agricultural Worker Protection Act
17 (29 U.S.C. 1831(a)(1)) is amended by striking “and” at
18 the end of subparagraph (F), by striking the period at
19 the end of subparagraph (G) and inserting “; and”, and
20 by adding after subparagraph (G) the following:

21 “(H) whether State workers' compensation in-
22 surance is provided, and, if so, the name of the
23 State workers' compensation insurance carrier, the
24 name of the policyholder of such insurance, the
25 name and the telephone number of each person who

1 must be notified of an injury or death, and the time
2 period within which such notice must be given.

3 Compliance with the disclosure requirement of subpara-
4 graph (H) may be met if such worker is given, upon re-
5 quest, a photocopy of any notice regarding workers' com-
6 pensation insurance required by law of the State in which
7 such worker is employed.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 subsections (a) and (b) shall take effect upon the expira-
10 tion of 90 days after the date final regulations are issued
11 by the Secretary of Labor to implement such amendments.

12 **SEC. 5. LIABILITY INSURANCE.**

13 (a) AMENDMENT.—Section 401(b)(3) of the Migrant
14 and Seasonal Agricultural Worker Protection Act (29
15 U.S.C. 1841(b)(3)) is amended to read as follows:

16 “(3) The level of insurance required under paragraph
17 (1)(C) shall be determined by the Secretary considering
18 at least the factors set forth in paragraph (2)(B) and simi-
19 lar farmworker transportation requirements under State
20 law.”.

21 (b) REGULATIONS.—Within 180 days of the date of
22 the enactment of this Act, the Secretary of Labor shall
23 promulgate regulations establishing insurance levels under
24 section 401(b)(3) of the Migrant and Seasonal Agricul-

1 tural Worker Protection Act (29 U.S.C. 1841(b)(3)) as
2 amended by subsection (a).

3 (c) EFFECTIVE DATE.—The amendment made by
4 subsection (a) takes effect upon the expiration of 180 days
5 after the date of enactment of this Act or upon the issu-
6 ance of final regulations under subsection (b), whichever
7 occurs first.

Passed the House of Representatives October 17,
1995.

Attest:

ROBIN H. CARLE,
Clerk.

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