§ 212-a. Migrant registration law. 1. Definitions. As used in this section:

a. "Farm labor contractor" includes:

(1) Any person who, for a fee, recruits, transports, supplies or hires farm or food processing workers to work for, or under the direction, supervision, or control of, a third person; or

(2) Any person who recruits, transports, supplies, or hires farm or food processing workers and who, for a fee, directs, supervises, or controls all or any part of the work of such workers.

The term "farm labor contractor" shall not include an employment agency licensed in accordance with the provisions of article eleven of the general business law. The term "farm labor contractor" shall not include a person who is a grower or processor as defined herein who recruits or hires workers for work on his farm or in his plant.

b. "Fee" includes any money or other valuable consideration paid or promised to be paid to a farm labor contractor for the performance of any of the services enumerated in paragraph a of this subdivision.

c. "Grower or processor" means any person who is the owner or lessee of a farm or food processing plant.

d. "Person" includes any individual, firm, partnership, cooperative, association, or corporation.

2. Farm labor contractor.

a. No person shall act as a farm labor contractor unless he holds a valid certificate of registration issued by the commissioner.

b. The application for such certificate of registration shall be made on a form prescribed by the commissioner, shall contain information on wages, working conditions, housing and on such other matters as the commissioner may prescribe. It shall be countersigned by each grower or processor who utilizes the services of such farm labor contractor, as

provided in subdivision three of this section. Copies of the application, or summaries thereof containing the above information, shall be made available by the commissioner to the registrant, and the registrant shall give a copy to each worker, preferably at the time of recruitment, but in no event later than the time of arrival in this state if the worker comes from outside of the state, or the time of commencement of work if the worker does not come from outside of the state. A copy shall also be kept posted at all times in a conspicuous place in any camp in which such workers are housed. Each applicant shall submit his or her fingerprints with his or her application for a certificate of registration. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

c. Every farm labor contractor shall keep payroll records for each worker of wage rates, wages earned, number of hours worked, or if the worker is paid on a piecework basis the number of units produced, except that in the case of employees in the twelve to fourteen year-old age bracket, records of hours worked shall be kept, regardless of whether employment be on hourly or piecework basis, all withholdings from wages, and the net wages paid. Such payroll record shall be kept on a form and in a manner prescribed by the commissioner and shall be available for inspection by the commissioner or his duly authorized representative at any reasonable time.

d. Every farm labor contractor shall give to each worker with every payment of wages a written statement showing the employer's name and address, the employee's name, the worker's wage rate, wages earned, number of hours worked, or if the worker is paid on a piecework basis the number of units produced, except that in the case of employees in the twelve to fourteen year-old age bracket, the number of hours worked shall be shown, regardless of whether employment be on hourly or piecework basis, all withholdings and other deductions fully itemized and explained from wages, and the net wages paid.

e. A farm labor contractor shall keep the certificate of registration in his immediate personal possession and shall display it upon the request of the commissioner or his duly authorized representative.

3. Grower or processor who utilizes the services of a farm labor contractor.

a. No grower or processor shall utilize the services of a farm labor contractor unless such grower or processor has a certificate issued by the commissioner therefor, and the farm labor contractor is registered in accordance with the provisions of this section. The commissioner shall issue to such grower or processor a separate certificate of registration.

b. Every grower or processor who utilizes the services of a farm labor contractor shall countersign an application of the farm labor contractor for registration under subdivision two of this section, and shall state that the information contained in such application is true to the best of his knowledge and belief.

c. If a farm labor contractor fails to comply with the provisions of subdivision two of this section relating to the giving of copies of information to workers, the posting of a copy of such information, the keeping of payroll records, and the giving of wage statements to workers, the commissioner shall notify the grower or processor who utilizes the services of such farm labor contractor and responsibility for compliance shall thereafter be imposed on such grower or processor with the same force and effect as though the grower or processor were primarily responsible for compliance.

d. Notwithstanding any other provision of this section, a grower or processor may utilize the services of a registered farm labor contractor for not more than five days, provided, he shall within twenty-four hours after the beginning of such utilization, countersign the application of such farm labor contractor as provided in paragraph b of this subdivision, and immediately thereafter transmit the said application to the commissioner.

4. Grower or processor who does not utilize the services of a farm labor contractor.

a. Every grower or processor who, without utilizing the services of a farm labor contractor, brings into the state or is responsible for bringing into the state five or more out-of-state migrant farm or food processing workers shall, in each instance, prior to the importation of such workers, obtain a certificate of registration from the commissioner.

b. The application for such registration shall be made on a form prescribed by the commissioner, shall contain information on wages, working conditions, housing, and on such other matters as the commissioner may prescribe. Copies of the application, or summaries thereof containing the above information, shall be made available by the commissioner to the registrant, and the registrant shall give a copy to each worker, preferably at the time of recruitment, but in no event later than the time of arrival in this state. A copy shall also be kept posted at all times in a conspicuous place in any camp in which such workers are housed.

c. Every such grower or processor shall keep payroll records for each worker of wage rates, wages earned, number of hours worked, or if the worker is paid on a piecework basis the number of units produced, except that in the case of employees in the twelve to fourteen year-old age bracket, records of hours worked shall be kept, regardless of whether employment be on hourly or piecework basis, all withholdings from wages, and the net wages paid. Such payroll records shall be kept on a form and in a manner prescribed by the commissioner and shall be available for inspection by the commissioner or his duly authorized representative at any reasonable time.

d. Every such grower or processor shall give to each worker with every payment of wages, a written statement showing the worker's wage rate, wages earned, number of hours worked, or if the worker is paid on a piecework basis the number of units produced, except that in the case of

employees in the twelve to fourteen year-old age bracket, the number of hours worked shall be shown, regardless of whether employment be on hourly or piecework basis, all withholdings from wages, and the net wages paid.

5. The commissioner may refuse to grant, or suspend, or revoke a certificate of a farm labor contractor or of a grower or processor when he finds that such person:

a. Has failed to comply with any of the provisions of this chapter, or has been convicted of any crime or offense, except traffic infractions; or

b. Has made any misrepresentations or false statements in his application for a registration certificate; or

c. Has given false or misleading information concerning terms, conditions, or existence of employment to workers who are recruited or hired.

6. The commissioner shall not refuse, suspend, or revoke a certificate of a farm labor contractor or of a grower or processor unless, upon due notice, an opportunity to be heard has been given to such person; provided, however, that pending the determination of such hearing, the commissioner may temporarily suspend a certificate if, in his opinion, its suspension for such period is necessary to effectuate the purposes of this section.

7. A certificate issued under this section shall terminate on the thirty-first day of March following issuance, unless sooner revoked by the commissioner, and it may not be transferred or assigned to any other person.

8. The commissioner shall submit to each person certified under this section pertinent information concerning workmen's compensation insurance and farmers' liability insurance with medical payments, including the rates for such protection, at the time of certification.

9. The commissioner may promulgate rules and regulations necessary to carry out the provisions of this section.