



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5704

by Rep. Cynthia Soto

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Migrant Labor Camp Law. Provides that a license to operate a migrant labor camp shall expire on December 31 of the year in which the license was issued regardless of the date on which the application for a license was submitted. Requires the Department of Public Health to inspect the migrant labor camp site and the facilities described in an application for a license to operate a migrant labor camp at the Department's earliest opportunity. Provides that an application for a license or for a renewal of a license shall be filed at least 5 business days (instead of 60 days) prior to the date on which the migrant labor camp is to start operation. Provides that the camp shall be ready for inspection at least 3 business days (instead of 30 days) prior to the date on which the migrant labor camp is to start operation. Provides for penalties and fines based on the severity of a violation of the Act or the rules adopted under the Act. Provides procedures concerning the imposition of penalties. Effective immediately.

LRB098 20233 RPS 55588 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Migrant Labor Camp Law is amended
5 by changing Sections 2, 3, 4, 6, 7, 8, 9, 9.1, 10, 11, 12, 14,
6 and 16 and by adding Sections 20 and 25 as follows:

7 (210 ILCS 110/2) (from Ch. 111 1/2, par. 185.2)

8 Sec. 2. When used in this Act:

9 "Migrant Labor Camp" means one or more buildings,
10 structures, tents, trailers or vehicles or any combination
11 thereof together with the land appertaining thereto
12 established, operated or maintained as living quarters for ten
13 or more migrant workers or 4 or more families containing
14 migrant workers who are engaged in agricultural activities.

15 "Migrant Worker" means any person who moves seasonally from
16 one place to another, within or without the State, for the
17 purpose of employment in agricultural activities.

18 "Agricultural Activities" means and includes planting,
19 raising or harvesting of any agricultural or horticultural
20 commodities, including the related handling, packing and
21 processing upon the farm where produced or at the point of
22 first processing.

23 "Department" means the Department of Public Health of the

1 State of Illinois.

2 "Director" means the Director of the Department of Public
3 Health.

4 "Person" means any individual, group of individuals,
5 association, trust, partnership, limited liability company,
6 corporation, or person doing business under an assumed name, or
7 any other entity ~~person, partnership, firm, association or~~
8 ~~corporation.~~

9 (Source: Laws 1965, p. 2356.)

10 (210 ILCS 110/3) (from Ch. 111 1/2, par. 185.3)

11 Sec. 3. No person shall operate or maintain a Migrant Labor
12 Camp within the State of Illinois without first having obtained
13 a license therefor from the Department. Licenses shall be
14 issued upon application, ~~upon a calendar year basis and renewed~~
15 ~~from year to year~~ upon compliance with the requirements of this
16 Act, and upon payment of the ~~annual~~ license fee.
17 Notwithstanding the date that an application for a license was
18 submitted, a license issued pursuant to this Act shall expire
19 on December 31 of the year in which the license was issued.
20 Establishments that provide housing for migrant workers for
21 fewer than 10 migrant workers or fewer than 4 families
22 containing migrant workers shall meet the minimum standards
23 established by the Department but shall not be required to be
24 licensed.

25 (Source: P.A. 86-595.)

1 (210 ILCS 110/4) (from Ch. 111 1/2, par. 185.4)

2 Sec. 4. Applications for a license to operate or maintain a
3 Migrant Labor Camp or for a renewal thereof shall be made upon
4 paper or electronic forms to be furnished by the Department.

5 Such application shall include:

6 (a) The name and address of the applicant or applicants. If
7 the applicant is a partnership, the names and addresses of all
8 the partners shall also be given. If the applicant is a
9 corporation, the names and addresses of the principal officers
10 of the corporation shall be given.

11 (b) The approximate legal description and the address of
12 the tract of land upon which the applicant proposes to operate
13 and maintain such Migrant Labor Camp.

14 (c) A general plan or sketch of the camp site showing the
15 location of the buildings or facilities together with a
16 description of the buildings, of the water supply, of the
17 toilet, bathing and laundry facilities, and of the fire
18 protection equipment.

19 (d) The date upon which the occupancy and use of the
20 Migrant Labor Camp will commence.

21 The application for the original license or for any renewal
22 thereof shall be accompanied by a fee of \$100.

23 Application for the original license or for a renewal of
24 the license shall be filed with the Department at least 5
25 business ~~60~~ days prior to the date on which the occupancy and

1 use of such camp is to commence. ~~Application for a renewal~~
2 ~~license shall be filed with the Department at least 60 days~~
3 ~~prior to the expiration date of the current license.~~ The camp
4 shall be ready for inspection at least 3 business ~~30~~ days prior
5 to the date upon which the occupancy and use of such camp is to
6 commence.

7 (Source: P.A. 97-135, eff. 7-14-11.)

8 (210 ILCS 110/6) (from Ch. 111 1/2, par. 185.6)

9 Sec. 6. Upon receipt of an application for a license, the
10 Department shall inspect, at its earliest opportunity, the camp
11 site and the facilities described in the application. If the
12 Department finds that the Migrant Labor Camp described in the
13 application meets and complies with the provisions of this Act
14 and the rules ~~and regulations~~ of the Department in relation
15 thereto, the Director shall issue a license to the applicant
16 for the operation of the camp.

17 If the application is denied, the Department shall notify
18 the applicant in writing of such denial setting forth the
19 reasons therefor. If the conditions constituting the basis for
20 such denial are remediable, the applicant may correct such
21 conditions and notify the Department in writing indicating
22 therein the manner in which such conditions have been remedied.
23 Notifications of corrections shall be processed in the same
24 manner as the original application.

25 (Source: P.A. 97-135, eff. 7-14-11.)

1 (210 ILCS 110/7) (from Ch. 111 1/2, par. 185.7)

2 Sec. 7. If the Department finds that the facilities of any
3 Migrant Labor Camp for which a license is sought are not in
4 compliance with the provisions of this Act and the rules ~~and~~
5 ~~regulations~~ of the Department relating thereto, but that such
6 camp is habitable without undue prejudice to the migrant
7 workers and their families, the Department may issue a
8 conditional license setting forth the conditions on which the
9 license is issued, the manner in which the camp fails to comply
10 with the Act and such rules ~~and regulations~~, and shall set
11 forth the time, not to exceed three years, within which the
12 applicant must make any changes or corrections necessary in
13 order for such camp to fully comply with this Act and the rules
14 ~~and regulations~~ of the Department relating thereto. No more
15 than three consecutive annual conditional licenses may be
16 issued with respect to any one camp.

17 (Source: Laws 1961, p. 3904.)

18 (210 ILCS 110/8) (from Ch. 111 1/2, par. 185.8)

19 Sec. 8. Plans for the construction of a Migrant Labor Camp
20 or for any major alteration or major expansion in any such camp
21 or the facilities thereof shall be submitted to the Department
22 for approval prior to the construction or the making of such
23 major alteration or major expansion. The Department shall by
24 rule define what constitutes a major alteration and a major

1 expansion. The plans shall contain the information necessary to
2 show compliance with the Act. Such application for approval
3 shall be made upon paper or electronic forms furnished by the
4 Department and shall be accompanied by the plans and
5 specifications of the work proposed to be done. The Department
6 ~~Within twenty days after the filing of such application, the~~
7 ~~Director~~ shall notify the applicant whether such plans and
8 specifications comply with the requirements of this Act and the
9 rules ~~and regulations~~ of the Department relating thereto. No
10 fee shall be required for such prior approval of plans and
11 specifications.

12 (Source: P.A. 86-595.)

13 (210 ILCS 110/9) (from Ch. 111 1/2, par. 185.9)

14 Sec. 9. Representatives of the Department duly authorized
15 by the Director shall have the right to enter upon the premises
16 of any Migrant Labor Camp at all reasonable hours for the
17 purpose of inspecting such camp and the facilities thereof, and
18 determining whether or not such camp is maintained and operated
19 in accordance with the provisions of this Act and the rules ~~and~~
20 ~~regulations~~ of the Department relating thereto.

21 (Source: Laws 1965, p. 2356.)

22 (210 ILCS 110/9.1) (from Ch. 111 1/2, par. 185.9-1)

23 Sec. 9.1.

24 Representatives of the Department, duly authorized by the

1 Director shall inspect each migrant labor camp at least one
2 time before the laborers arrive and at least one time while the
3 camp is being used, for the purpose of determining whether or
4 not the camp is being maintained and operated in accordance
5 with this Act and the rules ~~and regulations~~ of the Department
6 relating thereto. The Director of the Department of Public
7 Health may grant temporary variances for existing housing that
8 does not meet federal standards and allow not more than 2 years
9 in order to comply with such standards.

10 (Source: P.A. 77-1526.)

11 (210 ILCS 110/10) (from Ch. 111 1/2, par. 185.10)

12 Sec. 10. The Department may make and adopt such reasonable
13 rules ~~and regulations~~ relating to Migrant Labor Camps as may be
14 necessary to carry out and administer the provisions of this
15 Act and to assure the safety of the migrant workers and their
16 families. In preparation of such rules ~~and regulations~~, the
17 Department may consult with and request technical assistance
18 from other State Agencies, and may consult and advise with
19 other technically qualified persons, and with Migrant Labor
20 Camp operators and others.

21 The promulgation of any rules shall conform to the
22 requirements of "The Illinois Administrative Procedure Act",
23 as now or hereafter amended. The Department shall prepare
24 copies of all rules ~~and regulations~~ and shall make such copies
25 available, in electronic form, to the public and shall not be

1 required to furnish copies in any other format to the public.

2 (Source: P.A. 86-595.)

3 (210 ILCS 110/11) (from Ch. 111 1/2, par. 185.11)

4 Sec. 11. The Department may establish administrative
5 penalties and sanctions by rule for violations of this Act or
6 the rules adopted under this Act. Each day a violation of this
7 Act or the rules adopted under this Act exists shall constitute
8 a separate violation. The Department shall provide written
9 notification of a violation. ~~In case the holder of any license~~
10 ~~under the provisions of this Act fails to maintain and operate~~
11 ~~a Migrant Labor Camp in accordance with the provisions of this~~
12 ~~Act and the rules and regulations of the Department relating~~
13 ~~thereto, the Department may revoke or suspend the license for~~
14 ~~the operation and maintenance of such camp. The Department~~
15 ~~shall first serve upon the licensee a notice specifying the~~
16 ~~manner in which the licensee has failed to comply with~~
17 ~~provisions of this Act or such rules and regulations of the~~
18 ~~Department and shall fix a time not less than ten days, within~~
19 ~~which the objectionable condition or conditions must be removed~~
20 ~~or corrected. If the licensee fails to remove or correct such~~
21 ~~objectionable condition or conditions within the time fixed by~~
22 ~~the Department, the Department may revoke or suspend such~~
23 ~~license. However, if the objectionable condition or conditions~~
24 ~~are such as to endanger the health or well-being of the~~
25 ~~inhabitants of such camp, the Department may immediately~~

1 ~~suspend such license.~~

2 ~~The Department shall assess administrative fines against a~~
3 ~~person who provides housing for migrant workers for violations~~
4 ~~of this Act or the rules promulgated under this Act. The fines~~
5 ~~shall be established by the Department by rule. The Department~~
6 ~~shall provide written notification of violations and allow a~~
7 ~~minimum of 10 days for correction before imposing~~
8 ~~administrative fines.~~

9 (Source: P.A. 88-535.)

10 (210 ILCS 110/12) (from Ch. 111 1/2, par. 185.12)

11 Sec. 12. The Director, after notice and opportunity for a
12 hearing, may deny, suspend, or revoke a license and impose a
13 penalty in any case in which the Director finds that the
14 applicant, license holder, or any other person has failed to
15 comply with the provisions of this Act or the rules adopted
16 under this Act. A license shall be revoked only when there has
17 been a substantial failure by the licensee to comply with this
18 Act or the rules adopted under this Act. For purposes of this
19 Section, a substantial failure to comply with this Act or the
20 rules adopted under this Act includes, but is not limited to,
21 the failure to pay any administrative penalties previously
22 assessed by the Department against the licensee.

23 Notice shall be provided by certified mail or by personal
24 service. The notice shall set forth the particular reasons for
25 the proposed action and fix a date, not less than 14 days from

1 the date of the mailing or personal service, by which the
2 applicant or license holder must request, in writing, a
3 hearing. Failure to serve upon the Department a request for a
4 hearing, in writing, by the date provided in the notice shall
5 constitute a waiver of that person's right to a hearing.

6 The hearing shall be conducted by the Director or by an
7 individual designated in writing by the Director as a Hearing
8 Officer. The Director or Hearing Officer shall give written
9 notice of the time and place of the hearing, by certified mail
10 or personal service, to the applicant, license holder, or other
11 person at least 10 days prior to the hearing. On the basis of
12 the hearing or upon default of the applicant, license holder,
13 or other person, the Director or Hearing Officer shall make a
14 determination, in writing, that shall set forth his or her
15 findings and conclusions. A copy of the determination shall be
16 sent by certified mail or served personally upon the applicant,
17 license holder, or other person. The decision of the Director
18 or Hearing Officer shall be final on issues of fact and final
19 in all respects unless judicial review is sought as provided in
20 this Act.

21 The procedure governing hearings authorized by this
22 Section shall be adopted by the Department by rule. A full and
23 complete record shall be kept of all proceedings, including the
24 notice of hearing, the complaint, all documents in the nature
25 of pleadings, all written motions filed in the proceedings, and
26 the report and orders of the Director or Hearing Officer.

1 The Department at its expense shall provide a court
2 reporter to take testimony. Technical error or the failure to
3 observe the technical rules of evidence in the proceedings
4 before the Director or Hearing Officer shall not be grounds for
5 the reversal of any administrative decision unless it appears
6 to the court that the error or failure materially affects the
7 rights of any party and results in substantial injustice to the
8 party.

9 The Department may cause the depositions of witnesses
10 within the State to be taken in the manner prescribed by law
11 for depositions in civil actions in courts of this State and
12 may compel the attendance of witnesses and the production of
13 books, papers, records, or memoranda.

14 The Department shall not be required to certify any record
15 to the court, file any answer in court, or otherwise appear in
16 any court in a judicial review proceeding, unless a receipt
17 from the Department acknowledging payment of the costs of
18 furnishing and certifying the record is filed in the court with
19 the complaint. The cost of furnishing and certifying the record
20 shall be paid by the party requesting a copy of the record.
21 Failure on the part of the person requesting a copy of the
22 record to pay the cost of furnishing and certifying the record
23 shall be grounds for dismissal of the action.

24 ~~Any person whose application for a license is denied or whose~~
25 ~~license is suspended or revoked shall have the right to a~~
26 ~~hearing before the Department. Request for such hearing shall~~

1 ~~be made in writing. The hearing shall be conducted by the~~
2 ~~Director or a duly qualified employee of the Department,~~
3 ~~designated in writing by the Director as a Hearing Officer, to~~
4 ~~conduct the hearing. The hearing shall be conducted at the~~
5 ~~office of the Department or at such place convenient for the~~
6 ~~applicant or licensee as may be designated by the Department.~~
7 ~~The Director or Hearing Officer may compel, by subpoena or~~
8 ~~subpoena duces tecum, the attendance and testimony of witnesses~~
9 ~~and the production of books and papers, and may administer~~
10 ~~oaths to witnesses. All testimony at any hearing shall be under~~
11 ~~oath. The Director or Hearing Officer shall cause a record of~~
12 ~~the proceedings at the hearing to be kept and shall provide any~~
13 ~~party to the hearing a transcript of the evidence presented~~
14 ~~upon payment of the cost thereof. The hearing may be continued~~
15 ~~from time to time at the discretion of the Director or the~~
16 ~~Hearing Officer. The applicant or licensee shall have the right~~
17 ~~to appear in person, to be represented by counsel, to offer~~
18 ~~evidence, to cross examine the witnesses, and to present all~~
19 ~~relevant matter in support of his application for license or in~~
20 ~~opposition to revocation or suspension of any license.~~
21 ~~Depositions may be taken and used in the same manner as in~~
22 ~~civil cases. The Director or Hearing Officer shall render a~~
23 ~~decision within 30 days after the termination of the hearing,~~
24 ~~and a copy of the decision shall be sent by registered mail to~~
25 ~~the applicant or licensee.~~

26 ~~Technical errors in the proceeding or failure to observe~~

1 ~~the technical rules of evidence shall not constitute grounds~~
2 ~~for reversal of any decision unless it shall appear to the~~
3 ~~court that such error or failure materially affects the rights~~
4 ~~of any party and results in substantial injustice to any such~~
5 ~~party.~~

6 (Source: Laws 1961, p. 3904.)

7 (210 ILCS 110/14) (from Ch. 111 1/2, par. 185.14)

8 Sec. 14. Any person who operates or maintains a Migrant
9 Labor Camp without securing a license under this Act commits a
10 Type B violation under Section 25 of this Act. ~~or who operates~~
11 ~~or maintains any Migrant Labor Camp or living quarters subject~~
12 ~~to regulation under this Act in violation of the provisions of~~
13 ~~this Act or any rules or regulations of the Department relating~~
14 ~~thereto, shall be guilty of a Class A misdemeanor.~~ Each day's
15 violation constitutes a separate offense. The Attorney General
16 or the ~~The~~ State's Attorney of the county in which the
17 violation occurs shall bring such action in the name of the
18 people of the State of Illinois, or may in addition to other
19 remedies provided in this Act bring an action for an injunction
20 to restrain such violations or to enjoin the operation of any
21 such establishment. Notwithstanding any other provision of
22 this Act, fines imposed by the court pursuant to the State's
23 Attorney's action shall be deposited within the general fund of
24 the county in which the action was brought.

25 (Source: P.A. 86-595.)

1 (210 ILCS 110/16) (from Ch. 111 1/2, par. 185.16)

2 Sec. 16. Any worker aggrieved by a violation of this Act or
3 rules ~~regulations~~ promulgated thereunder may file suit in the
4 Circuit Court having jurisdiction over the location of the
5 labor camp. If the Court finds that the labor camp owner,
6 operator, or licensee has willfully violated any provision of
7 this Act or any rule ~~regulation~~ promulgated thereunder, the
8 Court may in its discretion issue a restraining order or
9 preliminary injunction, as well as, a permanent injunction,
10 upon such terms and conditions as will do justice and enforce
11 the purposes set forth above.

12 (Source: P.A. 83-677.)

13 (210 ILCS 110/20 new)

14 Sec. 20. The Department may charge \$0.25 per each 8.5" x
15 11" page, whether paper or electronic, for copies of records
16 held by the Department pursuant to this Act. For documents
17 larger than 8.5" x 11", actual copying costs plus \$0.25 per
18 page shall apply.

19 (210 ILCS 110/25 new)

20 Sec. 25. (a) If the Department finds a violation of this
21 Act or rules adopted under this Act at a migrant labor camp,
22 the Department shall issue a written report or notice of the
23 violation. In accordance with subsections (b) and (c) of this

1 Section, each violation shall be categorized as either Type A
2 or Type B.

3 (b) Type A violation. Type A violations shall be
4 established by rule. Penalties shall be assessed for Type A
5 violations at a rate of \$25 per day per violation with each day
6 constituting a separate violation. The situation, condition,
7 or practice constituting a Type A violation shall be abated or
8 eliminated immediately, unless a fixed period of time as
9 determined by the Department, that shall not exceed 3 days, and
10 specified in the notice of violation or inspection report is
11 required for correction.

12 (c) Type B violation. Type B violations include those
13 violations that may lead to serious injury or death of
14 employees or the general public. Upon finding a Type B
15 violation at a migrant labor camp, the Department shall
16 immediately take actions as necessary to protect the public
17 health, including ordering the immediate closure of the
18 facility, ordering the abatement of conditions deemed
19 dangerous by the Department, or ordering the cessation of any
20 practice deemed dangerous or improper by the Department. Type B
21 violations shall be established by rule. Administrative
22 penalties shall be assessed by the Department for Type B
23 violations at a rate of \$100 per violation, with each day
24 constituting a separate violation. Any person who commits a
25 Type B violation shall be guilty of a Class A misdemeanor for
26 which the circuit court may impose a fine of \$250 per

1 violation, with each day constituting a separate violation.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.

1

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2

Statutes amended in order of appearance

3

210 ILCS 110/2 from Ch. 111 1/2, par. 185.2

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210 ILCS 110/3 from Ch. 111 1/2, par. 185.3

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210 ILCS 110/4 from Ch. 111 1/2, par. 185.4

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210 ILCS 110/6 from Ch. 111 1/2, par. 185.6

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210 ILCS 110/7 from Ch. 111 1/2, par. 185.7

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210 ILCS 110/8 from Ch. 111 1/2, par. 185.8

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210 ILCS 110/9 from Ch. 111 1/2, par. 185.9

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210 ILCS 110/9.1 from Ch. 111 1/2, par. 185.9-1

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210 ILCS 110/10 from Ch. 111 1/2, par. 185.10

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210 ILCS 110/11 from Ch. 111 1/2, par. 185.11

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210 ILCS 110/12 from Ch. 111 1/2, par. 185.12

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210 ILCS 110/14 from Ch. 111 1/2, par. 185.14

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210 ILCS 110/16 from Ch. 111 1/2, par. 185.16

16

210 ILCS 110/20 new

17

210 ILCS 110/25 new