**CA DLSE Licensing Challenges for FLCs- Talking Points**

What Is a Farm Labor Contractor?

Agricultural crop producers hire Farm Labor Contractors (FLC) to help meet seasonal staffing needs. The intense surge of temporary positions during peak seasons are difficult for producers to satisfy, particularly for labor intensive crops like fruits, nuts, vegetables, and wine grapes. FLCs provide workers with steadier employment opportunities as they move between farms following seasonal needs.

FLCs recruit and manage workers to ensure work is completed and maintain compliance with safety regulations and labor laws. Most FLCs are small businesses (less than one million dollars in annual payroll), many are family owned, and are primarily Hispanic.

FLCs are required to register and be licensed through the California Department of Industrial Relations (DIR) Division of Labor Standards and Enforcement (DLSE). FLCs operating without a valid license can be cited by the Labor Commissioner (up to $10,000 initial citation) and found guilty of a misdemeanor punishable by a fine of $1,000 and/or imprisonment for six months.

The pandemic exacerbated issues with processing of FLC licenses. However, the primary concerns existed before the pandemic and are expected to continue into the future unless action is taken to correct the root issues.

The Problem

DLSE is disorganized, unresponsive, and ineffective in the following areas:

1. The Licensing Process

* DLSE frequently does not respond to inquiries/requests for assistance made via email, phone call, fax, or physical mail.
* The online database for applications frequently malfunctions and DLSE staff do not adequately review provided documentation, leading to improper defects being issued which further delays processing.
* County Agricultural Commissioners and agricultural producers are often unable to verify FLC licenses as required by law.

1. The Exam Process *(The exam must be passed every two years.)*

* The DLSE exam was inaccurate leading to several FLCs being incorrectly denied a license and prohibited from reapplying until 2023.
* DLSE refused to review exam results despite requests and concerns expressed at the unprecedented failure rates of over 70%.
* DLSE only submitted to a review of the exam upon threat of legal action, at which time several discrepancies were found e.g. incorrect answers marked, question with no correct answer.
* DLSE began an audit of the exam, informing affected FLCs they had in fact passed the exam and could receive their license. Some FLCs went months without a license before this was corrected.

1. Not Compliant with California Labor Code

* DLSE is persistently unable to process licenses in an adequate time frame and comply with CLC Sec. 1682.7 “The Labor Commissioner shall ensure that the office maintained in Fresno has suitable facilities and sufficient personnel for the examination and licensing of farm labor contractors.”
* FLC examination (required every two years) was put on hold March 2020. Since May 2022 testing capacity has increased through a third party online proctoring company but is still excessively backlogged.

**The Impact**

1. The mismanagement of the licensing process is forcing FLCs out of compliance and threatening their livelihoods, fines, and imprisonment.

* Farmworkers are laid off and must seek new employment.
* Agricultural producers lose their workforce and risk crop damage/loss.
* Agricultural producers that must abruptly readjust to unforeseen workforce burdens may not be experienced or equipped to provide proper training, sanitation, safety measures, and professional field supervision for farmworkers.
* FLCs whose licenses are reinstated cannot recuperate loses and may still lose relationships with clients and potential for future business.

1. DLSE is wasting valuable state resources, taxpayer money, and excessive time and effort from businesses.

**Action Needed**

Contact the Department of Industrial Relations to:

* Urge an assessment of the procedures to address the deficiencies at DLSE.
* Implement enhanced oversight and accountability of DLSE procedures and management of FLC licensing.
* Support increased funding for staffing at DLSE in order to respond appropriately to licensing requirements. Consider fast-tracking recruiting and hiring process.

For more information on the issues FLCs are facing due to CA DLSE mismanagement please contact:

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