

STATE OF CALIFORNIA

FARM LABOR CONTRACTOR LICENSE

Forms & Instructions



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IMPORTANT INFORMATION

Enclosed are the necessary forms for obtaining a Farm Labor Contractor License, and excerpts from the applicable law.

1. FORMS AND DOCUMENTS REQUIRED TO BE FILED

- Application for Farm Labor Contractor License (DLSE 401) Personal Record (DLSE Form 301-B) (for new applicants or change in personnel)
- Affidavits of Character (DLSE Form 301-A) (for new applicants or change in personnel)
- Farm Labor Contractor Bond (DLSE Form 402)
- Live Scan Fingerprint Images (for new applicants or change in personnel)
- Two (2) current passport photos
- Certificates of Insurance (Workers' Compensation and Automobile Liability)
- Declaration form (for new applicants or change of address)
- Copy of driver license or other legal photo identification of person taking examination.
- Copy of Articles of Incorporation filed with California Secretary of State (for new applicants)
- Copy of Statement of Information filed with California Secretary of State listing all LLC members or corporate officers (for new applicants or change in personnel)

NOTE: The name and address as shown on all forms and documents submitted must be exactly the same. Any difference in either name or address will delay the issuance of a license.

2. WHERE TO SEND FORMS AND DOCUMENTS

All forms, documents, license fees, and correspondence should be sent to*:

- | | |
|--|---|
| a. Personal delivery (e.g. UPS, Messenger, etc.):
Department of Industrial Relations
Licensing and Registration Unit
455 Golden Gate Avenue, 9 th Floor
San Francisco, CA 94102 | b. U.S. Mail
Department of Industrial Relations
Division of Labor Standards Enforcement
Licensing and Registration Unit
P. O. Box 420603
San Francisco, CA 94142 |
|--|---|

***For counties of Fresno, Tulare, Kern, Madera, Kings and Merced should be sent to:
770 E. Shaw Avenue, Suite 222, Fresno, CA 93710**

3. DURATION OF LICENSE

The license is effective from the date of issuance until the day before the birthday of the individual applicant or the oldest general partner, or the date of organization for limited liability company, or the date of incorporation, if a corporation.

4. FILING AND LICENSE FEES

The DLSE Licensing & Registration Unit offers online payment of fees by accessing http://www.dir.ca.gov/dlse/Online_Payment.html. You will be linked to the third party provider FreedomPay. Payments may be made using your American Express, Discover and MasterCard credit cards. FreedomPay charges a convenience fee to use its service to make a payment. This fee is separate and distinct from the primary obligation that you are paying. The convenience fee is included in the "Total Payment

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Amount” line. You will receive an electronic receipt for payments made. Please be sure to print out your receipt as we will not be able to provide a duplicate receipt.

NOTE: Unfortunately, payments using this system cannot be processed using a VISA credit card. *If VISA is the only card available to you, you will be required to submit your payment via certified check, cashier’s check or money order made payable to Division of Labor Standards Enforcement. Do not send cash.*

Fees **cannot** be prorated; the full amount must be paid irrespective of the length of time remaining before the expiration of the license.

Filing Fee (New application only, see note below.)	\$ 10.00
Examination Fee (For each person taking examination	\$ 100.00
License Fee	\$ 500.00

NOTE: If a license expires prior to the date the application for renewal is received, the application will be considered late, and a \$10 filing fee will be required and there will be a lapse in the effective date of your license.

5. FARM LABOR CONTRACTOR EXAMINATION

- a. An applicant for Farm Labor Contractor License must pass an examination. [Labor Code Section 1684(a)]
- b. If the applicant is a partnership, limited liability company or corporation, at least one of the partners, a member or one of the corporate officers listed in Item 11 or Item 16 on the Application (DLSE 401) must take and pass the examination. However, every partner, member or corporate officer may be a candidate for the examination, if desired.
- c. Once the application, \$610 in fees (\$500 license fee; \$10 filing fee; and \$100 examination fee) and all supporting documents are received, reviewed, and completed, you will be notified that you are eligible to take the examination. Instructions and study materials for the examination will be sent to you.
- d. There is an examination fee of \$100 for each person taking the examination. The examination may only be taken a maximum of three times in a calendar year.
- e. A copy of a valid driver’s license or other legal photo identification of each person taking the examination is required.

6. WAGE DEDUCTION STATEMENTS

- a. Wages of workers employed by a farm labor contractor must be paid at least once every week on a business day designated in advance by the farm labor contractor. Payment must include all wages earned up to and including the fourth day before the payday. (Labor Code Section 205.)
- b. California Labor Code Section 226 requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing, showing:
 - 1) gross wages earned;
 - 2) total hours worked by the employee;
 - 3) number of piece rate units earned and applicable rate if employee is paid on a piece rate basis;
 - 4) each and every deduction, listed separately;

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- 5) net wages earned;
- 6) the inclusive dates of the period for which the employee is paid;
- 7) the name of the employee and the last 4 digits of their social security number or an employee identification number;
- 8) the name and address of the legal entity which is the employer (e.g., partnership, corporation, individual and limited liability company);
- 9) the name and address of the legal entity that secured the services of the farm labor contractor (e.g., partnership, corporation, individual and limited liability company) *(new effective 1/1/12)*
- 10) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

AB 243 (Chapter 671, Statutes of 2011) with an effective date of January 1, 2012 amends Labor Code section 226. The bill adds the further requirement that an employer who is a farm labor contractor must disclose the name and address of the legal entity that secured the services of the farm labor contractor on the required itemized wage statement (pay stub) furnished to each employee.

- c. The deductions must be recorded in ink or other indelible form, properly dated, showing the month, day, and year. A copy of the statement, or a record of the deductions, must be kept on file by the employer for at least three years at the place of employment or at a central location within the state of California. An employer's records shall be made available for inspection or copying by the employee upon reasonable request [Labor Code Section 226(a)].
- d. Section 226, 226.2, 226.3 and 1696.5 of the California Labor Code contain the requirements for wage deduction statements which have been summarized above.
- e. In order to assist farm labor contractors to comply with these requirements, a sample wage deduction statement is shown below.

WAGE DEDUCTION STATEMENT

DATE (Month, Day, Year)				GROSS WAGES EARNED		\$	
NAME OF EMPLOYEE				DEDUCTIONS:			
				Federal Withholding Tax		\$	
SOCIAL SECURITY NUMBER				O.A.S.D.I. (Social Security)		\$	
INCLUSIVE DATES OF PAY PERIOD (from-to)				State Withholding Tax		\$	
NAME AND ADDRESS OF LEGAL ENTITY SECURING SERVICES OF FARM LABOR CONTRACTOR				Other (list separately)		\$	
						\$	
Number of Hours:		Hourly Rate:	\$			\$	
Number of Hours:		Hourly Rate:	\$	TOTAL DEDUCTIONS			\$
Number of Hours:		Hourly Rate:	\$	NET WAGES EARNED			\$

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Please Note: Federal labor laws may require additional information. You should contact your local U.S. Department of Labor-Wage-Hour officer for information regarding federal requirements.

7. STATEMENT OF PAY RATES

- a. California Labor Code Section 1695(7) requires every farm labor contractor to have displayed prominently on all jobs where employees are working, and in all vehicles in which workers are transported, a notice giving the wage rate to be paid to workers.
- b. This notice must be printed in both English and Spanish, and in lettering of a size to be determined by the Department of Industrial Relations.
- c. Attached is a sample “Farm Labor Contractor – Statement of Pay Rates” (Attachment A), as approved by the State Labor Commissioner, Division of Labor Standards Enforcement, Department of Industrial Relations. The notice must be no smaller than 8 1/2” by 11”. The size of the printing must be no smaller than shown on Attachment A.

8. CHILD LABOR LAWS

The following are some of the more important laws regulating the employment of children in agriculture.

NOTE: When an employer is covered by both State and Federal Law, the higher standard prevails.

A. WORK PERMITS

1. No minor under **18** years of age shall be allowed to work without a *Permit to Work*.
2. *Employers* must obtain *Permit to Employ* when employing minors.
3. Permits to Work and Permits to Employ are issued by the *school* authorities.
4. Permits are not required and there is no minimum age for children employed in agricultural work on *farms owned or operated by the parents or guardians of the minors* during the time public schools are not in session or during non-school hours.
5. Any minor who is a high school graduate or who has been awarded a certificate of proficiency is exempted from permit requirements.

NOTE: Every owner, tenant, or operator of a farm employing parents having minor children in their immediate care and custody must post at a conspicuous place on the property, where it may be easily read, a notice stating children are not allowed to work unless legally permitted and unless Permits to Work have been secured. All such notices shall be in both the English and Spanish languages.

B. HOURS OF WORK AND WAGES

1. In agriculture, minors under **16** years of age shall not be permitted to work for more than eight hours in one day or more than 48 hours in one week.

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2. Minors 16 and 17 years of age may not work for more than six hours a day or 20 hours a week when the minor is required to attend school.
3. Minors 14 and 15 years of age may be employed after school and on non-school days. They may not work during school hours and are limited to no more than four hours on a school day.
4. Minors 12 and 13 years of age may work on non-school days only.
5. Minors under the age of 18 years may not be paid less than the minimum wage established on the Orders of the California Industrial Welfare Commission.
6. The United States Fair Labor Standards Act requires that minors under 18 years may not be paid less than minimum wage rates established by the Fair Labor Standards Act, and must be paid overtime for hours of in excess of 40 per week.

EXCEPTION: Minors who have graduated from high school, or who have been awarded a certificate of proficiency, may be employed the same hours as adults. In such instances, minors must be paid at the same rate as adult employees engaged in the same classification of work.

C. HAZARDOUS OCCUPATIONS

1. No minor under the age of 16 years shall be employed or permitted to work:
 - a. in adjusting any belt or any machinery;
 - b. in oiling, wiping, or cleaning machinery, or assisting in operating picker machines or machines used in picking wool or cotton;
 - c. in any capacity in operating or assisting in operating picker machines or machines used in picking wool or cotton;
 - d. in close proximity to moving machinery;
 - e. in any capacity, in any occupation dangerous to the life or limb, or injurious to the health or morals of the minors.
2. No minor under the age of 12 years may be employed or permitted to work or accompany an employed parent or guardian in an agricultural zone of danger. "Agricultural zone of danger" means any or all of the following:
 - a. on or about moving machinery;
 - b. in or about unprotected chemicals;
 - c. in or about any unprotected water hazard.
3. No person under the age of 18 years shall be employed for compensation by another for the purpose of driving a motor vehicle on the highways. (Vehicle Code Section 12515.)
 - a) "Highway" is a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street. (Vehicle Code Section 360.)

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9. FARM LABOR VEHICLE LICENSE

- a. California Vehicle Code Section 322 defines a “farm labor vehicle” as any motor vehicle designed, used or maintained for the transportation of seven or more farm workers, in addition to the driver, to or from a place of employment-related activities.
- b. California Vehicle Code Section 12519 requires that every person who operates a farm labor vehicle must have in his or her possession a driver’s license for the appropriate class of vehicle to be driven, and, when transporting *one or more* farm worker passengers, a certificate issued by the Department of Motor Vehicles to permit the operation of farm labor vehicles.
- c. Applicants for a certificate to permit the operation of farm labor vehicles must take an examination conducted by the California Highway Patrol.
- d. California Labor Code Section 1696.3 requires every farm labor contractor or person employed by a farm labor contractor who operates a farm labor vehicle in connection with the business, activities, or operations as a farm labor contractor to be licensed as required by Section 12519 of the Vehicle Code.
- e. You should contact the nearest offices of the Department of Motor Vehicles and the California Highway Patrol to obtain the required driver’s license and certificate.

10. RECORD KEEPING

- a. The California Labor Code and Industrial Welfare Commission Order 14 contain requirements for time and time and payroll records that must be maintained.
- b. The required records must be in the English language and in ink or other indelible form, properly dated, showing month, day, and year.
- c. The records must be kept on file by the employer for at least three years at the place of employment or at a central location within the state of California.

11. DAY HAULER

Labor Code Section 1682.3 states that “farm labor contractor” includes “day hauler.” A “day hauler” therefore, must have a Farm Labor Contractor License.

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INSTRUCTIONS

1. APPLICATION FOR A FARM LABOR CONTRACTOR LICENSE

- a. The Application for Farm Labor Contractor License (DLSE 401) must be completed, dated and signed by (1) the individual owner, or (2) all of the general partners, or (3) LLC member, or (4) an authorized corporate officer. Do not use initials.
- b. Item No. 11 – Birthdate: Enter the birthdate of the individual owner, the birthdate of the oldest partner, the date when the Limited Liability Company was organized, or if a corporation, the date of incorporation.

2. PERSONAL RECORD

The Personal Record (DLSE 301-B) must be completed by the individual owner, or by all of the general partners or LLC members, all corporate officers, if a corporation, and by each person with managing responsibilities in the business. (*For New Applicant or Change of Personnel*)

3. AFFIDAVITS OF CHARACTER

Two Affidavits of Character (DLSE 301-A) must be completed by each individual for whom a Personal Record is required. The persons executing the affidavits should be over 18 years of age and not related to the applicant. (*For New Applicant or Change of Personnel*)

4. FARM LABOR CONTRACTOR BOND

- a. It is mandatory that the **BONDING COMPANY** execute the prescribed Farm Labor Contractor Bond (DLSE 402). The **ORIGINAL** must be submitted to the Labor Commissioner's office.
- b. The signature of the bonding company representative must be notarized.
- c. The legal entity as shown on the bond must be the same as the entity applying for the license.

5. LIVE SCAN FINGERPRINT IMAGES

- a. Live scan fingerprint images are required for individual owner, all partners, all corporate officers and each member of a limited liability company. A current listing of live scan sites offering electronic fingerprint services is available to the public on the Attorney General's website at www.caag.sate.ca.us/app. The live scan form is enclosed or may be downloaded from the DLSE website at <http://www.dir.ca.gov/dlse/Obtainalicense.html>. Forms are available upon request at both Fresno and San Francisco offices of the DLSE. (*For New Applicant or Change of Personnel*)

6. WORKERS' COMPENSATION INSURANCE

- a. Every employer in the State of California having *one or more, full-time or part-time employers* must be insured for workers' compensation.

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- b. The Certificate of Insurance must show the owner's full, individual name, all partners' full names, name of the Limited Liability Company, or the name of the corporation, whichever is applicable; along with the business (dba) name(s), if any; complete, current, and correct business (physical address must be shown; you may include P. O. Box); policy number; and the effective and expiration dates of the policy.
- c. If you live in another state and plan to work in California, your Workers' Compensation Insurance Certificate must show "California operations."

7. AUTOMOBILE LIABILITY INSURANCE

- a. California Labor Code Sections 1695(6) and 1696.4 required a farm labor contractor who, in connection with his or her operations as a farm labor contractor, transport individuals in any vehicle owned or operated by the farm labor contractor, to carry liability insurance on each vehicle owned or operated by the farm labor contractor.
- b. The minimum coverage for vehicles carrying 15 or fewer passengers is \$15,000/\$30,000 for personal injury. For more than 15 passengers, the minimum coverage is \$30,000/\$60,000 for personal injury. The minimum coverage for property damage is \$50,000.

If these contractors charge a transportation fee, they must provide the insurance coverage outlined in item c below.

- c. Day Hauler who provide transportation only are not required to carry workers' compensation insurance and who may or may not charge a transportation fee, must provide the following insurance coverage:

The minimum coverage for vehicles carrying 15 or fewer passengers \$1,500,000 (1.5 million) for personal injury. For more than 15 passengers, the minimum coverage is \$5,000,000 (5 million). The minimum coverage for property damage is \$50,000 (50 thousand).

- d. Send a certificate of automobile liability insurance to the Division of Labor Standards Enforcement, Licensing and Registration, with your application package.

8. FEDERAL CERTIFICATE OF REGISTRATION

Contact the U.S. Department of Labor Wage and Hour Division at (415) 625-7683. Your state Farm Labor Contractor License cannot be issued without first obtaining this certificate of registration.

9. EIGHT (8) HOURS OF RELEVANT EDUCATIONAL CLASSES.

Applicants must enroll and participate in an 8 hour class for each license period approved by the State Labor Commissioner.

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ADDITIONAL INFORMATION - CONTACTS

These instructions and informational materials are intended to provide the basic information necessary to obtain a California Farm Labor Contractor License, and the basic requirements for the operation of a farm labor contractor business. For additional information, you should contact the nearest office of the agencies listed below:

CONTACT STATE OF CALIFORNIA AGENCY(S):	FOR INFORMATION REGARDING:
Department of Industrial Relations Division of Labor Standards Enforcement	California labor laws, including wages, hours, child labor, workers' compensation insurance and licensing of farm labor contractors.
Department of Industrial Relations Division of Occupational Safety & Health	California labor law for worker safety.
Department of Motor Vehicles	California vehicle registration and insurance; driver's license and certificate.
California Highway Patrol	Operation of motor vehicles, including farm labor vehicles.
Franchise Tax Board	State withholding taxes.
Employment Development Department	State disability insurance and unemployment insurance.

CONTACT FEDERAL AGENCY(S):	FOR INFORMATION REGARDING:
U.S. Department of Labor, Wage and Hour Office	Farm Labor Contractor Registration Act, and federal labor laws, including the Fair Labor Standards Act.
Internal Revenue Service	Social security taxes and federal withholding taxes, these taxes must be sent to the IRS.

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ATTACHMENT A – STATEMENT OF PAY RATES

FARM LABOR CONTRACTOR – STATEMENT OF PAY RATES

(California Labor Code Section 1695(7))

Name of Farm Labor Contractor _____ License No. _____

Address _____

Name of Grower _____

Address _____

DESCRIPTION OF JOB

Crop _____ Beginning date of Job _____

Location of Field _____

KIND OF WORK

WAGES

_____ \$ _____ PER _____

_____ \$ _____ PER _____

_____ \$ _____ PER _____

DECLARACION DE TASA DE COMPENSACION

(Código de trabajo de California Sección 1695(7))

Nombre de contratista _____ Numero de licencia _____

Dirección _____

Nombre del Dueño/Ranchero _____

Dirección _____

DESCRIPCION DEL TRABAJO

Producto _____ Fecha del primer día de trabajo _____

Locacion del campo _____

CLASES O TIPOS DE ACTIVIDAD

TASA DE SUELDO POR CADA TIPO

_____ \$ _____ CADA _____

_____ \$ _____ CADA _____

_____ \$ _____ CADA _____

**State of California
Department of Industrial Relations
Division of Labor Standards Enforcement**

INTERNAL REVENUE SERVICE INSTRUCTIONS

ATTENTION

FARM LABOR CONTRACTOR APPLICANT

Included with this application packet you will find the following:

- 1. Internal Revenue Service (IRS) Form 8821 (insert)**
- 2. Instructions for completing IRS Form 8821**

The instructions will explain the requirements and assist you in completing the IRS Form 8821.

If you have any questions concerning the IRS Form 8821, contact the IRS at 1-801-620-2400.

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT**