

[First Reprint]
SENATE, No. 2602

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

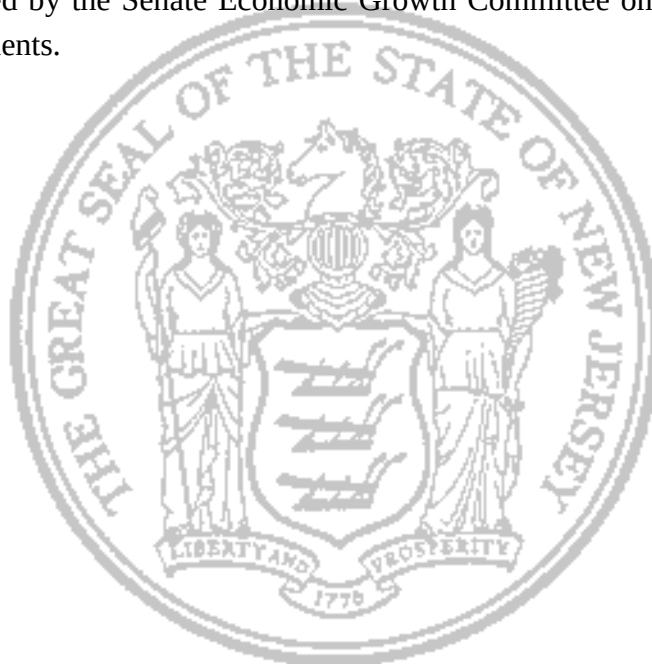
Senators Diegnan and Pou

SYNOPSIS

“Farm Worker Epidemic Health and Safety Act”; concerns public health and certain protections for farm workers.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on July 22, 2020, with amendments.



(Sponsorship Updated As Of: 7/28/2020)

1 **AN ACT** concerning public health and certain protections for farm
2 workers, and supplementing Title 26 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 ¹**[5.] 1.**¹ This act shall be known and may be cited as the
8 “Farm Worker Epidemic Health and Safety Act.”

9
10 ¹**[1.] 2.**¹ (New section) The Legislature hereby finds and
11 declares that:

12 a. The COVID-19 epidemic has made New Jersey more aware
13 of which populations are more vulnerable to the spread of
14 communicable disease, with the Department of Health classifying
15 farm workers, especially migrant farm workers, as being a highly
16 vulnerable population meriting a high priority in testing and other
17 health services during epidemics such as the COVID-19 epidemic.

18 b. Among the many aspects of their work which make farm
19 workers especially vulnerable to epidemics or pandemics of
20 communicable disease are the often close crowding of the workers
21 in worksites and in farm employer-sponsored or farm employer-
22 authorized housing, transportation and dining facilities, heightened
23 vulnerability to respiratory illness caused by exposure to pesticides
24 and fungi, the lack of health insurance coverage and paid sick days
25 for most of the workers, and limited access to water, bathrooms and
26 basic sanitation, making it difficult to implement important
27 preventive measures;

28 c. Because of the rapidity of the spread of communicable
29 disease which may occur under such circumstances, an outbreak
30 among farm workers can potentially shutter entire farm operations,
31 not only endangering the health, livelihoods, and even the lives of
32 the workers, but causing significant immediate disruption of the
33 supply of food and other agricultural products at a time of great
34 need for them, and potentially result in serious long-term damage to
35 the viability of the agricultural and food processing sectors of the
36 State’s economy;

37 d. The potential harm from outbreaks of epidemic
38 communicable diseases to farm employers and farm workers is
39 inextricably tied to the great potential danger to public health from
40 outbreaks of contagious disease among workers who handle food
41 consumed by members of the general public; and

42 e. Therefore, preventing the spread of communicable disease at
43 workplaces in the farm sector is, above all, a public health goal of
44 the highest importance for the State and all of its citizens, meriting
45 a major effort of public health officials, farm employers, and farm

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted July 22, 2020.

1 workers to ensure that all possible effective actions be taken
2 towards that goal, including designating farm workers as being
3 among the groups with the highest priority for testing for
4 communicable disease during declared emergencies.

5
6 **¹[2.] 3.¹** (New section) As used in P.L. , c. (C.)
7 (now pending before the Legislature as this bill):

8 “Commissioner” means the Commissioner of Health.

9 “Department” means the Department of Health.

10 “Farm employer” means any employer who employs one or more
11 farm workers on a farm.

12 “Farm worker” means any employee engaged to labor on a farm
13 in the production, harvesting and processing of agricultural
14 products, and shall include any employee subject to the provisions
15 of subsection d. of section 5 of P.L.1966, c.113 (C.34:11-56a4).

16 “Public health emergency” means an occurrence or imminent
17 threat of an illness or health condition, caused by bioterrorism,
18 epidemic or pandemic disease, or a novel and highly fatal infectious
19 agent or biological toxin, that poses a substantial risk of a
20 significant number of human fatalities or incidents or permanent or
21 long-term disability, and which has been declared a public health
22 emergency by the Governor.

23 “State of emergency” means a natural or human-made disaster or
24 emergency, including an epidemic or other health emergency, for
25 which a state of emergency has been declared by the President of
26 the United States, the Governor, a municipal emergency
27 management coordinator, or other public authority permitted by law
28 to declare a state of emergency. If the state of emergency does not
29 apply to the entire State, an employee shall not be regarded as a
30 covered employee under P.L. , c. (C.) (now pending
31 before the Legislature as this bill) unless the employee is working
32 in the area subject to the state of emergency.

33
34 **¹[3.] 4.¹** (New section) The commissioner shall, during a
35 public health emergency or state of emergency related to epidemic
36 or pandemic disease, collaborate with the Commissioner of Labor
37 and Workforce Development, the Commissioner of Community
38 Affairs, and Commissioner of Environmental Protection, and the
39 Secretary of Agriculture, and any other heads of State departments
40 that the commissioner deems appropriate, to establish a system to
41 ensure that those departments, on a timely basis, share with each
42 other information regarding violations of public health,
43 environmental, or labor laws applicable to worksites at farms,
44 migrant labor camps, and other housing, transportation or dining
45 facilities of farm employers, including the information from local
46 boards of health and other entities authorized to assist department
47 inspection or enforcement efforts. Each commissioner shall
48 maximize coordination of enforcement efforts by taking into

1 consideration all relevant information from the system regarding
2 violations of those laws when conducting inspections of worksites
3 and facilities, making determinations regarding violations of any of
4 the laws, and imposing the fines or other sanctions for the violations
5 provided by law to each commissioner. Each commissioner shall
6 issue to the Governor, the Legislature and the public a report of
7 enforcement activities of the department with respect to applicable
8 laws, including inspections conducted, violations determined, and
9 fines or other sanctions imposed by the department for the
10 violations or by local authorities in cooperation with the
11 department. In the case of the state of emergency declared by the
12 Governor on March 9, the reports shall be issued not later than
13 December 31, 2020. In the case of any subsequent public health
14 emergency or state of emergency, the reports shall be issued not
15 later than 120 days after the end of the emergency.

16

17 **‘[4.] 5.’** (New section) As part of the commissioner’s
18 responsibility to protect the health of the public by regulating the
19 detection, prevention, and control of communicable, infectious and
20 preventable diseases, the commissioner, during a public health
21 emergency or state of emergency related to epidemic or pandemic
22 disease, shall, with respect to farm workers, utilize the powers
23 provided to the commissioner, including the powers provided by
24 sections 15 through 33 of P.L.1947, c.177 (C.26:1A-15 through
25 26:1A-33), chapter 4 of Title 26 of the Revised Statutes, and the
26 “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-
27 1 et seq.), to:

28 a. designate farm workers as being among the groups with the
29 highest priority for testing for communicable disease during the
30 emergency, and conduct, or authorize or require local boards of
31 health, or, to the extent that the commissioner and the local boards
32 are not able to provide sufficient personnel for the purpose,
33 authorize or contract with other entities, to conduct, the testing of
34 every farm worker working on a farm, at their workplace or at farm
35 employer-sponsored or farm employer-authorized housing facilities,
36 immediately following the effective date of P.L. , c. (C.)(now
37 pending before the Legislature as this bill), or, if later, at the time
38 that each farm worker commences employment with a farm
39 employer, and shall have testing repeated as frequently as the
40 commissioner deems appropriate, and, in a timely manner, make the
41 results, for each workplace and facility, of the testing available to
42 the public, except as prohibited by law, and provide the results of
43 the testing regarding individuals to local boards of health, the farm
44 employers **‘[and farm workers at each worksite and facility] as**
45 **permitted under the federal “Health Insurance Portability and**
46 **Accountability Act of 1996,” (Pub.L.104–191), and farm employers**
47 **who shall be required to notify any employee who might have come**
48 **in contact with or been exposed to a person who tests positive for a**

1 pandemic disease covered under the provisions of that act,
2 consistent with the confidentiality requirements of the federal
3 "Americans with Disabilities Act of 1990," Pub.L.101-336
4 (42 U.S.C. s.12101 et seq.), and any other applicable laws¹;

5 b. conduct, or authorize or require local boards of health, or, to
6 the extent that the commissioner and the local boards are not able to
7 provide sufficient personnel for the purpose, authorize or contract
8 with other entities, to conduct, in a timely manner, inspections of
9 each farm worksite and related farm employer-sponsored or farm
10 employer-authorized facility, and employer records, with follow-up
11 inspections where violations are found, to determine whether the
12 farm employers are meeting all standards, guidelines and guidance
13 issued by the commissioner or other authority declaring the public
14 health emergency or state of emergency, or required by law, which
15 shall include that each farm employer:

16 (1) Cooperates fully in permitting access to the worksites,
17 facilities, and records to the commissioner and entities authorized
18 by, or contracted with, the commissioner to conduct the inspections
19 pursuant to this section and implement the educational program
20 established pursuant to subsection c. of this section;

21 (2) Implements good hygiene and infection control practices
22 that comply with standards set by the commissioner, including
23 standards regarding all of the following: regular cleaning and
24 disinfecting of surfaces, equipment, and other elements of the work
25 environment; frequent and thorough hand washing; and the
26 providing of soap, water, places to wash, and alcohol-based
27 disinfectant hand rubs;

28 (3) Does not direct farm employees to work when sick and
29 requires exposed employees to be quarantined for a time period
30 deemed appropriate by public health officials if a farm employee
31 tests positive or shows symptoms of a communicable or infectious
32 disease or the farm employer otherwise has reason to believe that
33 employees have been exposed to a communicable or infectious
34 disease, and, in the case of farm employer-sponsored or farm
35 employer-authorized transportation, housing, or dining facilities,
36 provides, for employees who test positive or show disease
37 symptoms, with facilities separate from other employees, and
38 complies with the provisions of section 6 of P.L.2005, c.222
39 (C.26:13-16) and section 1 of P.L.2020, c.9 (C.34:11D-12)
40 regarding reinstatement to employment;

41 (4) Implements policies to promote practices at farm worksites
42 and in farm employer-sponsored or farm employer-authorized
43 transportation, housing or dining facilities, when feasible and
44 appropriate, to increase the physical distance, at the worksites and
45 in the facilities, between employees and between employees and
46 others; and

47 (5) Provides farm employees with the personal protective
48 equipment deemed appropriate for use in the public health

1 emergency or state of emergency by the department or the National
2 Institute for Occupational Safety and Health; and

3 c. collaborate with the Commissioner of Labor and Workforce
4 Development, the Commissioner of Environmental Protection, the
5 Commissioner of Community Affairs, and the Secretary of
6 Agriculture to develop and implement a comprehensive program of
7 publicity and education to ensure that all farm employers and farm
8 workers are informed about their rights and responsibilities under
9 P.L. , c. (C.) (now pending before the Legislature at this
10 bill) and other public health, environmental, or labor laws
11 applicable to farm employment, including the remedies provided to
12 employees for violations of P.L.2005, c.222 (C.26:13-16). The
13 program shall include on-site training, and posters and other
14 materials providing agency contact information and other
15 information regarding how farm workers may file complaints for
16 retaliation or other violations of that act and the other applicable
17 laws. Posters, forms, notifications, and media materials of the
18 program shall be made available in the languages spoken by
19 significant numbers of farm workers, and any on-site training shall
20 utilize, to the extent practicable, representatives able to speak those
21 languages at sites where the farm workers speak them. The
22 participating departments, to the extent that they are not able to
23 provide sufficient personnel to implement the program, may
24 authorize or contract with other entities to assist in the
25 implementation.

26 As an alternative to or in addition to any other sanctions
27 provided by law, when the commissioner finds that a farm employer
28 has taken any retaliatory action against farm worker for exercising
29 rights provided by the provisions of P.L. , c. (C.) (now
30 pending before the Legislature as this bill), or has willfully violated
31 any other provisions of that act, or any procedures contained
32 therein, the commissioner is authorized to take an action to assess
33 and collect an administrative fine of up to a maximum of \$250 for a
34 first violation and up to a maximum of \$500 for each subsequent
35 violation, specified in a schedule of penalties to be promulgated as a
36 rule or regulation by the commissioner in accordance with the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.). When determining the amount of the penalty imposed
39 because of a violation, the commissioner shall consider factors
40 which include the history of previous violations by the employer,
41 the seriousness of the violation, the good faith of the employer, and
42 the size of the employer's business. Each week in which the
43 violation occurs, and each worker subjected to the violation, shall
44 constitute a separate offense. If an administrative penalty order has
45 not been satisfied, the penalty may be recovered with costs by the
46 commissioner in a civil action brought in a summary proceeding
47 pursuant to the "Penalty Enforcement Law of 1999,"
48 P.L.1999, c.274 (C.2A:58-10 et seq.). The commissioner may

1 undertake an action pursuant to this section in response to a
2 complaint by one or more farm workers or an entity representing
3 them. Any sum collected as a fine or penalty pursuant to this
4 section shall be applied toward the department's costs of
5 enforcement and administration of the provisions of
6 P.L. , c. (C.) (now pending before the Legislature as
7 this bill).

8

9 6. This act shall take effect immediately.