

116TH CONGRESS  
2D SESSION

# S. 4042

To protect agricultural workers from the impacts of the coronavirus pandemic,  
and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 23, 2020

Mr. MERKLEY (for himself, Mr. BLUMENTHAL, Mr. SANDERS, Ms. HARRIS,  
Ms. WARREN, and Mr. LEAHY) introduced the following bill; which was  
read twice and referred to the Committee on Finance

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## A BILL

To protect agricultural workers from the impacts of the  
coronavirus pandemic, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Frontline At-Risk  
5 Manual Laborers Protection Act” or the “FARM Labor-  
6 ers Protection Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) AGRICULTURAL WORK.—The term “agricul-  
10 tural work” means food production work involving

1 the physical interaction with food products, includ-  
2 ing—

3 (A) all agricultural work, farming, fishing,  
4 forestry, ranching, processing, canning, slaugh-  
5 tering, packaging, baking, butchering, and  
6 other food production work, such as any service  
7 or activity included within the provisions of sec-  
8 tion 3(f) of the Fair Labor Standards Act of  
9 1938 (29 U.S.C. 203(f)), or section 3121(g) of  
10 the Internal Revenue Code of 1986; and

11 (B) the handling, planting, drying, pack-  
12 ing, packaging, processing, freezing, or grading  
13 prior to delivery for storage of any agricultural  
14 or horticultural commodity in its unmanufac-  
15 tured state.

16 (2) AGRICULTURAL WORKER.—The term “agri-  
17 cultural worker” means an individual—

18 (A) regardless of citizenship or immigra-  
19 tion status;

20 (B) who is—

21 (i) an employee of a covered agricul-  
22 tural producer; or

23 (ii) an individual performing any serv-  
24 ice or labor for remuneration for a covered  
25 agricultural producer, without regard as to

1           whether the individual is classified as an  
2           independent contractor by the covered ag-  
3           ricultural producer; and

4           (C) whose work and duties include agricul-  
5           tural work.

6           (3) CORONAVIRUS.—The term “coronavirus”  
7           means the novel coronavirus disease 2019 (COVID-  
8           19).

9           (4) COVERED AGRICULTURAL PRODUCER.—The  
10          term “covered agricultural producer” means an em-  
11          ployer engaged in commerce, including any agricul-  
12          tural employer as defined in section 3 of the Migrant  
13          and Seasonal Agricultural Worker Protection Act  
14          (29 U.S.C. 1802), that receives any Federal agri-  
15          culture-specific coronavirus funding.

16          (5) COVERED CONTRACTOR.—The term “cov-  
17          ered contractor” means a person who—

18                 (A) has entered into an agreement with a  
19                 covered agricultural producer—

20                         (i) to provide agricultural workers to  
21                         perform work for the covered agricultural  
22                         producer; or

23                         (ii) to pay the agricultural workers of  
24                         a covered agricultural producer; and

1 (B) has accepted grant funds under section  
2 202 from the covered agricultural producer.

3 (6) COVERED PERIOD.—The term “covered pe-  
4 riod”, when used with respect to a covered agricul-  
5 tural producer, means the period—

6 (A) beginning on the first date after the  
7 date of enactment of this Act that the covered  
8 agricultural producer is approved for Federal  
9 agriculture-specific coronavirus funding; and

10 (B) ending on the date that is 90 days  
11 after the date of the expiration of the public  
12 health emergency declared by the Secretary of  
13 Health and Human Services under section 319  
14 of the Public Health Service Act (42 U.S.C.  
15 247d) on January 31, 2020, with respect to the  
16 coronavirus.

17 (7) EMPLOY.—The term “employ” has the  
18 meaning given the term in section 3 of the Fair  
19 Labor Standards Act of 1938 (29 U.S.C. 203) and  
20 section 3 of the Migrant and Seasonal Agricultural  
21 Worker Protection Act (29 U.S.C. 1802).

22 (8) EMPLOYEE.—The term “employee” in-  
23 cludes—

1 (A) an employee, as defined in section 3 of  
2 the Fair Labor Standards Act of 1938 (29  
3 U.S.C. 203); and

4 (B) an employee, as such term is used for  
5 purposes of the Migrant and Seasonal Agricul-  
6 tural Worker Protection Act (29 U.S.C. 1801 et  
7 seq.).

8 (9) EMPLOYER.—The term “employer” in-  
9 cludes—

10 (A) an employer, as defined in section 3 of  
11 the Fair Labor Standards Act of 1938 (29  
12 U.S.C. 203); and

13 (B) an employer, as such term is used for  
14 purposes of the Migrant and Seasonal Agricul-  
15 tural Worker Protection Act (29 U.S.C. 1801 et  
16 seq.).

17 (10) FEDERAL AGRICULTURE-SPECIFIC  
18 CORONAVIRUS FUNDING.—The term “Federal agri-  
19 culture-specific coronavirus funding” means Federal  
20 funding that is provided—

21 (A) during the period beginning on the  
22 date of enactment of this Act and ending on the  
23 date described in paragraph (6)(B); and

24 (B) to the covered agricultural producer  
25 for purposes—

1 (i) of addressing, responding to, or  
2 mitigating the spread of the coronavirus in  
3 agriculture; or

4 (ii) related to the effects of coronavi-  
5 rus on agriculture production or sales.

6 (11) HIGHLY COMPENSATED.—The term “high-  
7 ly compensated”, when used with respect to an agri-  
8 cultural worker, means an agricultural worker who  
9 is paid \$100,000 or more per year by a covered agri-  
10 cultural producer.

11 (12) PERSON.—The term “person” includes—

12 (A) a person as defined in section 3 of the  
13 Fair Labor Standards Act of 1938 (29 U.S.C.  
14 203); and

15 (B) a person as defined in section 3 of the  
16 Migrant and Seasonal Agricultural Worker Pro-  
17 tection Act (29 U.S.C. 1802).

18 **SEC. 3. GENERAL PROVISIONS.**

19 (a) RULE OF CONSTRUCTION.—Nothing in this Act  
20 shall be construed to in any way diminish the rights or  
21 benefits that an employee is entitled to under any—

22 (1) other Federal, State, or local law;

23 (2) collective bargaining agreement; or

24 (3) existing employer policy to provide greater  
25 rights or benefits, including more emergency paid

1 sick leave or other leave, to an employee than is oth-  
2 erwise required under this title.

3 (b) CLARIFICATION.—Nothing in this Act is intended  
4 to limit any other Federal, State, or local authority to pro-  
5 mulgate, enforce, or maintain laws or rules regarding pro-  
6 tections, rights, or benefits related to the coronavirus.

## 7 **TITLE I—DIRECT FUNDING** 8 **REQUIREMENTS**

### 9 **SEC. 101. SICK LEAVE.**

10 (a) IN GENERAL.—A covered agricultural producer  
11 shall, during the covered period, provide all agricultural  
12 workers of the covered agricultural producer with emer-  
13 gency paid sick leave, in the same manner as emergency  
14 paid sick leave is provided under division E of the Families  
15 First Coronavirus Response Act (29 U.S.C. 2601 note),  
16 without regard to the number of employees employed by  
17 the covered agricultural producer.

18 (b) TAX CREDITS.—For purposes of section 7001(c)  
19 of the Families First Coronavirus Response Act (26  
20 U.S.C. 3111 note), paid sick leave required to be provided  
21 under subsection (a) by covered agricultural producers  
22 employing 500 or less employees shall be treated as re-  
23 quired to be paid by reason of the Emergency Paid Sick  
24 Leave Act.

1 **SEC. 102. PREMIUM PAY.**

2 (a) PANDEMIC PREMIUM PAY.—

3 (1) IN GENERAL.—A covered agricultural pro-  
4 ducer or a covered contractor shall, in accordance  
5 with this section, provide each agricultural worker of  
6 the covered agricultural producer with premium pay  
7 at a rate equal to \$13 for each hour of work per-  
8 formed by the agricultural worker for the covered  
9 agricultural producer during the period described in  
10 subsection (f).

11 (2) MAXIMUM AMOUNTS.—The total amount of  
12 all premium pay under this subsection that a cov-  
13 ered agricultural producer or covered contractor is  
14 required to provide to an agricultural worker shall  
15 not exceed—

16 (A) for an agricultural worker who is not  
17 highly compensated, \$10,000 reduced by em-  
18 ployer payroll taxes with respect to such pre-  
19 mium pay; or

20 (B) for an agricultural worker who is high-  
21 ly compensated, \$5,000 reduced by employer  
22 payroll taxes with respect to such premium pay.

23 (3) NO EMPLOYER DISCRETION.—A covered ag-  
24 ricultural producer or covered contractor shall not  
25 have any discretion to determine which portions of  
26 work performed by an agricultural worker qualify for



1 premium pay under this subsection, but shall pay  
2 such premium pay for any increment of time worked  
3 by the agricultural worker up to the maximum  
4 amount applicable to the agricultural worker under  
5 paragraph (2).

6 (4) TIMING.—

7 (A) IN GENERAL.—A covered agricultural  
8 producer or covered contractor shall commence  
9 payment of the premium pay required under  
10 this subsection as quickly as practicable, but  
11 not later than the earlier of—

12 (i) the date that is 30 days after the  
13 receipt of grant funds under section 202  
14 by the covered agricultural producer or  
15 covered contractor, respectively; or

16 (ii) the date that is 90 days after the  
17 first day of the emergency period applica-  
18 ble to the covered agricultural producer.

19 (B) PAST PAYMENTS.—A covered agricul-  
20 tural producer or covered contractor shall in-  
21 clude, in the first payment of premium pay  
22 made under this subsection to an agricultural  
23 worker, all premium pay due to the agricultural  
24 worker for work occurring before the date of

1 payment and during the emergency period ap-  
2 plicable to the covered agricultural producer.

3 (b) PROHIBITION ON REDUCING COMPENSATION AND  
4 DISPLACEMENT.—

5 (1) IN GENERAL.—Any payments made to an  
6 agricultural worker as premium pay under sub-  
7 section (a) shall be in addition to all other com-  
8 pensation, including all wages, remuneration, or  
9 other pay and benefits, that the agricultural worker  
10 otherwise receives from the covered agricultural pro-  
11 ducer or covered contractor.

12 (2) REDUCTION OF COMPENSATION.—A covered  
13 agricultural producer or covered contractor shall not,  
14 during the period described in subsection (f), reduce  
15 or in any other way diminish, any other compensa-  
16 tion, including the wages, remuneration, or other  
17 pay or benefits, that the covered agricultural pro-  
18 ducer or covered contractor provided to the agricul-  
19 tural worker on the day before the date of enact-  
20 ment of this Act.

21 (3) DISPLACEMENT.—A covered agricultural  
22 producer or covered contractor shall not take any ac-  
23 tion to displace an agricultural worker (including  
24 partial displacement such as a reduction in hours,  
25 wages, or employment benefits) for purposes of hir-

1       ing an individual for an equivalent position at a rate  
2       of compensation that is less than is required to be  
3       provided to an agricultural worker under paragraph  
4       (2).

5       (c) DEMARCATION FROM OTHER COMPENSATION.—

6       The amount of any premium pay paid under subsection  
7       (a) shall be clearly demarcated as a separate line item in  
8       each paystub or other document provided to an agricul-  
9       tural worker that details the remuneration the agricultural  
10      worker received from the covered agricultural producer or  
11      covered contractor for a particular period of time. If any  
12      agricultural worker does not otherwise regularly receive  
13      any such paystub or other document, the covered agricul-  
14      tural producer or the covered contractor shall provide such  
15      paystub or other document to the agricultural worker for  
16      the duration of the premium pay period.

17      (d) EXCLUSION FROM WAGE-BASED CALCULA-

18      TIONS.—Any premium pay under subsection (a) paid to  
19      an agricultural worker under this section by a covered ag-  
20      ricultural producer or covered contractor shall be excluded  
21      from the amount of remuneration for work paid to the  
22      agricultural worker for purposes of—

23              (1) calculating the agricultural worker's eligi-  
24              bility for any wage-based benefits offered by the cov-  
25              ered agricultural producer or covered contractor;

1           (2) computing the regular rate at which such  
2 agricultural worker is employed under section 7 of  
3 the Fair Labor Standards Act of 1938 (29 U.S.C.  
4 207); and

5           (3) determining whether such agricultural work-  
6 er is exempt from application of such section 7  
7 under section 13(a)(1) of such Act (29 U.S.C.  
8 213(a)(1)).

9           (e) AGRICULTURAL WORKER DEATH.—

10           (1) IN GENERAL.—In any case in which an ag-  
11 ricultural worker of a covered agricultural producer  
12 exhibits symptoms of the coronavirus and dies as a  
13 result of the coronavirus during the period described  
14 in subsection (f), the covered agricultural producer  
15 or covered contractor shall pay as a lump sum to the  
16 next of kin of the agricultural worker for premium  
17 pay under subsection (a)—

18                   (A) for an agricultural worker who is not  
19 highly compensated, the amount determined  
20 under subsection (a)(2)(A) minus the total  
21 amount of any premium pay the worker re-  
22 ceived under subsection (a) prior to the death;  
23 or

24                   (B) for an agricultural worker who is high-  
25 ly compensated, the amount determined under

1 subsection (a)(2)(B) minus the amount of any  
 2 premium pay the worker received under sub-  
 3 section (a) prior to the death.

4 (2) TREATMENT OF LUMP SUM PAYMENTS.—

5 (A) TREATMENT AS PREMIUM PAY.—For  
 6 purposes of this title, any payment made under  
 7 this subsection shall be treated as premium pay  
 8 under subsection (a).

9 (B) TREATMENT FOR PURPOSES OF IN-  
 10 TERNAL REVENUE CODE OF 1986.—For pur-  
 11 poses of the Internal Revenue Code of 1986,  
 12 any payment made under this subsection shall  
 13 be treated as a payment for work performed by  
 14 the agricultural worker.

15 (f) EMERGENCY PERIOD.—The emergency period de-  
 16 scribed in this subsection shall be, for each covered agri-  
 17 cultural producer or covered contractor of a covered agri-  
 18 cultural producer, the period—

19 (1) beginning on the first date that the covered  
 20 agricultural producer is approved to receive Federal  
 21 agriculture-specific coronavirus funding; and

22 (2) ending on the earlier of—

23 (A) the date that is 60 days after the date  
 24 of the expiration of the public health emergency  
 25 declared by the Secretary of Health and

1 Human Services under section 319 of the Pub-  
2 lic Health Service Act (42 U.S.C. 247d) on  
3 January 31, 2020, with respect to the coronavi-  
4 rus; or

5 (B) the date on which—

6 (i) all grant funds available to the  
7 Secretary of Agriculture for grants under  
8 section 202 have been obligated; and

9 (ii) in the case of a covered producer  
10 who has received a grant under section  
11 202 or a covered contractor, the covered  
12 producer or covered contractor (as the case  
13 may be) has expended all funds provided  
14 under the grant for the purposes described  
15 in section 202(a).

16 **SEC. 103. JOB SECURITY FOR AGRICULTURAL WORKERS.**

17 (a) **IN GENERAL.**—Each covered agricultural pro-  
18 ducer shall limit the involuntary furloughing or termi-  
19 nation of employment or contracts of agricultural workers  
20 during the covered period, in accordance with the regula-  
21 tions promulgated by the Secretary of Labor.

22 (b) **REGULATIONS.**—By not later than 30 days after  
23 the date of enactment of this Act, the Secretary of Labor  
24 shall promulgate regulations to carry out subsection (a)  
25 to ensure that willing agricultural workers are able to con-

1 tinue working during the covered period, taking into ac-  
2 count the protection of the health, safety, and economic  
3 security of agricultural workers.

4 **SEC. 104. CORONAVIRUS GUIDELINES OF THE CENTERS**  
5 **FOR DISEASE CONTROL AND PREVENTION.**

6 (a) IN GENERAL.—To safeguard the food security of  
7 the United States and prevent the spread of the coronavi-  
8 rus in agriculture, each covered agricultural producer shall  
9 make a substantial and demonstrable effort to document  
10 and implement the guidelines described in subsection (b)  
11 during the covered period.

12 (b) GUIDELINES.—The guidelines described in this  
13 subsection—

14 (1) are the most recent guidelines or rec-  
15 ommendations developed by the Centers for Disease  
16 Control and Prevention relating to agricultural  
17 workers and employment and agricultural producers,  
18 including guidelines related to sanitation in work  
19 sites, housing, and transportation provided to agri-  
20 cultural workers; and

21 (2) include, at the minimum, the following:

22 (A) The immediate shutdown, deep clean-  
23 ing, and disinfecting of all areas where a symp-  
24 tomatic employee was present.

1 (B) Immediate notice of possible exposure  
2 to employees who worked in close proximity of  
3 someone who has tested positive for the corona-  
4 virus.

5 (C) Informing employees of their rights to  
6 secure compensation during any resulting quar-  
7 antine period, including—

8 (i) emergency paid sick leave under  
9 section 101 of this title or under division  
10 E of the Families First Coronavirus Re-  
11 sponse Act (29 U.S.C. 2601 note), as ap-  
12 plicable; and

13 (ii) for covered agricultural producers  
14 who are employers covered by the Family  
15 and Medical Leave Act of 1993 (29 U.S.C.  
16 2601), emergency paid family leave de-  
17 scribed in section 102(a)(1)(F) of such Act  
18 (29 U.S.C. 2612(a)(1)(F)).

19 (D) Such steps as are necessary to ensure  
20 that—

21 (i) ill employees stay home or remain  
22 isolated in housing;

23 (ii) employees leave the worksite if  
24 feeling or appearing ill with coronavirus-re-  
25 lated symptoms; and



1 (iii) employees are provided with  
2 transportation to leave the worksite, as  
3 needed.

4 (E) The immediate informing of the rel-  
5 evant State or local health department of any  
6 employees testing positive for the coronavirus or  
7 sent to quarantine for possible exposure to the  
8 coronavirus, which report shall include the cov-  
9 ered agricultural producer's name, the exact  
10 field location, and the names, addresses, and  
11 telephone numbers of impacted employees.

12 (F) At the beginning of each work day—

13 (i) a review of the symptom checklist  
14 with the agricultural workers concerning  
15 themselves and their households; and

16 (ii) a temperature check of all the em-  
17 ployees of the covered agricultural pro-  
18 ducers, with respect to which—

19 (I) all thermometers shall be  
20 properly sanitized between each use  
21 and each day; and

22 (II) any worker with a tempera-  
23 ture of 100.4 degrees Fahrenheit or  
24 higher shall be considered to have a  
25 fever.

1 (G) Continual monitoring for and review of  
 2 guidance issued by the Centers for Disease  
 3 Control and Prevention regarding the coronavi-  
 4 rus.

5 (H) Providing a copy of the guidelines re-  
 6 quired under this section to all employees of the  
 7 covered agricultural producer in the language or  
 8 languages the employees understand.

9 **SEC. 105. ENFORCEMENT.**

10 (a) PROHIBITED ACTS, PENALTIES, AND ENFORCE-  
 11 MENT.—

12 (1) PROHIBITED ACTS.—It shall be unlawful for  
 13 a person to—

14 (A) violate any provision of this title appli-  
 15 cable to such person; or

16 (B) discharge or in any other manner dis-  
 17 criminate against any agricultural worker be-  
 18 cause such agricultural worker has filed any  
 19 complaint or instituted or caused to be insti-  
 20 tuted any proceeding under or related to this  
 21 title, or has testified or is about to testify in  
 22 any such proceeding.

23 (2) ENFORCEMENT AND PENALTIES.—

24 (A) DUTIES OF SECRETARY OF LABOR.—

25 The Secretary of Labor shall have authority to

1 enforce the requirements of this title, as pro-  
2 vided in this section.

3 (B) UNPAID SICK LEAVE.—A violation of  
4 section 101 shall be deemed a failure to pay  
5 minimum wages in violation of section 6 of the  
6 Fair Labor Standards Act of 1938 (29 U.S.C.  
7 206) and be subject to enforcement and the  
8 penalties described in sections 16 and 17 of  
9 such Act (29 U.S.C. 216, 217) with respect to  
10 such violation, subject to subparagraph (F).

11 (C) PREMIUM PAY VIOLATIONS.—A viola-  
12 tion of section 102 shall be deemed a violation  
13 of section 7 of the Fair Labor Standards Act  
14 of 1938 (29 U.S.C. 207) and unpaid amounts  
15 required under this section shall be treated as  
16 unpaid overtime compensation under such sec-  
17 tion 7 and subject to enforcement and the pen-  
18 alties described in sections 16 and 17 of such  
19 Act (29 U.S.C. 216, 217) for such a violation,  
20 subject to subparagraph (F).

21 (D) JOB SECURITY AND CORONAVIRUS  
22 GUIDELINE VIOLATIONS.—A violation of section  
23 103 or 104 shall be treated as a violation of  
24 section 6 of the Fair Labor Standards Act of  
25 1938 (29 U.S.C. 206) and subject to enforce-

1           ment and the penalties described in section 16  
2           and 17 of such Act (29 U.S.C. 216, 217) for  
3           such a violation—

4                   (i) except that the remedies available  
5                   for an agricultural worker shall be the re-  
6                   lief available under subsection (c)(2)(B);  
7                   and

8                   (ii) subject to subparagraph (F).

9           (E) DISCHARGE OR DISCRIMINATION.—A  
10          violation of paragraph (1)(B) shall be deemed a  
11          violation of section 15(a)(3) of the Fair Labor  
12          Standards Act of 1938 (29 U.S.C. 215(a)(3)),  
13          and subject to enforcement and the penalties  
14          described in sections 16 and 17 of such Act (29  
15          U.S.C. 216, 217) for such a violation, subject  
16          to subparagraph (F).

17                  (F) NO CRIMINAL PENALTIES.—A violation  
18          of this Act shall not be subject to any criminal  
19          penalty.

20          (b) INVESTIGATION AND ADMINISTRATIVE ACTION.—

21                  (1) IN GENERAL.—To ensure compliance with  
22          the provisions of this title, including any regulation  
23          or order issued under this title, the Secretary of  
24          Labor shall have the authority to receive, inves-  
25          tigate, and attempt to resolve complaints in the

1 same manner as the Secretary receives, investigates,  
2 and attempts to resolve complaints of violations  
3 under section 7 of the Fair Labor Standards Act of  
4 1938 (29 U.S.C. 209), including the investigative  
5 authority provided under section 11(a), and the sub-  
6 poena authority under section 9, of such Act (29  
7 U.S.C. 211(a), 209).

8 (2) STATE AGENCIES.—The Secretary of Labor  
9 may, for the purpose of carrying out the functions  
10 and duties under this section, utilize the services of  
11 State and local agencies in accordance with section  
12 11(b) of the Fair Labor Standards Act of 1938 (29  
13 U.S.C. 211(b)).

14 (c) AGRICULTURAL WORKER ENFORCEMENT.—

15 (1) RIGHT OF ACTION.—An action alleging a  
16 violation of this title may be maintained against a  
17 person in any Federal or State court of competent  
18 jurisdiction by one or more agricultural workers or  
19 their representative for and on behalf of the agricul-  
20 tural workers, or the agricultural workers and others  
21 similarly situated, in the same manner as an action  
22 brought by an employee under section 16(b) of the  
23 Fair Labor Standards Act of 1938 (29 U.S.C.  
24 216(b)).

1           (2) LIABILITY.—Damages available under para-  
2 graph (1) shall include—

3           (A) in the case of a violation of section 101  
4 or 102, the damages and remedies available for  
5 a violation of section 6 or 7 of the Fair Labor  
6 Standards Act of 1938 (29 U.S.C. 206, 207);

7           (B) in the case of a violation of section  
8 103 or 104, an amount not to exceed the actual  
9 damages, statutory damages of not more than  
10 \$500 per plaintiff per violation, or other equi-  
11 table relief (including reinstatement), except—

12           (i) multiple infractions of a single pro-  
13 vision of section 103 or 104, or regulations  
14 promulgated under either such section,  
15 shall constitute only one violation for pur-  
16 poses of determining the amount of statu-  
17 tory damages due a plaintiff; and

18           (ii) in any class action, the amount of  
19 damages shall not exceed the lesser of—

20           (I) the amount equal to \$500 per  
21 plaintiff per violation; and

22           (II) \$500,000; and

23           (C) in the case of a violation of subsection  
24 (a)(1)(B), the damages and remedies available  
25 for a violation of section 15(a)(3) of the Fair

1 Labor Standards Act of 1938 (29 U.S.C.  
2 215(a)(3)).

3 (D) COURT COSTS AND ATTORNEY'S  
4 FEES.—In any action commenced under this  
5 subsection, if the plaintiff is a prevailing party,  
6 the court shall, in addition to any judgment  
7 awarded to a plaintiff, allow a reasonable attor-  
8 ney's fee to be paid by the defendant, and costs  
9 of the action.

10 (3) NO WAIVER.—In an action alleging a viola-  
11 tion of subparagraph (A) or (B) of subsection (a)(1)  
12 brought by one or more agricultural workers or their  
13 representative for and on behalf of the persons as  
14 described in paragraph (1), no court of competent  
15 jurisdiction may grant the motion of the respondent  
16 to compel arbitration, under chapter 1 of title 9,  
17 United States Code, or any analogous State arbitra-  
18 tion statute, of the claims involved. An agricultural  
19 worker's right to bring an action under this sub-  
20 section on behalf of similarly situated agricultural  
21 workers to enforce such rights may not be subject to  
22 any private agreement that purports to require the  
23 agricultural workers to pursue claims on an indi-  
24 vidual basis.

1 (d) RECORDKEEPING.—A covered agricultural pro-  
 2 ducer or a covered contractor shall make, keep, and pre-  
 3 serve records pertaining to compliance with any applicable  
 4 provisions of this title in accordance with section 11(c) of  
 5 the Fair Labor Standards Act of 1938 (29 U.S.C. 211(e))  
 6 and in accordance with regulations prescribed by the Sec-  
 7 retary of Labor.

8 **SEC. 106. EFFECTIVE DATE; TERMINATION.**

9 The requirements of this title shall—

10 (1) take effect beginning on the date of enact-  
 11 ment of this Act; and

12 (2) cease to have force and effect on the date  
 13 that is 90 days after the date of the expiration of  
 14 the public health emergency declared by the Sec-  
 15 retary of Health and Human Services under section  
 16 319 of the Public Health Service Act (42 U.S.C.  
 17 247d) on January 31, 2020, with respect to the  
 18 coronavirus.

19 **TITLE II—AGRICULTURAL**  
 20 **WORKER ASSISTANCE**

21 **SEC. 201. GRANTS FOR AGRICULTURAL PRODUCERS TO IM-**  
 22 **PLEMENT CDC RECOMMENDATIONS.**

23 (a) DEFINITIONS.—In this section:



1           (1) ELIGIBLE AGRICULTURAL PRODUCER.—The  
2           term “eligible agricultural producer” means an agri-  
3           cultural producer with not more than 50 employees.

4           (2) QUALIFYING EQUIPMENT.—The term “qual-  
5           ifying equipment” means—

6                   (A) a handwashing station;

7                   (B) a portable restroom; and

8                   (C) personal protective equipment.

9           (3) SECRETARY.—The term “Secretary” means  
10          the Secretary of Agriculture.

11          (b) GRANTS.—The Secretary shall provide grants to  
12          eligible agricultural producers for the purchase of quali-  
13          fying equipment.

14          (c) AMOUNT.—The amount of a grant under sub-  
15          section (b) shall be the product obtained by multiplying—

16                   (1) \$500; and

17                   (2) the number of employees of the eligible agri-  
18          cultural producer.

19          (d) PROOF OF PURCHASE; RETURN OF FUNDS.—Not  
20          later than 60 days after the date on which an eligible agri-  
21          cultural producer receives a grant under this section, the  
22          eligible agricultural producer shall—

23                   (1) submit to the Secretary proof of purchase  
24          of qualifying equipment; and

1           (2) return to the Secretary the amount of the  
2           grant funds, if any, that was not used by the eligible  
3           agricultural producer to purchase qualifying equip-  
4           ment, as described in the proof of purchase sub-  
5           mitted under paragraph (1).

6           (e) CONDITIONS.—An eligible agricultural producer  
7           shall use a grant under this section—

8           (1) to purchase qualifying equipment as nec-  
9           essary to meet guidelines for sanitation issued by the  
10          Centers for Disease Control and Prevention; and

11          (2) to purchase—

12           (A) not more than 1 hand washing station  
13           and 1 portable restroom per 10 employees of  
14           the eligible agricultural producer, unless the  
15           guidelines described in paragraph (1) require a  
16           greater number of qualifying equipment; and

17           (B) such personal protective equipment as  
18           the eligible agricultural producer determines to  
19           be necessary to meet the guidelines described in  
20           paragraph (1).

21 **SEC. 202. PREMIUM PAY GRANTS.**

22           (a) GRANTS.—

23           (1) FOR PANDEMIC PREMIUM PAY.—The Sec-  
24           retary of Agriculture shall, from amounts made  
25           available under subsection (g), award a grant to

1 each covered agricultural producer that applies for a  
2 grant, in accordance with this section, for the pur-  
3 pose of providing premium pay to agricultural work-  
4 ers under section 102, including amounts paid under  
5 section 102(e).

6 (2) ELIGIBILITY.—Any covered agricultural  
7 producer, including a covered agricultural producer  
8 subject to a civil penalty under section 105, shall be  
9 eligible for a grant under paragraph (1).

10 (b) AMOUNT OF GRANTS.—

11 (1) IN GENERAL.—The maximum amount avail-  
12 able for making a grant under subsection (a)(1) to  
13 a covered agricultural producer shall be equal to the  
14 sum of—

15 (A) the amount obtained by multiplying  
16 \$10,000 by the number of agricultural workers  
17 the producer certifies, in the application sub-  
18 mitted under subsection (c)(1), as employing, or  
19 providing remuneration to for services or labor,  
20 who are paid wages or remuneration by the pro-  
21 ducer at a rate that is less than \$100,000 per  
22 year; and

23 (B) the amount obtained by multiplying  
24 \$5,000 by the number of highly compensated  
25 agricultural workers the producer certifies, in

1 the application submitted under subsection  
2 (c)(1), as employing, or providing remuneration  
3 to for services or labor, who are paid wages or  
4 remuneration by the producer at a rate that is  
5 equal to or greater than \$100,000 per year.

6 (2) NO PARTIAL GRANTS.—The Secretary of  
7 Agriculture shall not award a grant under this sec-  
8 tion in an amount less than the maximum described  
9 in paragraph (1).

10 (c) GRANT APPLICATION AND DISBURSAL.—

11 (1) APPLICATION.—Any covered agricultural  
12 producer seeking a grant under subsection (a)(1)  
13 shall submit an application to the Secretary of Agri-  
14 culture at such time, in such manner, and complete  
15 with such information as the Secretary may require.

16 (2) NOTICE AND CERTIFICATION.—

17 (A) IN GENERAL.—The Secretary of Agri-  
18 culture shall, within 15 days after receiving a  
19 complete application from a covered agricultural  
20 producer eligible for a grant under this sec-  
21 tion—

22 (i) notify the producer of the Sec-  
23 retary's findings with respect to the re-  
24 quirements for the grant; and

1 (ii)(I) if the Secretary finds that the  
2 covered agricultural producer meets the re-  
3 quirements under this section for a grant  
4 under subsection (a), provide a certifi-  
5 cation to the producer—

6 (aa) that the producer has met  
7 such requirements; and

8 (bb) of the amount of the grant  
9 payment that the Secretary has deter-  
10 mined the producer shall receive based  
11 on the requirements under this sec-  
12 tion; or

13 (II) if the Secretary finds that the  
14 covered agricultural producer does not  
15 meet the requirements under this section  
16 for a grant under subsection (a), provide a  
17 notice of denial stating the reasons for the  
18 denial and provide an opportunity for ad-  
19 ministrative review by not later than 10  
20 days after the denial.

21 (B) TRANSFER.—Not later than 7 days  
22 after making a certification under subpara-  
23 graph (A)(ii) with respect to a covered agricul-  
24 tural producer, the Secretary of Agriculture

1           shall make the appropriate transfer to the pro-  
2           ducer of the amount of the grant.

3           (d) USE OF FUNDS.—

4           (1) IN GENERAL.—A covered agricultural pro-  
5           ducer receiving a grant under this section shall use  
6           the amount of the grant solely for the following pur-  
7           poses:

8                   (A) Providing premium pay under section  
9                   102(a) to agricultural workers in accordance  
10                  with the requirements for such payments under  
11                  such section, including providing payments de-  
12                  scribed in section 102(e) to the next of kin of  
13                  agricultural workers in accordance with the re-  
14                  quirements for such payments under such sec-  
15                  tion.

16                  (B) Paying employer payroll taxes with re-  
17                  spect to premium pay amounts described in  
18                  subparagraph (A), including such payments de-  
19                  scribed in section 102(e).

20           Each dollar of a grant received by a covered agricul-  
21           tural producer under this section shall be used as  
22           provided in subparagraph (A) or (B) or returned to  
23           the Secretary of Agriculture.

24           (2) NO OTHER USES AUTHORIZED.—A covered  
25           agricultural producer who uses any amount of a

1 grant for a purpose not required under paragraph  
2 (1) shall be considered to have misused funds in vio-  
3 lation of section 102.

4 (3) USE OF COVERED CONTRACTORS.—

5 (A) IN GENERAL.—In any case where a  
6 covered agricultural producer receiving a grant  
7 under this section has, or enters into, an agree-  
8 ment with another entity regarding providing or  
9 paying agricultural workers for the covered ag-  
10 ricultural producer—

11 (i) the covered agricultural producer  
12 shall—

13 (I) not later than 3 days after re-  
14 ceipt of the grant funds under this  
15 section, notify, in writing, the con-  
16 tracting entity about the requirement  
17 under section 102 to provide premium  
18 pay to agricultural workers;

19 (II) not later than 14 days after  
20 receipt of the grant funds under this  
21 section, transfer the amounts needed  
22 to provide premium pay under section  
23 102(a), including providing payments  
24 described in section 102(e), to the

1 contracting entity for disbursement to  
2 the agricultural workers; and

3 (III) remain responsible for the  
4 use of the funds in accordance with  
5 paragraph (1) and section 102; and  
6 (ii) the contracting entity shall—

7 (I) as a condition of receipt of  
8 such amounts, agree, in writing, to  
9 comply with the requirements of sec-  
10 tion 102, with respect to the agricul-  
11 tural workers of the covered agricul-  
12 tural producer; and

13 (II) maintain, and report to the  
14 covered agricultural producer and the  
15 Secretary of Labor, payroll documents  
16 recording the payment of premium  
17 pay to the agricultural workers.

18 (B) EFFECT OF TRANSFER OF FUNDS.—

19 By accepting grant funds under subparagraph  
20 (A) from a covered agricultural producer—

21 (i) the covered contractor agrees to  
22 provide premium pay, in accordance with  
23 paragraph (1) and as required under sec-  
24 tion 102, to the agricultural workers of the  
25 covered agricultural producer and to com-



1           ply with the requirements of section  
2           105(a)(1)(B) with respect to such agricul-  
3           tural workers; and

4           (ii) the covered contractor shall be  
5           subject to the enforcement provisions  
6           under section 105 for violating section 102  
7           or section 105(a)(1)(B) with respect to  
8           such agricultural workers.

9           (4) REFUND.—

10           (A) IN GENERAL.—If a covered agricul-  
11           tural producer receives a grant under this sec-  
12           tion and, for any reason, does not provide every  
13           dollar of such grant to agricultural workers in  
14           accordance with the requirements of this Act,  
15           then the producer shall refund any such dollars  
16           to the Secretary of Agriculture not later than  
17           June 30, 2021. Any amounts returned to the  
18           Secretary shall remain available to the Sec-  
19           retary for additional grants under this section.

20           (B) REQUIREMENT FOR NOT REDUCING  
21           COMPENSATION.—A covered agricultural pro-  
22           ducer who is required to refund any amount  
23           under this paragraph shall not reduce or other-  
24           wise diminish an eligible worker's compensation

1           or benefits in response to or otherwise due to  
2           such refund.

3           (e) RECOUPMENT.—In addition to all other enforce-  
4 ment and remedies available under this Act or any other  
5 law, the Secretary of Agriculture shall establish a process  
6 under which the Secretary shall recoup the amount of any  
7 grant awarded under subsection (a)(1) if the Secretary de-  
8 termines that the covered agricultural producer receiving  
9 the grant—

10           (1) did not provide all of the dollars of such  
11 grant to the agricultural workers of the producer or,  
12 in the case of payments made under section 102(e),  
13 the next of kin of such workers;

14           (2) did not, in fact, have the number of agricul-  
15 tural workers certified by the producer in accordance  
16 with subparagraphs (A) and (B) of subsection  
17 (b)(1);

18           (3) did not pay the agricultural workers for the  
19 number of hours the producer claimed to have paid;  
20 or

21           (4) otherwise misused funds or violated this  
22 section.

23           (f) TAX TREATMENT.—

24           (1) EXCLUSION FROM INCOME.—For purposes  
25 of the Internal Revenue Code of 1986, any grant re-

1 received by a covered agricultural producer under this  
2 section shall not be included in the gross income of  
3 such covered agricultural producer.

4 (2) DENIAL OF DOUBLE BENEFIT.—

5 (A) IN GENERAL.—In the case of a covered  
6 agricultural producer that receives a grant  
7 under this section—

8 (i) amounts paid under subsection (a)  
9 or (e) of section 102 shall not be taken  
10 into account as wages for purposes of sec-  
11 tions 41, 45A, 51, or 1396 of the Internal  
12 Revenue Code of 1986 or section 2301 of  
13 the CARES Act (Public Law 116–136);  
14 and

15 (ii) any deduction otherwise allowable  
16 under such Code for applicable payments  
17 during any taxable year shall be reduced  
18 (but not below zero) by the excess (if any)  
19 of—

20 (I) the aggregate amounts of  
21 grants received under this section;  
22 over

23 (II) the sum of any amount re-  
24 funded under subsection (d) plus the  
25 aggregate amount of applicable pay-

1                   ments made for all preceding taxable  
2                   years.

3                   (B) APPLICABLE PAYMENTS.—For pur-  
4                   poses of this paragraph, the term “applicable  
5                   payments” means amounts paid as premium  
6                   pay under subsection (a) or (e) of section 102  
7                   and amounts paid for employer payroll taxes  
8                   with respect to such amounts.

9                   (C) AGGREGATION RULE.—Rules similar  
10                  to the rules of subsections (a) and (b) of section  
11                  52 of the Internal Revenue Code of 1986 shall  
12                  apply for purposes of this section.

13                 (3) INFORMATION REPORTING.—The Secretary  
14                 of Agriculture shall submit to the Commissioner of  
15                 Internal Revenue statements containing—

16                         (A) the name and tax identification num-  
17                         ber of each covered agricultural producer receiv-  
18                         ing a grant under this section;

19                         (B) the amount of such grant; and

20                         (C) any amounts refunded under sub-  
21                         section (d)(4).

22                 (g) AUTHORIZATION AND APPROPRIATIONS.—There  
23                 are authorized to be appropriated, and there are appro-  
24                 priated, out of any amounts in the Treasury not appro-  
25                 priated, such sums as are necessary for the Secretary of

1 Agriculture to award grants under this section to all eligi-  
2 ble agricultural producers that submit a complete applica-  
3 tion under subsection (c).

4 (h) EMERGENCY DESIGNATION.—

5 (1) IN GENERAL.—The amounts provided by  
6 this section are designated as an emergency require-  
7 ment pursuant to section 4(g) of the Statutory Pay-  
8 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

9 (2) DESIGNATION IN SENATE.—In the Senate,  
10 this section is designated as an emergency require-  
11 ment pursuant to section 4112(a) of H. Con. Res.  
12 71 (115th Congress), the concurrent resolution on  
13 the budget for fiscal year 2018.

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