

[First Reprint]

**ASSEMBLY, No. 4404**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED JULY 16, 2020

**Sponsored by:**

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**District 20 (Union)**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

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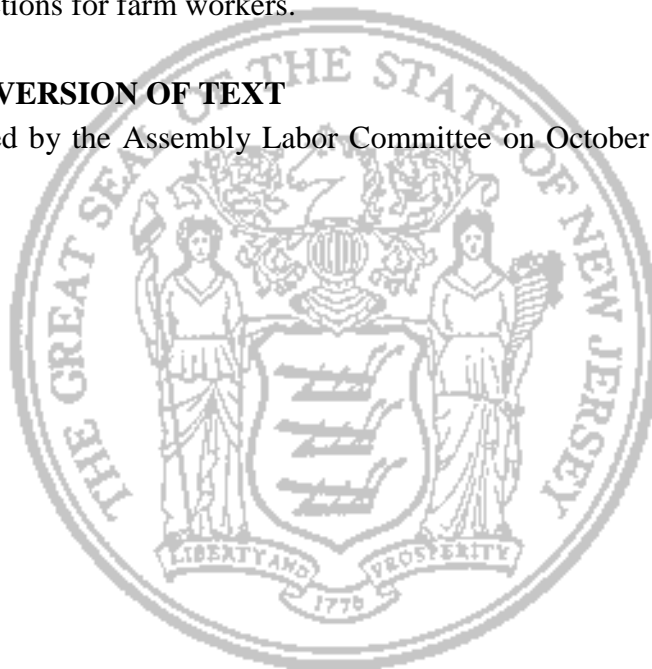
**Assemblyman Conaway, Assemblywomen Speight, Murphy, Reynolds-Jackson and Vainieri Huttle**

**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 Assembly Labor Committee on October 22, 2020, with amendments.



**(Sponsorship Updated As Of: 10/19/2020)**

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 <sup>1</sup>1. This act shall be known and may be cited as the “Farm  
8 Worker Epidemic Health and Safety Act.”<sup>1</sup>

9

10 <sup>1</sup>**[1.]** 2.<sup>1</sup> (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:

<sup>1</sup>Assembly ALA committee amendments adopted October 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 <sup>1</sup>**[2.] 3.**<sup>1</sup> (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 <sup>1</sup>**[3.] 4.**<sup>1</sup> (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

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

17

18 <sup>1</sup>**[4.] 5.**<sup>1</sup> (New section) As part of the commissioner’s  
19 responsibility to protect the health of the public by regulating the  
20 detection, prevention, and control of communicable, infectious and  
21 preventable diseases, the commissioner, during a public health  
22 emergency or state of emergency related to epidemic or pandemic  
23 disease, shall, with respect to farm workers, utilize the powers  
24 provided to the commissioner, including the powers provided by  
25 sections 15 through 33 of P.L.1947, c.177 (C.26:1A-15 through  
26 26:1A-33), chapter 4 of Title 26 of the Revised Statutes, and the  
27 “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-  
28 1 et seq.), to:

29 a. designate farm workers as being among the groups with the  
30 highest priority for testing for communicable disease during the  
31 emergency, and conduct, or authorize or require local boards of  
32 health, or, to the extent that the commissioner and the local boards  
33 are not able to provide sufficient personnel for the purpose,  
34 authorize or contract with other entities, to conduct, the testing of  
35 every farm worker working on a farm, at their workplace or at farm  
36 employer-sponsored or farm employer-authorized housing facilities,  
37 immediately following the effective date of P.L. , c. (C. )(now  
38 pending before the Legislature as this bill), or, if later, at the time  
39 that each farm worker commences employment with a farm  
40 employer, and shall have testing repeated as frequently as the  
41 commissioner deems appropriate, and, in a timely manner, make the  
42 results, for each workplace and facility, of the testing available to  
43 the public, except as prohibited by law, and provide the results of  
44 the testing regarding individuals to local boards of health, the farm  
45 employers <sup>1</sup>**[and farm workers at each worksite and facility]** as  
46 permitted under the federal “Health Insurance Portability and  
47 Accountability Act of 1996,” (Pub.L.104–191), and farm employers

1 who shall be required to notify any employee who might have come  
2 in contact with or been exposed to a person who tests positive for a  
3 pandemic disease covered under the provisions of that act,  
4 consistent with the confidentiality requirements of the federal  
5 "Americans with Disabilities Act of 1990," Pub.L.101-336  
6 (42 U.S.C. s.12101 et seq.), and any other applicable laws<sup>1</sup>;

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

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

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

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

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

1 (5) Provides farm employees with the personal protective  
2 equipment deemed appropriate for use in the public health  
3 emergency or state of emergency by the department or the National  
4 Institute for Occupational Safety and Health; and

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

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

1 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
2 c.274 (C.2A:58-10 et seq.). The commissioner may undertake an  
3 action pursuant to this section in response to a complaint by one or  
4 more farm workers or an entity representing them. Any sum  
5 collected as a fine or penalty pursuant to this section shall be  
6 applied toward the department's costs of enforcement and  
7 administration of the provisions of P.L. , c. (C. ) (now  
8 pending before the Legislature as this bill).

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10 <sup>1</sup>[5. This act shall be known and may be cited as the "Farm  
11 Worker Epidemic Health and Safety Act."]<sup>1</sup>

12

13 6. This act shall take effect immediately.