

TITLE 8. INDUSTRIAL RELATIONS
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 6. DIVISION OF LABOR STANDARDS ENFORCEMENT
SUBCHAPTER 9. LABOR COMMISSIONER'S FARM LABOR CONTRACTOR
FUND
FARM LABOR CONTRACTORS

Adds new article, and amends and adopts sections as follows:

Article 1. Application For Farm Labor Contractor License

13660. ~~Definition of "Damages."~~ Application for New License.

~~Damages under Section 1684(c) and (d) of the Labor Code are defined as the following:~~

~~(a) Wages including interest;~~

~~(b) Damages including interest according to proof of actual damages incurred by an employee of a farm labor contractor, by a person who has been recruited, solicited, supplied, hired, furnished or transported by the contractor on behalf of an employer engaged in the growing or producing of farm products or pursuant to a loss suffered by an employee of a farm labor contractor, or person described above, for any violation of Division 2, Part 6, Chapter 3 of the Labor Code;~~

~~(c) Damages shall not include penalties assessed pursuant to Section 203 of the Labor Code or penalties assessed pursuant to any other provision of law.~~

~~Note: Authority cited: Section 1699, Labor Code. Reference: Section 1684, Labor Code.~~

To apply for a Farm Labor Contractor license pursuant to Labor Code section 1684, the applicant shall complete, sign, and submit an on-line application along with required items and documents at DLSE's website (<http://www.dir.ca.gov/DLSE/FLC.htm>); for any initial or new license, or license renewal. Alternatively, an applicant may submit to DLSE a complete and signed physical application for a new or initial license (DLSE 401-N rev 3/2014), a regular license renewal (DLSE 401-R rev 3/2014), or a short-form license renewal (DLSE 401-S rev 3/2014); and provide the items and documents listed below pursuant to the respective application requirements as specified in this article. DLSE 401-R shall be filed for renewal of a farm labor contractor license by an applicant who seeks to renew a license but does not qualify to file a DLSE 401-S pursuant to 8 CCR 13661 subd. (b). DLSE 401-S shall be filed for renewal of a farm labor contractor license by an applicant who seeks to renew a license and qualifies to file a DLSE 401-S pursuant to 8 CCR 13661 subd. (b). The applicant shall certify under penalty of perjury that the information provided on the application form, any supplementary documents, and any

other information submitted by the applicant in support of the application is true and correct.

(a) The application for an initial or new license (online form or DLSE 401-N, rev 3/2014) shall contain, but is not limited to, the following information to be provided by the applicant:

(1) If the applicant is an individual (sole proprietor), that individual's name, date of birth, driver's license number, and Social Security number of individual. If applicant is a corporation, the date of incorporation. If applicant is a partnership, the date the partnership was created and the name, date of birth, driver's license number, and social security number of each partner, or for a limited partnership, the date of filing of the certificate of limited partnership. If applicant is a limited liability company (LLC) the date of filing the articles of organization.

(2) All names under which the applicant is doing business or has done business within the previous three years;

(3) Current physical business address (number, street, city or town, county, state, zip code), ~~and~~ mailing address if different than physical business address, email address, home physical address of the applicant (if a sole proprietor) and for each partner in a partnership, member of a limited liability company, corporate officer of a corporation, and mobile telephone number used in conducting business. If the current address information subsequently changes, the applicant must immediately, but no later than 5 days thereafter, advise the Labor Commissioner of the change;

(4) Business telephone number and mobile telephone number;

(5) A copy of the Migrant and Seasonal Worker Protection Act (29 U.S.C. section 1811) ~~€~~certificate of registration that has been issued to applicant, if the applicant is required to register as a farm labor contractor under federal law;

(6) Identity of the legal form or type of ownership of the farm labor contactor business (individual/sole proprietor, partnership, corporation, limited liability company, or other business form)

(A) If individual or sole proprietor ownership, the full name, residence address, mailing address, if different, telephone number of owner, and designation of an agent for service, if applicable, including physical address, and telephone number of the designated agent;

(B) If partnership, the full name, residence address, mailing address, if different, and telephone number of each partner;

(C) If corporation or LLC, the full name, title(s), residence address, mailing address, if different, ~~and~~ telephone number of all corporate

officers, managing agents and LLC members, and indicate whether the corporation or LLC is in good standing with the Secretary of State;

(D) If a foreign corporation incorporated or organized outside of California, in addition to the information required under (C), provide the date a Statement and Designation by Foreign Corporation (form S&DC-STK/NP (REV 05/2013) was filed with the Secretary of State.

(7) For all persons, except bona fide salaried employees, or entities with a financial interest in the applicant's business, including but not limited to partner(s), corporation(s), LLC(s) or other business association, the name, address and statement of the person or entity's percentage of financial or profit sharing interest in the applicant's business.

(8) Indicate whether the applicant will utilize the services of any other individual or entity to recruit, solicit, hire, furnish, employ, or transport agricultural workers, which includes but is not limited to, foremen and crew bosses.

~~(A) If so yes, state whether the other person or entity has at any time in the past been issued a farm labor contractor's license, and provide the information required of the applicant in Subsection (a)(1) for the other person or other entity, as well as all farm labor contractor license numbers currently or formerly held by that other person or entity for each individual or entity who will perform any of these activities state (i) the person or other entity's name, current physical address, phone number, and (ii) State whether each individual or entity identified has at any time within the last 10 years held a farm labor contractor license.~~

(B) If no, state who will perform these activities.

(9) The names and physical addresses, and ~~business~~ mailing address if different, of all growers with whom the applicant plans to contract ~~with~~ in the future and, if applicable, with whom the applicant has contracted during the past three years;

(10) The name and title of the person who will take the written examination for the applicant and whether the person prefers to take the exam in English or Spanish;

~~(11) If State whether the applicant intends to maintain a labor camp or other housing, submit evidence of its location and a copy of a health license or other record of compliance with health and safety laws issued in the appropriate jurisdiction of the camp or housing lodging house, or other housing for workers. If yes, state the physical address of the location of the housing, the local agency which issued a license or permit to house workers, and the effective dates of such license or permit;~~

(12) Indicate that applicant will not sell or propose to sell intoxicating liquors, including wine or beer, on the premises where the applicant operates;

(13) Indicate whether the applicant has submitted to the Internal Revenue Service a tax information authorization form (IRS Form 8821 [rev 10/2012]);

(14) Indicate whether the applicant intends to provide transportation to employees, and:

(A) For each vehicle to be used for this purpose, identify the make and model, the license plate number, and vehicle identification number (VIN), and the name, address, and telephone number of the automobile liability insurance carrier;

~~(B) Evidence of applicant's liability insurance coverage in the amount set by the Vehicle Code, for each vehicle identified, including name and address of coverage carrier, policy number, coverage limits, including medical coverage, the policy's effective dates for each vehicle applicant intends to utilize;~~

~~(C)~~(B) Identify the name, address and driver's license number, of each individual who will operate any vehicle to provide transportation; as required by Section 12519 of the Vehicle Code.

~~(D)~~(C) An applicant must acknowledge that #For any additional vehicle which is subsequently sought to be used in for the transportation of employees which is not identified on the application, the additional vehicle must be registered with DLSE not later than 7 days prior to use of the vehicle for transportation of workers. Vehicles which are subsequently registered must provide a copy of the liability insurance coverage, and DMV certification, if applicable, for operators as required under subsection (b)(10) and (11).

(15) Indicate whether applicant's farm labor contractor operation will be conducted in connection with any other business, and if so, the type of business and name and address of the other business;

(16)(A) Indicate whether any person identified under subdivisions (a)(6) and (a)(7) of this section, within the last 10 years:

(i) owes any delinquent unpaid wages;

(ii) has any unpaid judgments outstanding;

~~(iii) has any liens or suits pending in court against him, her or it;~~

~~(iv)~~(iii) owes payroll taxes or personal, partnership or corporate income taxes, social security taxes or disability insurance taxes;

~~(v) has ever been cited or charged with violating any federal, state or local statute or regulation related to working conditions or workers' health or safety; if so, state the charge and the disposition;~~

~~(vi) (iv) has plead guilty or nolo contendere to or been convicted of a crime substantially related to working conditions or workers' health or safety;~~

~~(vii) (v) has had any license or permit issued by any agency of the State of California pursuant to the Labor Code or Business & Professions Code, or both, that was suspended, revoked, or denied, or has had any disciplinary action imposed upon him, her or it in connection with the holding of a license or permit;~~

~~(vi) has violated or willfully aided or abetted any person in the violation of any law in the State of California regulating employment in agriculture, the payment of wages to farm employees, or the conditions, terms or places of employment affecting the health and safety of farm employees which are applicable to business activities or operations of the licensee in his or her capacity as a farm labor contractor.~~

(B) If any person or entity identified in subdivision (A) above falls within subdivision (i) through ~~(vii)~~ (vi), the applicant shall submit to the Labor Commissioner an explanation regarding the incident and documentation supporting the explanation, including but not limited to, description of the violation or charge, date of incident, court or agency name (federal, state or local), and the disposition, if any, of the matter.

~~(17) Indicate whether applicant has filed a tax return with the federal Internal Revenue Service for the previous year;~~

~~(18) (17) Applicant shall submit a list including the name and addresses of any of the following relatives who the applicant knows has previously applied for or held a farm labor contractor license within the last 10 years: spouse, domestic partner, brother, brother-in law, sister, sister-in-law, cousin, cousin-in-law, father, father-in-law, mother, mother-in law, son, son-in-law, daughter, or daughter-in-law, aunt, or uncle, or cousin of the applicant if the applicant is an individual, of a partner if applicant is a partnership and of an officer or shareholder if applicant is a corporation, LLC or other business entity, who has ever applied a farm labor contractor's license, and whether any such license has been denied or revoked.~~

~~(19) Applicant shall certify that he, she, or it is aware of all applicable worker safety requirements related to agricultural working conditions, including heat illness injury prevention and pesticide use and exposure, and will comply with all applicable requirements.~~

(18) Indicate the total number of employees the applicant will employ, and provide his or her State and Federal tax employer identification numbers.

(19) Total gross annual revenue for the applicant.

(20) The name and address of an agent or representative designated by the applicant to speak on behalf of the applicant for purposes of communicating with DLSE personnel.

(21) Attest to express certification statements regarding obligations which are acknowledged and made when submitting an application that the applicant:

- (A) Agrees to comply with the provisions of Labor Code section 3700 which require every employer to be insured against liability for workers compensation.
- (B) Is aware of and agrees to comply with the provisions of Labor Code section 1684(a)(3) to deposit with the Labor Commissioner and maintain a current surety bond.
- (C) Agrees, in the event the transportation is provided for employees, to carry public liability insurance on each vehicle used, as required by Labor Code section 1695(a)(6).
- (D) Agrees, as a condition of being licensed as a farm labor contractor by the Labor Commissioner, to keep the Commissioner informed of any change in the licensee's address and other contact information.
- (E) Consents, pursuant to Labor Code section 1684(a)(1)(C), to the designation of the Labor Commissioner by an appropriate set civil court as the licensee's agent to accept service of summons in any action against a licensee relating to their activities as a farm labor contractor in the event that applicant has left the jurisdiction in which the action is commenced or otherwise become unavailable to accept service.
- (F) Is aware of the responsibilities as licensee and agree to operate as a farm labor contractor in compliance with the provisions of the California Labor Code, including provision of adequate safeguards for health and safety of workers and proper payment to workers; and specifically:
 - (i) is aware of all applicable worker safety requirements related to agricultural working conditions, including heat illness injury prevention and pesticide use and exposure, and will comply with all applicable requirements; and
 - (ii) will provide all protective measures, materials and equipment necessary to comply with heat illness injury prevention requirements (see Title 8, California Code of Regulations, Section 3395) at each work site where work is to be performed.
- (G) Certifies that applicant has provided all facts required by the Labor Commissioner to make its determination to issue a license to operate as a farm labor contractor as to the applicant's character, competency, responsibility and the manner in which the applicant proposes to conduct operations.
- (H) Is aware of the provisions of Labor Code Section 1690 regarding grounds for revocation, suspension, refusal to renew, or issue a license to operate as a farm labor contractor, and that a violation or failure to

comply with all licensing requirements applicable to farm labor contractors, including regulations in 8 CCR Sections 13660 through 13667.4, inclusive, will subject a licensee to denial of an application, revocation, suspension, or failure to renew a license.

(I) Is aware that any material misrepresentation made in connections with the information provided on the application or other document submitted relating to the application is grounds for denial, or subsequent revocation of a license.

(b) The applicant for a farm labor contractor license shall provide to the Labor Commissioner the following items and documents along with the application for a license:

(1) Fees:

(A) License fee of \$500 and Application and a filing fee of \$10, pursuant to Labor Code section 1684(a)(4);

~~(B)~~ Examination fee pursuant to Labor Code section 1684(b)(1). The applicant shall pay a one hundred dollar (\$100) fee separate from the application fee for three attempts to pass the examination in a calendar year. Failure to pass after three attempts shall result in rejection of the application, forfeiture of the examination and applications fees, and inability to re-apply and retake the test until the beginning of the next calendar year after rejection.

All fees may be paid online by accessing [http://www.dir.ca.gov/dlse/Online Payment](http://www.dir.ca.gov/dlse/OnlinePayment), or by submission of a certified check, cashier's check, or money order to the Division of Labor Standards Enforcement;

~~(2)~~ If applicant is a corporation, a copy of the Articles of Incorporation and the most recent Statement of Information form (Form-SI-200 rev 01/2013) filed with the Secretary of State; ~~if the applicant is a limited liability company (LLC), a copy of the Articles of Organization and most recent Statement of Information (LLC-12 rev 01/2014); and if a partnership, a copy of the written partnership agreement, if any;~~

~~(3)~~ Two (2) current passport photos for an individual who is a sole proprietor, each partner, and a representative of a corporation, limited liability company, or other business association, as applicable. If the identity of a representative changes during the period of the license, the corporation or business association shall submit two passport photographs of the new representative so that the division can issue a new license.

~~(4)~~ A copy (for on-line applications) or an original (for submitting a physical application) of a Farm Labor Contractor Surety Bond [DLSE 402 rev. 3/2014 or on a form issued by the surety] ~~or a deposit of an undertaking in lieu of bond which otherwise satisfies the requirements for a surety bond described in which~~

complies with the requirements of Labor Code Section 1684(a)(3), as provided in Section 13664.

~~(6) A copy of the applicant's previous year tax filings with the Internal Revenue Service and Franchise Tax Board and California Employment Development Department report forms DE9 or DE9C, if any;~~

~~(7)~~(5) Certificate of Workers' Compensation Insurance coverage or certificate of self-insurance issued to the applicant or valid contract with third party to provide workers' compensation insurance. This certificate and documentation shall contain name of the insured, its fictitious business name ("dba"), if any, and current physical business address of the insured, effective and expiration date, amount of coverage and a policy number. If the applicant provides a contract with a third party to provide workers' compensation insurance, the applicant shall also provide a Certificate of Workers' Compensation Insurance or certificate of self-insurance issued to that third party demonstrating workers' compensation coverage for employees of the applicant.

~~(8)~~(6) Evidence of completion of eight hours of approved educational classes during the previous year in accordance with Section ~~13662~~ 13665.5.

~~(9)~~(7) Pursuant to Labor Code section 273 subdivision (b), a statement that applicant has satisfied all current requirements imposed in a final court judgment, Labor Commissioner order, or an accord (e.g. settlement agreement) involving an issue which relates to unpaid wages. ~~If an applicant has a currently unsatisfied judgment, order, or accord, the Labor Commissioner will not approve the application unless the applicant complies with Labor Code section 273 subd. (c).~~

(8) Live scan fingerprint images for a sole proprietor, all partners of a partnership, all corporate officers of a corporation, each member of a limited liability company, as applicable.

(9) A copy of driver's license for:

(A) A sole proprietor, each partner of a partnership, each corporate officer of a corporation, each member of a limited liability company, as applicable

(B) Each person who will operate a farm labor vehicle for transportation of workers, including drivers of vehicles who transport farm laborers who are not the applicant's employees.

(C) The person taking the examination required under Labor Code section 1684(a)(5). For purposes of this subsection, other photo identification on a legally authorized document is acceptable.

~~(10) Applicant certification that he or she will provide all protective measures, materials and equipment necessary to comply with heat illness injury prevention requirements (see Title 8, California Code of Regulations, Section 3395) at each work site where work is to be performed.~~

(10) Proof of applicant's vehicle liability insurance coverage in the amount set below, for each vehicle identified under Section 13660(a)(14)(A) which includes the name of the insured, the name and address of coverage carrier, policy number, coverage limits, including medical coverage, the policy's effective dates for each vehicle applicant intends to utilize.

(A) For vehicles carrying 15 or fewer passengers: \$15,000/\$30,000 minimum coverage for personal injury, and \$50,000 for property damage.

(B) For vehicles carrying more than 15 passengers: \$30,000/\$60,000 minimum coverage for personal injury, and \$50,000 for property damage.

(C) For day haulers who only provide transportation: \$1,500,000 minimum coverage for personal injury for a vehicle carrying 15 or fewer passengers; \$5,000,000 minimum coverage for personal injury for a vehicle carrying more than 15 passengers.

(11) Certificate from Department of Motor Vehicles (DMV) permitting operation of farm labor vehicle if the vehicle is subject to Vehicle Code sections 322 and 12519 and where the applicant will transport farm workers who are his or her own employees or are employed by another.

(12) Evidence of driving license record from the Department of Motor Vehicles (DMV Form INF 1125 rev 11/2000) for any person operating a vehicle which will transport the applicant's own employees or workers who are not his or her employees

(13) Personal record information (included in online and physical application [DLSE 401-N rev 3/2014]) which provides the following information for each sole proprietorship, each partner of a partnership, each corporate officer of a corporation, each member and managing agent (if any) of a limited liability company and certified under penalty of perjury:

(A) the full name (first, middle, and last name) of the individual, title in the business, social security number, percentage of ownership interest (if any), date of birth, driver's license number, spouses name, spouses capacity in business (if any), physical home address (post office or other mail box number not allowed), business telephone number, mobile telephone number, and mailing address if different from home address.

(B) the occupation history of the person for the last two years including commencing and ending dates, name of employer (if self-employed, indicate name and type of business), description of occupation, business location address.

~~(e) The Labor Commissioner may request any additional supporting documentation as proof of statements made in response to application questions and to complete~~

~~investigation to his or her satisfaction as to the character, competency and responsibility of the applicant.~~

Note: Authority cited: Labor Code section 1699, Reference: Labor Code sections 273, 1682, 1683, 1684, 1685, 1687, 1688, 1689, 1690, 1695, 1695.9, 1696, 1696.3, 1696.4, 1698.5, 3700, ~~3701, 3701.7~~; ~~Health & Saf. Code sections 17960, 17965, 34240, 34290~~; Vehicle Code section 12519.

13660.1. Character, Competency and Responsibility.

- (a) In determining whether an applicant possesses satisfactory character, competency and responsibility, the Labor Commissioner shall consider all information submitted in connection with the application or otherwise obtained by the Labor Commissioner during the review of an application, including information listed in section 13660 subd. (a)(16) of these regulations. Information regarding past conduct, including criminal history, substantially related to working conditions shall be examined to determine an applicant's character, competency, and responsibility. Conduct or conviction of a crime is substantially related to working conditions if it evidences present or potential unfitness of an applicant to perform the functions authorized by the license in a manner consistent with the requirements of the Labor Code. The conduct or convictions considered substantially related to working conditions shall include, but not be limited to, the following:

(1) Any final determination regarding of a violation of a provision of the Labor Code or Title 8 of the California Code of Regulations;

(2) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another;

(3) Crimes involving physical violence against persons within the last 7 years; or

(4) Crimes or other acts that indicate a substantial or repeated disregard for the wages, health, safety, or welfare of employees. "Other acts" include but are not limited to, actions or conduct involving violations of law determined to be willful, repeated, or serious within the meaning of the applicable statutory scheme and shall constitute a "substantial or repeated disregard" for purposes of this section.

- (b) When considering whether an applicant who falls within subdivision (a) has the character, competency and responsibility to be licensed as a farm labor contractor, the Labor Commissioner shall consider whether the applicant has been rehabilitated. When considering whether the applicant has been rehabilitated, the Labor Commissioner will consider the following criteria:

(1) For a felony conviction that is substantially related to the qualifications, functions, or duties of a licensee, seven (7) years have passed from the time of release from incarceration or completion of probation without the occurrence of additional criminal activity.

(2) For misdemeanor convictions that are substantially related to the qualifications, functions, or duties of a licensee, three (3) years have passed from the time of release from incarceration or completion of probation without the occurrence of additional criminal activity.

(3) For other act(s) that are substantially related to the qualifications, functions, or duties of a licensee, three (3) years have passed from the time of commission of the act(s), without the occurrence of additional act(s) substantially related to the qualifications, functions, or duties of a licensee.

(4) The amount of time needed to demonstrate rehabilitation under this subsection may be increased or decreased by taking into account the following:

(A) The nature and severity of the crime(s) or act(s) that are under consideration;

(B) Evidence of any crime(s) or act(s) committed subsequent to the crime(s) or act(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation, which also could be considered as grounds for denial, suspension, or revocation.

(C) Evidence that applicant has successfully completed the period of parole or probation and complied with its restitution terms and all other sanctions lawfully imposed against the applicant.

(D) Consistent work history subsequent to the release from incarceration, or the completion of probation if no incarceration was imposed, subsequent to the time of commission of the act(s).

(E) Documents or testimony from credible individuals who have personal knowledge of the applicant's life and activities subsequent to the time of commission of the crime(s) or act(s) who can attest to the applicant's or licensee's present fitness for licensure.

(F) Other relevant evidence, if any, of rehabilitation submitted by the applicant or licensee. For example, relevant evidence may include evidence of recovery from drug and/or alcohol addiction or abuse or completion of a drug and/or alcohol aversion program if the crime(s) or act(s) related to or involved drug and/or alcohol

use; or evidence of completion of an anger management program if the crime(s) or act(s) demonstrated the applicant's or licensee's inability to control one's temper.

(c) No farm labor contractor license shall be issued to any applicant who has an unsatisfied final judgment of a court or a final decision of an administrative agency that would be covered by the surety bond against deposited by the farm labor contractor pursuant to Labor Code sections 273(c) or 1684(a)(3).

Note: Authority Labor Code section 1699. Reference: Labor Code sections ~~55, 59, 61, 273, 1684(a)(1) through (3), and 1699.~~ ~~Bus. & Prof. Code section 481.~~

~~13660.2. Date a Denied Applicant May Reapply for Licensure.~~

~~Except as provided in Labor Code Sections 1685(b) and 1695.8, an applicant who has been denied licensure because of a determination that the applicant lacked the character, competence, or responsibility to be licensed as a farm labor contractor (Labor Code section 1684 subd. (a)(2)), the applicant may reapply no less than one year after the denial.~~

~~Note: Authority: Labor Code section 1699. Reference: Labor Code sections 1684 and 1699. Bus. & Prof. Code section 486.~~

13661. Procedure for Obtaining Damages from the Fund. Application for Renewal of License.

A claim for recovery from the fund must be made in writing by an employee(s), or other claimant(s), or his or her (their) representative. The claim need not be in any particular form but must contain the following:

(a) A list naming each employee or claimant for whom recovery is sought. The list shall include the name and address of each employee or claimant, the amount of the recovery sought under each of the items listed in Section 13660 above, including the particular provision of Division 2, Part 6, Chapter 3 of the Labor Code allegedly violated, and the name and address of the farm labor contractor(s) whose conduct has allegedly damaged the employee(s) or claimant(s).

(b) A copy of the written assignment of the claim(s) to the representative, if applicable.

(c) A declaration or affidavit under penalty of perjury which complies with the provisions of Code of Civil Procedure Section 2015.5 containing information regarding attempts made to satisfy the claim by demand against the surety bond provided in Labor Code Section 1684(c) and the results of that demand. The declaration or affidavit must also disclose what attempts, if any, were made to collect the recovery sought directly from the farm labor contractor and the results of those attempts. If no attempts have been made to collect either from the surety bond or the farm labor contractor, the declaration must

explain the reasons for such inaction. The fact that no attempts have been made will not of itself defeat recovery from the fund, if the failure to make any attempts is reasonable. The declaration or affidavit required herein may be signed by the representative of the employee(s) or claimant(s), if the information submitted does not require the personal knowledge of the employee(s) or claimant(s).

(d) A copy of any judgment or award issued by a court or the Labor Commissioner, which relates to or supports the recovery sought by the employee(s) or claimant(s). If the judgment was uncontested or obtained by default or other summary procedure, the employee(s), claimant(s) or representative seeking recovery shall submit declarations under penalty of perjury signed by each employee or claimant seeking recovery setting forth the actual losses that were suffered by the employee(s) or claimant(s) including the information set forth below in subsections (1) (6). If the judgment or award was contested, it must contain the information set forth below in subdivisions (1) to (6); if the judgment or award does not contain such information, additional declarations under penalty of perjury signed by the employee or claimant providing the missing information must be submitted. The representative of the employee(s) or claimant(s) may sign declarations submitting information to comply with this subsection, if the information submitted does not require the personal knowledge of the employee(s) or claimant(s).

(1) The name and address (if known) of the contractor;

(2) The period of time during which the wages were earned;

(3) The number of hours worked or the pieces picked or completed;

(4) The promised rate of pay;

(5) The total amount of wages owed less any amount recovered from the farm labor contractor or the surety bond and/or employer of the farm labor contractor;

(6) Proof of any actual damages suffered pursuant to the particular provision of Division 2, Part 6, Chapter 3 of the Labor Code allegedly violated.

(e) If no judgment or award has been obtained from a court or the Labor Commissioner, the employee(s), claimant(s) or his or her (their) representative seeking recovery shall submit declarations under penalty of perjury signed by each employee or claimant providing the information set forth in subdivisions (1) (6) in (d), above. The representative of the employee(s) or claimant(s) may sign declarations submitting information to comply with subsection (d), if the information submitted does not require the personal knowledge of the employee(s) or claimant(s).

(f) If the declarations are insufficient to sustain a recovery from the fund, either due to lack of information or due to a belief that the information submitted is potentially inaccurate, the Labor Commissioner may order an investigatory hearing pursuant to the provisions of Section 13662.

(g) A claimant who contracts with a farm labor contractor may also seek recovery from the fund if he or she has been damaged by a farm labor contractor within the meaning of Section 13660. When such a claim is submitted, besides documenting the claimant's own loss, the claimant must also satisfy the requirements of subsections 13661(a)-(e) regarding the loss of the employees or other claimants.

Note: Authority cited: Section 1699, Labor Code. Reference: Section 1684, Labor Code.

(a) To apply for renewal of a Farm Labor Contractor license, the applicant shall complete, sign, and submit the appropriate renewal application at DLSE's website at [address], or submit the appropriate physical application (DLSE 401-R rev 3/2014 or DLSE 401-S rev 3/2014) to DLSE at least 60 days before expiration of a current license.

(b) A renewal applicant shall file a submit either a renewal application on-line at DLSE's website (at <http://www.dir.ca.gov/DLSE/FLC/htm>) or submit a physical short form application (DLSE 401-S rev 3/2014) if there has been no change in a previous application for a license as a farm labor contractor other than a change in vehicle driver referred in subdivision (c)(6)(C) below, the applicant, or any partner if the applicant is a partnership or any officer if the applicant is a corporation or any member if the applicant is a LLC or other business association, has no outstanding citation charging violation of a statute or regulation related to working conditions, unpaid wages or unpaid penalties, or has not filed all required tax returns, or has not been convicted of a crime while licensed as a farm labor contractor, misdemeanor or felony, related to working conditions, only if each of the following conditions stated in subsection (1) below exist. If all conditions are not met, a renewal applicant must submit an application for renewal using regular renewal application pursuant to subsection (c).

(1) The applicant for renewal attests under penalty of perjury to the following conditions.

(A) There have been no changes in the contractor business entity status or information which includes:

(i) no change in the form of the legal entity, including a change in partners, corporate officers, members of LLC or sole proprietor; and

(ii) no change in: legal entity information previously provided, including business name(s), full names of the sole proprietor, partner's, corporate officers, or LLC members, whichever is applicable; addresses; telephone numbers; and percentage of interest of all persons with the financial or profit-sharing interest in the business;

- (B) There are no outstanding civil citations, unpaid penalties, delinquent unpaid wages, or personal or employment tax liabilities, and all required tax returns have been filed; and
- (C) No person who is a sole proprietor, partner, corporate officer, or LLC member has plead guilty or nolo contendere to or been convicted of a crime, either misdemeanor or felony.
- (2) If the renewal applicant qualifies for renewal under subsection (1), applicant shall provide the following required information and items using the online application or physical application as specified in subsection (b) of this section.
- (A) The renewal applicant pays (i) the license fee of \$500 pursuant to Labor Code 1184(a)(4), and (i) the examination fee of \$100 pursuant to Labor Code section 1684(b)(1) unless the applicant is exempt from examination pursuant to Labor Code section 1684(c).
- (B) The renewal applicant provides the farm labor contractor license number, applicant name(s), business name(s), physical business address, preferred mailing address, home address (no post office box allowed), business telephone number, mobile telephone number, preferred email address, number of employees, and total gross annual revenue for the business.
- (C) The renewal applicant provides the following documents:
- (i) An original Farm Labor Contractor Surety Bond (DLSE 402 rev 3/2014 or on a surety's form) or copy of bond if submitting on-line renewal application, if there has been a change in the amount of the bond based on a change in annual payroll under Labor Code section 1684(a)(3).
- (ii) A copy of the valid and current workers compensation insurance policy certificate.
- (iii) A copy of current proof of automobile liability insurance, if applicable.
- (iv) A copy of a driver's license, DMV certificate to permit operation of farm labor vehicle, and evidence of clear driving record from the DMV if there has been a change in any driver who will operate a vehicle to provide transportation to farm laborers.
- (v) A current list containing the name, physical address, and mailing address, if different, of each grower with whom you plan to contract in the near future and or with whom you have contracted during the past three years

- (vi) A current list of all individuals who will be employed by the applicant to perform the following: supervise, recruit, solicit, higher, furnish, employee, pay, transport (if applicable) or otherwise direct or measures the work of agricultural employees. For each individual state their full name and physical residence address and indicate where each has, at any time, applied for a state farm labor contractor license and were denied that license, or who have been, at any time, licensed by the state as a farm labor contractor.
 - (vii) A current list of the full name of any relatives (specified in Section 13660(a)(17) who have applied for a farm labor contractor's license and have been denied or had their license revoked within the last 10 years.
 - (viii) A copy of the current federal certificate of registration card issued by the U.S. Department of Labor, if required to register under federal law.
 - (ix) Two current passport photos for sole proprietorship, all partners in a partnership, one member of the limited liability company, or one corporate officer of the corporation, as applicable for the type of business of the licensee.
 - (x) Acknowledgment of the applicant has submitted a tax information authorization (IRS Form 8821 rev 10/2012) to the Internal Revenue Service.
 - (xi) A copy of each quarterly payroll and contribution filing with the Employment Development Department consisting of the Quarterly Contribution Return and Report of Wages form (DE 9 rev 1 [1-12]) and Quarterly Contribution Return and Report of Wages-Continuation form (DE 9C rev 1 [1-12]) for the year preceding the pending application and any applicable adjustments filed under Quarterly Contribution and Wage Adjustment Form (DE 9ADJ rev 3 [7-13]).
 - (xii) A copy of the most current registration with the agricultural commissioner for each county in which you have contracted with a grower.
 - (xiii) A copy of certificate showing completion of 8 hours of relevant educational classes for each license period.
- (c) If the renewal applicant for a farm labor contractor's license is ineligible to file for renewal of a farm labor contractor's license under ~~the previous paragraph~~ subsection (b), the renewal applicant shall submit either an application for a regular renewal of a license on-line at DLSE's website at [address] or submit a physical regular renewal application (DLSE 401-R rev 3/2014) ~~certifying under penalty of perjury that the information he or she has provided on the application form, any supplementary documents, and/or any other information submitted by~~

~~the applicant in support of the application is true and correct. Required information on the application includes, but is not limited to, shall include the following:~~

~~(1) Name of individual or entity applying for license renewal; Current state farm labor contractor's license number.~~

~~(2) Previous license number; Provide all information required in subsections (a)(1) through (21) of Section 13660, except that, for information required in subsections (a)(8) [individuals employed to perform regulated activities] and (a)(16) [personal record of responsible persons] of Section 13660, the applicant shall indicate whether or not there has been a change to information provided in the previous application submitted to DLSE and, if yes, provide current information.~~

~~(3) An examination fee pursuant to Labor Code section 1684(b)(1) unless the applicant is exempt from examination pursuant to Labor Code section 1684(e).~~

~~(3) Provide an original or copy, as applicable, of all documents specified in section (b)(2) through (15) plus the following additional items:~~

~~(i) A copy of the applicant business's previous year filings with the Employment Development Department of Quarterly Contribution Returns and Report of Wages (DE 9 rev 1 [1-12] or DE 9C rev 1 [1-12]).~~

~~(ii) A copy of most recent registration with the agricultural commissioner for each county in which the licensee contracted with a grower during the license period prior to renewal.~~

~~(4) An original Farm Labor Contractor Surety Bond [DLSE 402];~~

~~(5) Certificate of Workers' Compensation Insurance or certificate of self-insurance issued to the applicant or valid contract with third party to provide workers' compensation insurance. This certificate and documentation shall contain the name of the certificate holder, fictitious business name ("dba"), if any, current physical business address, effective and expiration date, amount of coverage and a policy number.~~

~~(6) For each vehicle the applicant will use to transport employees:~~

~~(A) The make and model of the vehicle, the license plate number, and vehicle identification number (VIN);~~

~~(B) Evidence of applicant's liability insurance coverage in the amount set by Vehicle Code, section for each vehicle identified, including name and address of coverage carrier, policy number,~~

~~coverage limits, including medical coverage, the policy's effective dates for each vehicle applicant intends to utilize;~~

~~(C) If there is a change in the identity or address of a driver of a vehicle, applicant will use to transport employees, a copy of the individual's driver's license, a copy of the Department of Motor Vehicles (DMV) certificate to operate a farm labor vehicle and evidence from DMV of the individual's clear driving record of said individual.~~

~~(D) An applicant must acknowledge that for any additional vehicle which is sought to be used in the transportation of employees and not identified on the application must be registered with DLSE not later than 7 days prior to use of the vehicle for transportation of workers.~~

~~(7) A current list including names of persons who the applicant will employ to hire, recruit, solicit, supervise, furnish, employ, pay, transport, or otherwise direct or measure the work of agricultural employees, the name and address of all such individuals who have applied for and denied a state farm labor contractor's license or who has held a farm labor contractor's license;~~

~~(8) The federal farm labor contractor Employee certificate number;~~

~~(9) A copy of previous year's payroll records (DL-9 or DL9C) filed with EDD;~~

~~(10) Number of employees the renewal applicant anticipates hiring or rehiring during the next year;~~

~~(11) The estimated gross annual revenue for the business;~~

~~(12) A copy of registration certificate from the agricultural commission in each county in which the business has contracted with a grower, and;~~

~~(13) Evidence of completion of eight hours of approved educational classes during the previous licensing period.~~

~~(14) (4) A statement that applicant has satisfied all requirements imposed in a final court judgment or Labor Commissioner Order, Decision or Award, or pursuant to an accord, involving unpaid wages as required in Labor Code Section 273(c). If an applicant has an unsatisfied judgment, Labor Commissioner Order, or accord, the Labor Commissioner will not approve the application unless the applicant complies with Labor Code section 273 subd. (c).~~

~~(15) Applicant shall certify that he, she, or it is aware of all applicable worker safety requirements related to agricultural working conditions, including heat illness injury prevention and pesticide use and exposure, and will comply with all applicable requirements.~~

~~(16) Applicant certification that he or she will provide all protective measures, materials and equipment necessary to comply with heat illness injury prevention requirements (see Title 8, California Code of Regulations, Section 3395) at each work site where work is to be performed.~~

~~(d) If there is any change in a previous application for a license as a farm labor contractor other than the identity of a driver referred in subdivision (e)(6)(C) above, renewal applicant shall file a form DLSE 401-R rev. [date] and state the details of each and every change to information previously provided.~~

Note: Authority cited: Labor Code sections 273, 1699. Reference: Labor Code sections 273, 1682, 1683, 1684, 1685, 1687, 1688, 1689, 1690, 1695, 1695.9, 1696, 1696.3, 1696.4, 1698.5, and 1699; Vehicle Code Section 12519.

13662. Hearing: Written Examinations.

The Labor Commissioner shall have the authority to order an investigatory hearing to determine the amount of damages, if any, actually suffered by the employee(s) or other claimant(s) seeking recovery from the fund. Notice of the hearing shall be served on the defendant farm labor contractor and the employee(s) or other claimant(s) seeking recovery from the fund either personally or by registered mail in accordance with the provisions of subdivision (c) of Section 11505 of the Government Code. The hearing shall be conducted by a Deputy Labor Commissioner and shall be held in the District Office having jurisdiction over the area where the nonpayment of wages allegedly occurred or any other appropriate venue.

Note: Authority cited: Section 1699, Labor Code. Reference: Section 1684, Labor Code.

- (a) If the applicant for a farm labor contractor license is an individual (sole proprietor), the individual shall take the examination required by Labor Code section 1684(a)(5).
- (b) If the applicant is a partnership, corporation, limited liability company, or other business association, the applicant shall appoint a representative who shall take the examination required by Labor Code section 1684(a)(5).
- (1) If the application of a corporation, limited liability company, partnership or business association is approved, identity of a representative shall appear on the face of the license. The license containing a designation of a

representative shall become void when the appointed representative leaves the business entity or association. In such case, the license shall be surrendered to the Labor Commissioner.

(2) If the authorized representative leaves the farm labor contractor business during the licensing period, the farm labor business entity or association must designate a new representative who shall take and pass the examination. Additionally, the entity or business association shall submit two color passport photographs of the new representative to the Labor Commissioner and the Division shall issue a new license.

(c) ~~As part of the application submitted to the Labor Commissioner, e~~Each applicant for a farm labor contractor's license person who takes the written examination is required to ~~submit photos as~~ present photo identification of the person who will ~~take~~ to DLSE staff at the time of the examination.

Note: Authority cited: Labor Code section 1699. Reference: Labor Code sections 1684(a)(5) and 1699.

13663. Schedule for Processing Applications.

(a) Within sixty (60) calendar days of receiving an application, the Labor Commissioner shall inform the applicant in writing that either:

(1) A license will be issued; or,

(2) A license will be rejected; or,

(3) Additional information will be required to meet the licensing requirements.

(A) The Labor Commissioner shall send a written notice of defect or deficiency regarding an application and specify a date, not to exceed 30 days from the date of the notice, for the applicant to deliver to the Labor Commissioner the information and/or documentation which addresses the defect or deficiency. ~~Within sixty (60) calendar days from the date on the written notice of defective application, the applicant must correct and return the application with the requested information and/or documentation to the Labor Commissioner.~~

(B) If the applicant fails to meet the ~~aforementioned~~ deadline specified in subsection (A) above, a second written notice of defect or deficiency shall be sent by the Labor Commissioner and specify a date for reply, not to exceed 30 days from the date of the notice, and shall further indicate that the application will be rejected, and the applicant shall ~~forfeit the application~~ all fees paid if the requested information is

not submitted by date specified in the second notice. Following a rejection pursuant to this subdivision, the applicant may submit a subsequent application and shall pay the fees required pursuant to in Labor Code Section 1684(a)(4).

- (b) The Labor Commissioner may issue a temporary license to the applicant for a farm labor contractor's license only when the Labor Commissioner is unable to complete the determination within the time limits set out in subdivision (a) of this section and the delay is not the fault of the applicant.

Note: Authority cited: Labor Code section 1699. Reference: Labor Code sections 1684(a), 1684.3 and 1699.

13663.5. Issuance of Replacement License.

A request for a replacement farm labor contractor's license shall be accompanied by a Declaration and Request for Replacement License, signed under penalty of perjury, which shall contain the following information: Farm Labor Contractor registration license number, name, address and telephone number of the contractor, expiration date, statement of circumstances necessitating replacement, and a \$25 license replacement fee. If an applicant provides the information required by this section, a replacement license shall be issued upon request. The replacement shall be issued only to replace a license which is lost, destroyed, or mutilated.

Note: Authority cited: Labor Code section 1699. Reference: Labor Code sections 1683(a) and 1699.

13664. Surety Bonds; Establishing Annual Payroll.

- (a) To comply with the duty to obtain and maintain a surety bond (see Labor Code section 1684 ~~subd.~~ (a)(3)), the applicant for a Farm Labor Contractor license shall file with the Labor Commissioner a bond issued by a surety company duly authorized to do business in the State of California. The bond shall be on a form ~~provided by the Labor Commissioner~~ issued by the surety company which complies with the requirements of Labor Code 1684(a)(3) or on a form provided by DLSE (DLSE 402 rev 3/2014). ~~In lieu of a surety bond, an applicant may deposit with the Labor Commissioner an undertaking of a cash bond or certificate of deposit which otherwise meets the full requirements of a surety bond described in Labor Code Section 1684(a)(3), including retention by the Labor Commissioner of the cash or certificate of deposit for a period of 3 years after the licensee ceases its business as a farm labor contractor.~~

- (b) As proof of annual payroll, the farm labor contractor shall provide to the Labor Commissioner ~~either~~ copies of Employment Development Department's Quarterly

~~Wage and Withholding Report Contribution Return and Report of Wages (currently Form DE 9 rev 1 [1-12]) for each quarter of the year preceding the pending application or a copy of Employment Development Department Annual Reconciliation Statement, Quarterly Contribution Return and Report of Wages-Continuation (currently Form DE-9C rev 1 [1-12]), and Quarterly Contribution and Wage Adjustment Form (DE 9ADJ rev 3 [7-13], if applicable, for each quarter for the year preceding the pending application.~~

(c) ~~If the Labor Commissioner, an employee, or an employee representative, proceeds against the surety bond or undertaking and payment is made therefrom to the Labor Commissioner or to the employee or the employee representative, the employer shall take all steps and actions necessary to ensure that a surety bond or undertaking which meets all of the requirements set forth in subdivision (a) of this section, including the required principal sum, is continuously in place so that there is not a break at any time in the continuity of the protection afforded by the bond. If the employer at any time fails to provide a surety bond or undertaking that meets all of the requirements of subdivision (a) of this section, the Labor Commissioner shall suspend and may revoke the employer's license, or deny his, her or its a renewal application for a license.~~

(d) ~~To ensure that the purpose of the bond is fulfilled, in the event a contractor closes its business and ceases operating as a farm labor contractor, the Labor Commissioner will retain the original of the bond or undertaking in his or her possession for no less more than three years six months after the employer ceases engaging in the business in order to provide for claims arising prior to the closure of the business.~~

~~Note: Authority cited: Labor Code section 1699. Reference: Labor Code section 1684 subd. (a)(3), 1699.~~

~~13664.1. Payment of Wage Claims Against Bonds.~~

~~If a farm labor contractor fails to pay wages, interest on wages, or damages as awarded by the Labor Commissioner, the employee or employee's representative shall first attempt to proceed against the employer's surety bond to recover the amount owed.~~

~~Note: Authority cited: Labor Code section 1699. Reference: Labor Code section 1684 subd. (a)(3), 1699.~~

Adds new article and adopts sections as follows:

Article 2. Educational Classes for Farm Labor Contractors

13665. Education Program Approval; Course Criteria; List of Approved Courses.

- (a) Any person, nonprofit organization or educational institution may submit to the Labor Commissioner at the San Francisco Office of the Division of Labor Standards Enforcement's Licensing and Registration Unit an application for evaluation and approval of a proposed educational program in farm labor contracting. The applicant for educational program approval shall submit the written request at least sixty (60) calendar days before the initial start date of the proposed educational program. The written request shall be accompanied by:
- (1) a written outline;
 - (2) a description of the educational program;
 - (3) a copy of all instructional materials;
 - (4) a schedule of the proposed date(s), time(s), and location(s) for the proposed educational program;
 - (5) a copy of the brochure or flyer that will be distributed to proposed participants;
 - (6) the number of education hours proposed to be offered, and;
 - (7) a resume for each of the proposed instructor(s). The program provider shall attest to the instructor's competency with an accompanying statement that the proposed instructor satisfies at least one of the following qualifications:
 - (A) possession of a bachelor's degree in the subject in which he or she is to teach from an institution listed as an institution of higher learning by the U.S. Department of Education or its successor agency, or the equivalent of a bachelor's degree;
 - (B) five years of experience in the technical occupation which involves in the subject in which he or she is to teach; or
 - (C) possession of a license to teach issued by an appropriate state licensing or certification agency, or federal agency for the subject in which he or she is to teach.
- (b) If the Labor Commissioner determines that insufficient information has been provided to meet the criteria specified in subdivision (c)(1) of this section, the Labor Commissioner may investigate any facts regarding the program and request additional information before ~~making a determination~~ approving a program.
- (c) The Labor Commissioner may approve any educational program submitted for ~~evaluation which meets the following criteria:~~ which satisfies the following approved core and alternative topics and hours requirements which applicants and licensees shall take and complete for each license period.

(1) The instruction shall relate only to farm labor contractor activities and responsibilities and must include the following subjects: laws and regulations regarding wages, hours, and working conditions; penalties; the necessity of determining the costs of engaging as a farm labor contractor to enable the applicant to pay legal wages and still return reasonable pay for his or her activities; employee housing and transportation; CAL/OSHA health and safety requirements including Injury and Illness Prevention Program, heat stress illness prevention and response, field sanitation; and safe work practices related to pesticide use; workers' compensation; sexual harassment prevention; the prohibition on retaliating or threatening retaliation upon an employee for exercising a right or privilege provided for in the Labor Code or other law; labor relations and collective bargaining; and child labor laws. For new contractors (applicants), current contractors with less than five years in the business, and contractors with 2 or more violations within the last 2 years of any provision of the Labor Code or Title 8 of the California Code of Regulations:

(A) Farm Labor Contractor Requirements (3 hours) which shall include (i) wage and hour (minimum wage, overtime, piece rate, meal/rest breaks), (ii) worker's compensation requirement, (iii) labor costing under Labor Code section 2810, (iv) proper information to employees (Labor Code sections 226 and 2810), (v) transportation and housing, (vi) child labor; and (vii) other requirements as directed by recent legislation.

(B) Health & Safety (2 hours) which shall include (i) injury and illness prevention program, (ii) heat illness (including first aid), (iii) pesticides, (iv) field sanitation, (v) electrical hazards, (vi) agriculture equipment and operation, and (vii) other requirements as directed by legislative action.

(C) Management and Supervision Education for FLC and supervisors (1 hour) which shall include (i) how to be a good manager, create a positive work environment, and proper role of supervisor; (ii) communication skills; (iii) how to do an adequate investigation into labor law violations reported to you at your workplace; (iv) sexual harassment prevention; and (v) hiring, discipline, and termination issues.

(D) Retaliation Laws and Prohibitions on Retaliation (1 hour) which shall include (i) Labor code section 98.6 and discrimination in the workplace in general; and (ii) stability in labor relations, collective bargaining, and concerted activity.

(E) Good Grower Relations for a Successful Business (1 hour)

(2) For contractors with at least five (5) years or more in the business without any violation of any provision of the Labor Code or Title 8 of the California Code of Regulations:

(A) Overview of Changes in Farm Labor Contractor Requirements (1.5 hours).

(B) Overview of Changes in Health and Safety (1.5 hours)

(C) Advanced Effective Management and Supervision (1.5 hours)

(D) Best Practices for Good Grower Relations (1.5 hours)

(E) Alternate topics (must have two hours) which may include any of the following: (i) immigration issues in the agriculture industry (including H-2A visa responsibilities); (ii) criminal provisions of the Labor Code; (iii) healthcare reform: what does it mean for you? (iv) landlord and tenant rights, (v) Americans with Disabilities Act, (vi) discrimination in the workplace and hostile work environment, (vii) overview of changes in retaliation laws and prohibitions on retaliation.

~~(2) Applicant shall submit a resume for all of the proposed instructors and attest to the instructor's competency. The resume must include a statement that the proposed instructor satisfies at least one of the following qualifications:~~

~~(A) possession of a bachelor's degree in the subject in which he or she is to teach from an institution listed as an institution of higher learning by the U.S. Department of Education or its successor agency, or the equivalent of such a bachelor's degree.~~

~~(B) possession of a valid adult or secondary school teaching credential or certificate from this or another state authorizing the holder to teach;~~

~~(C) five years of experience in the technical occupation in the subject in which he or she is to teach, or;~~

~~(D) possession of a license to teach issued by an appropriate state licensing board or federal agency for the subject in which he or she is to teach.~~

~~(3) The instructional program shall be at least eight hours in length.~~

(d) Within thirty (30) calendar days of receiving a written request for evaluation and approval of an education program in farm labor contracting, the Labor Commissioner shall inform the requestor in writing:

(1) the request for evaluation and approval is complete and accepted for filing;

(2) the request for evaluation and approval is denied, or;

(3) the request for approval is incomplete, specifying the information required to correct the deficiency.

(e) The approval of an educational program pursuant to this section shall be valid for ~~one~~ two years from the date of the Labor Commissioner's written notification that the

educational program has been approved so long as there is no material change in the program. Persons, nonprofit organizations, or educational institutions must reapply to the Labor Commissioner for approval to offer a program once the period of approval has expired, by resubmitting updated the documentation items as specified above in subsection (a) of this section.

- (f) The Labor Commissioner and the entity providing the education program shall make a list of approved programs available to any member of the public upon request.
- (g) Any person, nonprofit organization, or educational institution offering an approved program shall report to the Labor Commissioner in advance of a program presentation any of the following changes:
 - (1) a change in the approved program, outline or program materials;
 - ~~(2) any change in the date(s), times(s), location(s) of the program; or~~
 - ~~(3) (2) any substitution of instructional staff which has not been previously approved;~~
- (h) The Labor Commissioner, or his or her authorized representative, shall be entitled to attend any approved program to monitor class presentations at no charge.
- (i) The Labor Commissioner may, at his or her discretion, disapprove any educational program for purposes of crediting a class(es) for an applicant seeking a license.

Note: Authority cited: Labor Code Section 1699. Reference: Labor Code section 1684 subds. (a)(5), ~~and~~(b)(2), and (c)(3).

13665.5. Records of Education.

- (a) The instructor, nonprofit organization, or educational institution shall maintain a record of ~~licensees~~ persons who have successfully completed the course of instruction for a period of ~~three~~ two years following completion of the curriculum.
- (b) Each licensee shall maintain a record for three years of all continuing education that he or she acquired during each license period.
- (c) The records specified in subdivisions (a) and (b) of this section shall include:
 - (1) the license holder's name;
 - (2) license or certificate number, if applicable;
 - (3) name of the instructor, nonprofit organization, or educational institution; and
 - (4) dates of the class instruction.

- (d) A certificate of program completion or written statements containing all the information specified in subdivision (c), issued by the instructor, nonprofit organization, or educational institution shall be sufficient to constitute the records specified in subdivisions (a) and (b).
- (e) The approved program provider shall submit the records specified in subdivision (a) to the Labor Commissioner within thirty (30) days after each program is completed.
- (f) At the time of renewal, each licensee shall submit to the Labor Commissioner a record of all continuing education that he or she acquired during the preceding license period.

Note: Authority cited: Labor Code section 1699. Reference: Labor Code section 1684.

Adds new article and adopts new sections as follows:

Article 3. Duties of Contractors

Section 13666. Posting Rate of Compensation

The rate of compensation that a licensee is paying his or her employees must be displayed pursuant to Labor Code section 1695(a)(7) in a format no smaller than 8-1/2 x 11 inches and in bold lettering no smaller than 16-point font. The name of the licensee shall be identified on this posting.

Note: Authority cited: Labor Code section 1699. Reference: Labor Code sections 1684, 1695-~~subd.~~(a)(7).

13666.1. Identification Signage at Worksite.

- (a) A licensee shall erect a temporary sign at each worksite where workers are working which prominently and legibly identifies the licensee's name, license number in the top-half portion of the sign, and a name and working phone number for the licensee's field supervisor in the bottom-half portion of the sign.
- (b) The sign required in subdivision (a) shall be placed initially within 30 feet and be clearly visible from the access road nearest the worksite and where workers enter the worksite for the workday and shall not be obstructed by vehicles, other signs, trees, or other objects. The sign shall be no smaller than 4 feet by 4 feet and have contrasting colors for the background and lettering for legibility. The sign may be either staked in the ground or be fixed on a fold-out frame (A-frame when folded out) but the bottom of the sign shall be at least 12 inches above the ground.

- ~~(c) Each licensee shall post an additional sign, no smaller than 3 feet by 3 feet, in reasonably close proximity where each crew is working which includes the name of the licensee and the name and working phone number of the licensee's field supervisor in charge of the crew.~~

Note: Authority cited: Labor Code section 1699. Reference: Labor Code sections ~~1695.6, 1695.7,~~ 1682.8, 1690, and 1699.

13666.2. Worker Safety Training of Crew Leaders and Forepersons.

- (a) A licensee shall provide periodic worker safety training to each crew leader, foreperson or other employee whose duties include the supervision, direction or control of any agricultural worker on behalf of a licensee. The training shall pertain to season-appropriate subjects covering worker safety which includes, but is not be limited to, implementing programs and practices for heat illness injury prevention and response (see 8 CCR Sec. 3395) and pesticide use and exposure (see Food and Agricultural Code Sections 12980-12988) and, The training shall be conducted at least once during each quarter of a calendar year that a licensee operates. A quarterly period commences on January 1, April 1, July 1, and October 1 of each calendar year. The training required under this section may be a single quarterly training of at least 15 minutes, or more frequent periodic training monthly during the quarter of a calendar year that a licensee operates which achieves at least 15 minutes total during the quarter.
- (b) The licensee shall maintain a record of all training and information provided to each crew leader, foreperson or other supervisor of workers under subdivision (a). This record shall: (i) state the date(s) on which the training and information were provided; (ii) identify the crew leaders, forepersons or other supervisors to whom the training and information were provided; (iii) describe the training and information provided and, if written materials were provided, include a copy of such materials; and (iv) contain the licensee's certification that the foregoing is true and complete. The licensee shall maintain these records for two years and shall make them available, upon request, to the Labor Commissioner.

Note: Authority cited: Labor Code section 1699. Reference: Labor Code sections 1695(a)(9), 1682.8, 1690 and 1699.

13666.5 Failure to Comply with Requirements; Revocation, Suspension, Refusal to Renew

A licensee who violates or fails to comply with the provisions of this subchapter applicable to licensees which implement the requirements of Chapter 3 of Part 6 of Division 2 of the Labor Code (Labor Code Sections 1682 et seq.), including the duties of contractors specified in this article, is subject to revocation or suspension of their license

pursuant to Labor Code 1692 or refusal to grant an application for renewal pursuant to Labor Code Section 1686.

Note: Authority: Labor Code section 1699. Reference: 1686, 1690, 1692, 1699

Adds new article and adopts new sections as follows:

Article 4. Farmworker Remedial Account

13667. Procedure to Obtain Damages from the Farmworker Remedial Account.

- (a) An employee of a licensed farm labor contractor or an unlicensed farm labor contractor who has been recruited, solicited, supplied, hired, furnished or transported by the contractor on behalf of an employer engaged in the growing or producing of farm products and who has suffered damages in the form of non-payment of all or part of the wages owed to the employees may seek recovery from the Farmworker Remedial Account.
- (b) A claim for recovery from the Farmworker Remedial Account must be addressed to the Labor Commissioner by an employee(s), or his or her (their) representative or a farm labor contractor on behalf of his or her employees or their representatives. The history and current status of the claim submitted against the Account will determine what additional information, if any, will be required by the Labor Commissioner. Information necessary to satisfy this section does not need to be in any particular format. Claims may originate from an Order, Decision and Award, the judgment of a civil court or other tribunal; or from other final determinations. For claims originating from an Order, Decision and Award of the Labor Commissioner, or other tribunal, a copy of the final decision and findings may satisfy the requirements of this section.
- (c) To file a claim for recovery from the Farmworker Remedial Account, the following information is required:
 - (1) a list naming each employee or claimant for whom recovery is sought and the time period for which recovery is sought;
 - (2) the name and address of the farm labor contractor(s), grower(s) or packer(s) whose conduct has damaged the employee(s), or claimant(s);
 - (3) valid form of identification, including a social security or Taxpayer Identification Number, if available, of each employee for whom recovery is sought;
 - (4) a copy of the written authorization of claimant to his or her representative authorizing the representative to act on his or her behalf that bears the claimant's signature, if applicable, and mailing instructions for payment of the claim;

- (5) a copy of a final Order, Decision or Award of the Labor Commissioner, or final court judgment filed in a court, if applicable; and,
- (6) a declaration or affidavit under penalty of perjury which complies with the provisions of Code of Civil Procedure Section 2015.5 containing information regarding attempts made to satisfy the claim by demand against the surety bond (if the contractor was licensed) as provided in Labor Code Section 1684(a)(3) and the results of that demand. The declaration or affidavit must also disclose what attempts, if any, were made to collect the recovery sought directly from the farm labor contractor, grower or packer and the results of those attempts. If no attempts have been made to collect either from the surety bond or the farm labor contractor, grower, or packer, the declaration must explain the reasons for such inaction. The fact that no attempts have been made will not of itself defeat recovery from the Farmworker Remedial Account, if it is shown that any attempt would have been futile. The declaration or affidavit required herein may be signed by the representative of the employee(s) claimant(s), or farm labor contractor if the information submitted does not require the personal knowledge of the employee(s), claimant(s), or farm labor contractor.
- (d) If the declarations submitted in support of application for recovery are insufficient to sustain a recovery from the Farmworker Remedial Account either due to lack of information or due to a belief that the information submitted is potentially inaccurate, the Labor Commissioner may order an investigatory hearing.
- (e) Subject to the discretion of the Labor Commissioner, a farm labor contractor may seek recovery on behalf of his or her employees from the Farmworker Remedial Account if he or she is unable to pay the employees due to the failure of a grower or packer to pay the contractor. When such a claim is submitted, the farm labor contractor must also satisfy the requirements regarding the loss to employees or other claimants and must first exhaust remedies against his or her bond before applying to the fund on behalf of his or her employees.
- (f) In exercising discretion under Labor Code Section 1684(a)(4), the Labor Commissioner may review the following criteria: all materials submitted pursuant to 13667(a) and (b); any evidence submitted by the farm labor contractor which can establish a grower or packer's failure to pay for farm labor contracting services as defined at Labor Code section 1682(b); and any evidence which reflects upon a farm labor contractor's character, competency or responsibility.

Note: Authority cited: Labor Code section 1699. Reference: Labor Code sections 1684(a)(3)-(4) and 1699.

13667.1. Hearing.

The Labor Commissioner shall have the authority to order an investigatory hearing to determine the amount of damages, if any, actually suffered by the employee(s), or other claimant(s), seeking recovery from the Farmworker Remedial Account. Notice of the hearing shall be served on the farm labor contractor, and the employee(s) or other claimant(s) seeking recovery from the Farmworker Remedial Account either personally or by certified mail. The hearing shall be conducted by a Deputy Labor Commissioner and shall be held in the District Office having jurisdiction over the area where the damages allegedly occurred or any other appropriate venue.

Note: Authority cited: Labor Code section 1699. Reference: Labor Code sections 1684(a)(4) and 1699.

13667.4. Payment of Wage Claims Against the Farmworker Remedial Account

The Labor Commissioner shall pay all valid claims against the Farmworker Remedial Account in the order received. If there are insufficient funds in the Farmworker Remedial Account to pay a valid claim, the valid claim shall be held until adequate funds are deposited into the Farmworker Remedial Account to pay the valid claim.

Note: Authority cited: Labor Code section 1699. Reference: Labor Code sections 1684(a)(4) and 1699.