

# FARMWORKER CAMPS

## (General Provisions)

**658.705 Definitions for ORS 658.705 to 658.850.** As used in ORS 658.705 to 658.850:

- (1) "Applicant" means an individual who proposes to operate a farmworker camp and who is applying for a camp operator indorsement under ORS 658.730.
- (2) "Bureau" means the Bureau of Labor and Industries.
- (3) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.
- (4) "Department" means the Department of Consumer and Business Services.
- (5) "Director" means the Director of the Department of Consumer and Business Services.
- (6) "Farm labor contractor" has the same meaning as that provided in ORS 658.405.
- (7) "Farmworker camp" means any place or area of land where sleeping places, manufactured structures or other housing is provided by a farmer, farm labor contractor, employer or any other person in connection with the recruitment or employment of workers to work in the production and harvesting of farm crops or in the reforestation of lands, as described in ORS 658.405. "Farmworker camp" does not include:
  - (a) A single, isolated dwelling occupied solely by members of the same family, or by five or fewer unrelated individuals; or
  - (b) A hotel or motel which provides housing with the same characteristics on a commercial basis to the general public on the same terms and conditions as housing is provided to such workers.
- (8) "Farmworker camp operator" means any person who operates a farmworker camp.
- (9) "Indorsee" means a farm labor contractor licensed under ORS 658.410 who has obtained a camp indorsement under ORS 658.730. [1989 c.962 §2; 1993 c.18 §143; 1993 c.744 §19]

**658.715 Farmworker camp operator requirements.** (1) A person may not operate a farmworker camp unless the person:

- (a) Is a farm labor contractor licensed under ORS 658.405 to 658.503, and the contractor first obtains an indorsement to do so as provided in ORS 658.730;
- (b) Has a substantial ownership interest in the real property, subject to farm use special assessment under ORS 308A.050 to 308A.128, on which the camp is located or has any form of ownership interest in a business organization that operates the farmworker camp and files an income tax return reporting farm activity in the preceding tax year; or
- (c) Is related by blood or marriage to any person who has a substantial ownership interest in the real property, subject to farm use special assessment under ORS 308A.050 to 308A.128, on which the camp is located or has any form of ownership

interest in the business organization that operates the farmworker camp and files an income tax return reporting farm activity in the preceding tax year.

(2) Nothing in ORS 658.705 to 658.850 requires a permanent employee of a farmworker camp operator, who has no financial interest in the camp other than the wages paid to the employee, to obtain a camp indorsement. [1989 c.962 §3; 1991 c.67 §166; 1995 c.79 §335; 1999 c.314 §57; 2005 c.251 §1]

**658.717 Notice of farmworker camp operations.** Every farmworker camp operator shall:

(1) Post an informational notice, on a form provided by the Department of Consumer and Business Services as set forth in subsection (2) of this section, in an area of the farmworker camp frequented by the occupants.

(2) The notice provided by the department under subsection (1) of this section shall be published in English and in the language or languages used to communicate with the occupants of the farmworker camp and shall contain the following information:

(a) The name and address of the operator.

(b) The address and phone number of the department.

(c) A statement that inquiries regarding health and sanitation matters or the terms and conditions of occupancy may be made to the department.

(d) A statement that the farmworker camp is registered with the department. [1995 c.500 §3]

**658.720 Certain agreements void.** Agreements by workers purporting to modify their rights under ORS 658.705 to 658.850 shall be void as contrary to public policy. [1989 c.962 §11; 1991 c.67 §167]

### **(Farm Labor Contractor Indorsement)**

**658.730 Farm labor contractor indorsement to operate farmworker camp; posting indorsement; rules.** (1) In accordance with the applicable provisions of ORS chapter 183, the Commissioner of the Bureau of Labor and Industries, by rule, shall establish an indorsement system for any farm labor contractor who operates a farmworker camp. Such system shall include, but not be limited to, provisions prescribing:

(a) The form and content of and the times and procedures for submitting an application for indorsement issuance or renewal.

(b) The requirements for and the manner of testing the competency of indorsement applicants.

(2) The indorsement shall be posted conspicuously in an exterior area of the camp that is open to all employees and in a manner easily visible to the occupants of and visitors to the camp. [1989 c.962 §4]

**658.735 Bond required; claim on bond; procedures; rules.** (1) Each applicant shall submit with the application and shall continually maintain thereafter a bond approved by the Commissioner of the Bureau of Labor and Industries. The amount of the bond and the security behind the bond shall be \$15,000 or the amount specified in ORS 658.415, whichever is greater. This bond shall satisfy the bond required by ORS 658.415. If there is an unsatisfied judgment of a court or final decision of an administrative agency against an indorsee applicant, the subject of which is any matter which would be covered by the bond referred to in this subsection, the commissioner shall not issue an indorsement to the applicant until the judgment or decision is satisfied. As a condition of indorsement, the commissioner may require the applicant to submit proof of financial ability required by this subsection in an amount up to three times that ordinarily required of an indorsee applicant. In lieu of the bond required by this subsection, each applicant may file with the commissioner, under the same terms and conditions as when a bond is filed, a deposit in cash or negotiable securities acceptable to the commissioner.

(2) All bonds or deposits filed under this section shall be executed to cover liability for the period for which the indorsement is issued. During the period for which executed, no bond can be canceled or otherwise terminated.

(3) Any person who suffers any loss specified in subsection (9) of this section shall have a right of action in the name of the person against the surety upon the bond or against the deposit with the commissioner:

(a) The right of action is assignable and must be included with the claim, or of a judgment thereon.

(b) The right of action shall not be included in any suit or action against the farmworker camp operator but must be exercised independently after first procuring a judgment or other form of adequate proof of liability established by rule establishing the farmworker camp operator's liability for the claim.

(4) The surety company or the commissioner shall make prompt and periodic payments on the farmworker camp operator's liability up to the extent of the total sum of the bond or deposit. Payments shall be made in the following manner:

(a) Payment shall be made based upon priority of wage claims over any other claims.

(b) Payment shall be made in full of all sums due to each person who presents adequate proof of the claim.

(c) If there are insufficient funds to pay in full the person next entitled to payment in full, such person will be paid in part.

(5) No person shall bring any suit or action against the surety company or the commissioner on the bonding obligation or as trustee for the beneficiaries of the indorsee under any deposit made pursuant to this section unless the person has first exhausted the procedures contained in subsections (3) and (6) of this section and contends that the surety company or the commissioner still has funds which are applicable to the person's judgment or acknowledgment.

(6) All claims against the bond or deposit shall be unenforceable unless request for payment of a judgment or other form of adequate proof of liability or a notice of the claim has been made by certified mail to the surety company or the commissioner within six months from the end of the period for which the bond or deposit was executed and made.

(7) If the commissioner has received no notice as provided in subsection (6) of this section within six months after a farm labor contractor is no longer required to provide and maintain a surety bond or deposit, the commissioner shall terminate and surrender any bond or any deposit under the control of the commissioner to the person who is entitled thereto upon receiving appropriate proof of such entitlement.

(8) Every indorsee required by this section to furnish a surety bond, or make a deposit in lieu thereof, shall keep conspicuously posted in an exterior area of the camp which is open to all employees and in a manner easily visible to occupants of and visitors to the camp, a notice in both English and any other language used by the indorsee to communicate with workers specifying the indorsee's compliance with the requirements of this section and specifying the name and Oregon address of the surety on the bond or a notice that a deposit in lieu of the bond has been made with the commissioner, together with the address of the commissioner.

(9) The bond or deposit referred to in subsection (1) of this section shall be payable to the commissioner and shall be conditioned upon:

(a) All sums legally owing to any person when the indorsee or the indorsee's agents have received such sums;

(b) All damages occasioned to any person by reason of any material misrepresentation, fraud, deceit or other unlawful act or omission by the indorsee, or the indorsee's agents or employees acting within the scope of their employment; and

(c) All sums legally owing to any employee of the indorsee. [1989 c.962 §5; 1993 c.723 §2; 2003 c.576 §535]

**658.740 Revocation, suspension, refusal to issue or renew indorsement.** The Commissioner of the Bureau of Labor and Industries may revoke, suspend, refuse to renew or refuse to issue an indorsement to act as a farmworker camp operator upon the commissioner's own motion or upon complaint by an individual if the:

(1) Indorsee has violated or failed to comply with any provision of ORS 658.705 to 658.850 or any of the rules adopted thereunder;

(2) Conditions under which the indorsement was issued have changed or no longer exist;

(3) Indorsee's character, reliability or competence makes the indorsee unfit to act as a farmworker camp operator; or

(4) Applicant or operator makes any material misrepresentation, false statement or willful concealment in the application for a license. [1989 c.962 §9]

## **(Operation of Farmworker Camps)**

**658.750 Camp operator registration; procedures; rules.** (1) Every farmworker camp operator shall register with the Department of Consumer and Business Services each farmworker camp operated by the operator.

(2) The department shall establish, by rule, procedures for annual registration of farmworker camps. The department may adopt any other rule necessary to implement the provisions of ORS 658.705 to 658.850.

(3) Upon receipt of an initial application for registration, the department shall conduct a preoccupancy consultation with the operator of the farmworker camp if:

(a) The camp was not registered with the department prior to January 1, 1989, and has not been registered with the Commissioner of the Bureau of Labor and Industries or the Director of the Department of Consumer and Business Services in a prior year; or

(b) The camp operator requests a consultation.

(4) If the department has determined that the health and safety conditions existing at the camp are not in conformance with the rules of the department, the department shall not register the camp until the department determines that the camp has been brought into compliance.

(5) Upon registration of a camp, the department shall transmit a copy of the registration to the Bureau of Labor and Industries.

(6) The department shall compile periodically a list of all registered camps and make the list available to the bureau and other interested persons. [1989 c.962 §6; 1991 c.67 §168; 1995 c.500 §1]

**658.755 Farmworker camp operator duties; prohibitions.** (1) Every farmworker camp operator shall:

(a) If a farm labor contractor, comply with the provisions of ORS 658.405 to 658.503.

(b) Comply with ORS chapter 654 and the administrative rules of the Department of Consumer and Business Services adopted pursuant to ORS chapter 654.

(c) Comply with all applicable building codes and health and safety laws.

(d) Comply with ORS 659A.250 to 659A.262.

(e) Pay or distribute promptly, when due, to individuals entitled thereto, all moneys or other things of value entrusted to the farmworker camp operator, or agents or employees of the operator, by any individual for that purpose.

(f) Comply with the terms and provisions of all legal and valid agreements or contracts entered into in the operator's capacity as an operator of a farmworker camp.

(2) No farmworker camp operator shall:

(a) Operate a camp which is not registered with the department as required by ORS 658.750.

- (b) Make any material misrepresentation, false statement or willful concealment in the application for an indorsement or registration.
- (c) Willfully make or cause to be made to any person any false, fraudulent or misleading representation concerning the terms and conditions of occupancy in the farmworker camp.
- (d) Knowingly publish or circulate any false or misleading information concerning the terms, conditions or existence of housing or employment at any place.
- (e) Assist a person who is not entitled to operate a farmworker camp under ORS 658.705 to 658.850 to act in violation of ORS 658.705 to 658.850 or in violation of ORS 658.405 to 658.503 or ORS chapter 654.
- (f) By force, intimidation or threat in any manner whatsoever, induce any occupant of the farmworker camp to give up any part of the compensation the occupant is entitled to by contract or by any state or federal wage payment law.
- (g) By force, intimidation or threat in any manner whatsoever, restrain any person who wishes to leave the camp from doing so. [1989 c.962 §7; 1991 c.67 §169; 1995 c.500 §4]

**658.760 Prohibited actions by operator; burden of proof.** (1) No farmworker camp operator shall discharge, evict or in any other manner discriminate against any person because that person:

- (a) Has made a claim against the operator or employer for compensation for the occupant's own personal services.
  - (b) Has caused to be instituted any proceedings under or related to ORS 658.705 to 658.850.
  - (c) Has testified or is about to testify in any such proceedings.
  - (d) Has discussed or consulted with anyone concerning the occupant's rights under ORS 658.405 to 658.503 or 658.705 to 658.850.
- (2) The aggrieved person shall have the burden of proving that the discrimination was because of the protected activity. [1989 c.962 §8; 1991 c.67 §170]

**658.780 Protest of registration.** Any individual may protest the registration of any proposed farmworker camp and the Department of Consumer and Business Services shall give the individual an opportunity to state the reasons for the objection. [1989 c.962 §14; 1995 c.500 §5]

**658.785 Revocation or suspension of registration.** The Department of Consumer and Business Services may revoke or suspend a registration upon the department's own motion or upon complaint by an aggrieved individual if the:

- (1) Camp is no longer in compliance with the provisions of ORS 658.705 to 658.850 or any rules adopted thereunder;

- (2) Conditions under which the registration was accepted have changed or no longer exist;
- (3) Information supplied by the operator or applicant regarding the farmworker camp included any material misrepresentation, false statement or willful concealment in the registration or in any procedure in the application process; or
- (4) The department finds that the camp fails to comply with the requirements of ORS chapter 654 and the regulations adopted thereunder. [1989 c.962 §15; 1995 c.500 §6]

**658.790 Uninhabitable camp.** (1) If any government agency authorized to enforce building, health or safety standards orders a camp vacated because the camp is not habitable, the camp operator shall provide lodging, without charge, that meets the health and safety standards of the Department of Consumer and Business Services, for seven days or until the camp is made habitable, whichever is less.

- (2) The provisions of subsection (1) of this section do not apply if the department determines that the cause of closure was beyond the control of the camp operator.
- (3) In addition to other remedies provided by law, the department shall enforce the provisions of subsection (1) of this section. [1989 c.962 §17; 1997 c.27 §1]

**658.800 Service of process on unregistered farmworker camp operator.** In any action arising out of the activities of a farmworker camp operator who is operating an unregistered farmworker camp within this state and who is not in the state or is otherwise unavailable to accept service of process in this state, the farmworker camp operator may be served by mailing a certified true copy of the summons and complaint to:

- (1) The Commissioner of the Bureau of Labor and Industries;
- (2) The last-known address, if any, of the farmworker camp operator; and
- (3) Any other address, the use of which the plaintiff knows or, on the basis of reasonable inquiry, has reason to believe is most likely to result in actual notice. [2007 c.91 §2]

**658.805 Denial of right to court action in certain cases; injunction; attorney fees.**

- (1) Except to appeal from an act or determination of the Commissioner of the Bureau of Labor and Industries or the Department of Consumer and Business Services, no person operating a farmworker camp, as defined in ORS 658.705, is entitled to demand, receive or accept any fee directly or indirectly or maintain any suit or action in the courts of this state involving the farmworker camp, without alleging and proving that the person was registered or indorsed to operate a farmworker camp.
- (2) The commissioner, Director of the Department of Consumer and Business Services or any local governmental agency may bring suit in any court of competent jurisdiction to enjoin any person from violating any of the provisions of ORS 658.705 to 658.850, or rules adopted pursuant thereto, and from committing future violations.

(3) Any aggrieved person may bring suit in any court of competent jurisdiction to enjoin any person violating ORS 658.715 (1) or 658.755 (2)(a) from violating any of the provisions of ORS 658.705 to 658.850, or rules adopted pursuant thereto, and from committing future violations.

(4) In actions brought pursuant to this section, the court may award to the prevailing party costs and disbursements and a reasonable attorney fee. In addition, if damages are found, the amount of damages recoverable from a farmworker camp operator who is subject to suit pursuant to subsection (3) of this section who violates ORS 658.705 to 658.850 is actual damages or \$500, whichever is greater. [1989 c.962 §18; 1991 c.67 §171; 1995 c.500 §7]

### **(Miscellaneous)**

**658.810 Fees.** Fees required for farmworker camp indorsements shall be established under ORS 658.413. [1989 c.962 §5a; 1995 c.500 §8; 1999 c.399 §8]

**658.815 Disposition of moneys.** (1) All farmworker camp indorsement fees received by the Commissioner of the Bureau of Labor and Industries under ORS 658.810 shall be credited to the Bureau of Labor and Industries Account. Notwithstanding ORS 651.160 (1) and 658.413 (4), moneys credited to the account under this subsection are continuously appropriated for the enforcement of ORS 658.705 to 658.850.

(2) Moneys collected from civil penalties imposed by the commissioner pursuant to ORS 658.850 for violations of ORS 658.750 shall be credited to the Farmworker Housing Development Account of the Oregon Housing Fund.

(3) Except as provided in subsection (2) of this section, all moneys other than fees described in ORS 658.413 received by the commissioner under ORS 658.705 to 658.850 shall be credited to the General Fund. [1989 c.962 §12; 1991 c.67 §172; 1999 c.399 §9; 2001 c.310 §6]

**658.820 Rules; proceedings.** (1) The Commissioner of the Bureau of Labor and Industries may adopt rules necessary for the administration of ORS 658.705 to 658.850.

(2) All rules adopted under ORS 658.705 to 658.850 shall be issued in compliance with ORS 183.310 to 183.410.

(3) All proceedings relating to the issuance, revocation, suspension, renewal or refusal to renew an indorsement to act as a farmworker camp operator shall be conducted under ORS 183.310 to 183.497. [1989 c.962 §13; 1991 c.67 §173]

**658.825 Determination of violation of other provisions required.** The Commissioner of the Bureau of Labor and Industries shall not revoke, suspend or refuse to renew or reissue an indorsement under ORS 658.740 or any rule adopted thereunder, or assess penalties under ORS 658.850 for violations of ORS chapter 654 or any rule adopted

thereunder unless the Department of Consumer and Business Services has determined that the operator has failed to comply with ORS chapter 654 or any rules adopted thereunder. [1989 c.962 §19; 1995 c.500 §9]

**658.827 Department to report violations.** In pursuing its duties under ORS chapter 654, the Department of Consumer and Business Services shall report to the Bureau of Labor and Industries any violation of this chapter observed by department staff. [1989 c.962 §16]

**658.830 Interagency coordination agreement.** The Department of Consumer and Business Services and the Commissioner of the Bureau of Labor and Industries shall adopt an interagency agreement to coordinate the application of all laws the department and the commissioner are charged with administering with respect to farm labor camps. [1989 c.164 §15]

**658.850 Civil penalties.** (1) In addition to any other penalty provided by law, the Commissioner of the Bureau of Labor and Industries may assess a civil penalty not to exceed \$2,000 for each violation of any provision of ORS 658.705 to 658.850.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(3) The commissioner may suspend a penalty issued under ORS 658.705 to 658.850 if the deficiency is corrected within 15 days of the notice of violation. [1989 c.962 §10; 1991 c.67 §175; 1991 c.734 §62]

658.990 [Repealed by 1953 c.694 §30]

## PENALTIES

**658.991 Criminal penalties.** (1) Violation of ORS 658.005 to 658.245 or 658.250 is punishable, upon conviction, by a fine of not more than \$250 or by imprisonment in the county jail for not more than 60 days, or by both.

(2) Violation of ORS 658.452 is a Class A misdemeanor.

(3) Any person who intentionally defaces, alters or changes a license or permit to act as a farm labor contractor, or who uses the license or permit of another or knowingly permits that person's license or permit to be used by another, or who acts as a farm labor contractor without a valid license or permit under ORS 658.405 to 658.503, is guilty of a Class A misdemeanor.

(4) Any person who willfully swears or affirms falsely under ORS 658.415 (1), (2) or (3) in regard to any matter concerning which an oath or affirmation is required, or who solicits or induces another person to do so, whether or not the matter sworn to or affirmed is material, is guilty of a Class A misdemeanor.

(5) Violation of ORS 658.440 (1)(f), (g) or (h), (2)(c) or (3)(a), (b), (c), (e), (f) or (g) is a Class C misdemeanor.

(6) Any person who violates the provisions of ORS 658.410 (1) or 658.417 (1) is guilty of a Class C felony if:

(a) The person has previously been convicted of violating the provisions of ORS 658.410 (1) or 658.417 (1);

(b) The person's license to act as a farm labor contractor has been suspended, revoked or denied; or

(c) The person is acting in violation of an outstanding order of any court of competent jurisdiction arising out of the enforcement of ORS 658.405 to 658.503. [1953 c.694 §26; subsections (2) and (3) enacted as 1959 c.395 §14; 1961 c.390 §6; 1971 c.743 §406; 1975 c.397 §6; 1979 c.883 §4; 1983 c.654 §10; 1989 c.164 §6; 2003 c.406 §4]

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