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Labor Laws and Michigan Agriculture
Michigan State University Extension Service
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LABOR LAWS AND MICHIGAN AGRICULTURE

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All farm employers and employees need to be aware of and understand the various laws pertaining to labor. This publication attempts to create such awareness and lists references for fuller understanding. A special section on the last page covers the laws as they apply to young people.

An important single reference for farmers who employ a number of full-time workers or any seasonal or migrant labor is a subscription to the Regulatory Compliance Assistance Program (RCAP) offered by Michigan Farm Bureau. The program includes a manual that discusses each law in depth, a periodic newsletter that discusses changes in and additions to the laws, a poster packet, and other materials and services. Write to MACMA-RCAP, Box 30960, Lansing, MI 48909-8460; or call (800)782-6432.

FEDERAL MINIMUM WAGE LAW

Who must comply

- Any farmer employing enough workers to have had 500 worker-days of hired work performed on the farm during any quarter of the preceding calendar year must comply. The 500 worker-day test includes any employee who performs work for one hour or more during any day. Workers included in determining the 500 worker-day test but who **NEED NOT BE PAID THE MINIMUM WAGE** include:
 - Workers who care for range livestock and who must be available at all hours.
 - Youths 16 or under employed with their parents in harvesting crops and traditionally paid on a piece-rate basis. Note that such youths must be paid the same piece rate as the adults with whom they are working.
 - Local workers who commute daily from their permanent residences, are traditionally paid on a piece-rate basis and are employed less than 13 weeks per year.

- Workers in the employer's immediate family are excluded from both the 500 worker-day test and the minimum wage requirement.

What the employer must do

- You must pay at least \$4.75 per hour to all covered employees. This will increase to \$5.15 per hour on Sept. 1, 1997. Agricultural workers are exempt from the overtime pay provisions unless they are involved in handling or selling products taken in from other farmers or suppliers.
- You must keep records of hours worked and wages paid to each employee and retain the records for three years.
- You must provide each employee with a statement showing pay periods, hours worked, wages paid and deductions for each pay period (you may use form OMB No. 1215-0148).
- You must provide each worker with his/her own wage. You must not write one net check covering all members of a family.
- You must not employ children under 12 unless they are your own children.
- You must not employ 12- or 13-year-olds unless you obtain their parents' written consent or their parents are also employed on your farm.
- You must not contract workers as "independent contractors" for jobs traditionally done by employees. Such action may violate the Fair Labor Standards Act, the IRS code and the Workers' Disability Compensation Law.

What the employer may do

- For piece work, you may pay any piece rate you wish but must guarantee at least the minimum wage.
- You may deduct from wages a reasonable cost for goods and services traditionally supplied by the employer if the worker consents in writing.

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- You may employ full-time students at 85 percent of minimum wage if the U.S. Department of Labor approves.
- You may pay a "youth opportunity wage" of \$4.25 or more to those under 20 years of age for the first 90 consecutive calendar days starting from the first day of employment. This opportunity applies only to the initial employment of the person by you.

What the worker may do

- If you believe your employer must comply with this law but is failing to do so, contact the source below.

For additional information:

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
2930 Fuller N.E., Suite 100
Grand Rapids, MI 49505-3409

Phone: (616) 456-2183

OR

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
U.S. Courthouse and Federal Building
231 W. Lafayette Street, Room 647
Detroit, MI 48226

Phone: (313) 226-7447

MICHIGAN MINIMUM WAGE LAW

Who must comply

- Any farmer employing two or more employees 16 years of age and older at any one time during the calendar year.

What the employer must do

- You must pay at least \$4.75 per hour to all hourly employees age 16 and over. This wage increases to \$5.15 per hour on Sept. 1, 1997. Agricultural workers are exempt from the overtime pay provisions, unless over 50 percent of the farm sales are made to the general public.
- You must post a copy of the law and rules.

What the employer may do

- For piece work, you may pay any piece rate you wish but must guarantee the minimum wage.
- An amount not to exceed 25 percent of the state minimum wage rate may be credited as minimum wages paid for lodging and/or meals provided to an employee if you inform the employee of the cost of the items that will be

deducted from wages paid and if the employee signs a statement each time the deduction is made that acknowledges the items were received.

- You may recover overpayment of wages caused by miscalculation or typographical errors.

What the employee may do

- If you believe your employer must comply with this law but is failing to do so, contact the source below.

For additional information:

Michigan Department of Consumer and Industry Services
Wage and Hour Division
7150 Harris Drive
Lansing, MI 48926

Phone: (517) 322-1825

MICHIGAN PAYMENT OF WAGES LAW

Who must comply

- Any farmer employing any labor.

What the employer must do

- You must pay all wage workers at least once per month and never more than 15 days after the close of the pay period.
- You must pay hand harvesters all wages earned on or before the second day following the work week unless another method is agreed upon by written contract.
- You must pay employees (other than hand harvesters) who leave voluntarily all wages due on the regularly scheduled payday. Hand harvesters must be paid within three days after voluntary termination.
- You must pay discharged employees (other than hand harvesters) all wages due within four working days of the termination date. For hand harvesters, this period is one working day.
- You must follow rules outlined under "Michigan Minimum Wage Law" above when making deductions for meals or lodging.
- You may make deductions for an employee purchase or loan if you obtain signed authorization from the employee, and provide a suitable receipt to the employee, and if the deductions are for the benefit of the employer, they must not reduce the pre-tax wage below the minimum wage.
- You must keep hourly records for all salaried workers except bona fide executive, administrative or professional employees.

- You must maintain and retain for at least three years a complete payroll record for each employee and provide a statement for each employee at time of payment showing hours, wages, pay period, deductions and, for hand harvesters, units picked.

What the worker may do

- If you believe your employer is violating any of the rules above, contact the source below.

For additional information:

See address and telephone number under the "Michigan Minimum Wage Law."

FEDERAL INCOME TAX RULES

Who must comply

- Any farmer employing any labor.

What the employer must do

- Withhold federal income tax on any worker's wages subject to Social Security tax (FICA). See IRS publication Circular E for rates.
- Provide each worker with form W-2 at the close of the tax year showing wages paid and taxes withheld. Worker may request a W-2 at time of termination.

What the worker must do

- Complete and submit to your employer form W-4 at time of employment.

For additional information:

Your local U.S. Internal Revenue Service office.

MICHIGAN INCOME TAX RULES

Who must comply

- At present, the law is unclear whether Michigan farmers must withhold Michigan income tax from employees' wages. However, because of the potential consequences of not withholding and expected action in the legislature, it is strongly recommended that farmers withhold this tax.

For additional information:

Michigan Department of Treasury
Treasury Building
Lansing, MI 48922
(800) 487-7000

FEDERAL SOCIAL SECURITY LAW

Who must comply

- Any farmer employing labor, including the employer's spouse but excluding the employer's children under 18.

What the employer must do

- Withhold Social Security tax (FICA) on all qualified employees. Qualified employees include those that are U.S. citizens, permanent residents or temporary resident alien workers, an employed spouse and the employer's children age 18 or over.

What the employer must do

- You must withhold 7.65 percent on the first \$65,400 (this figure is adjusted upward annually) of each employee's cash wages and 1.45 percent on all additional wages. You must pay an equal amount from the farm income.
- If your total annual payroll exceeds \$2,500, you must withhold on all employees except your own children under 18.
- If your total annual payroll is \$2,500 or less, you need not withhold on employees who earn less than \$150.
- Payroll deposits must be made either monthly or semi-weekly. An employer's status is determined by the IRS and depositors are notified when they should make deposits. If you had \$50,000 or less in payroll tax liability in the prior year (July 1 to June 30), you must make deposits monthly. If payroll exceeded \$50,000, deposits will be made semi-weekly.
- Use Federal Tax Deposit Form 511. You must prepare a W-2 form showing wages paid and tax withheld for each employee by Jan. 31. By Jan. 31, you must also file Form 943 with the IRS, Cincinnati, Ohio, and by the last day of February, file copy A of all W-2s issued plus Form W-3 with the Social Security Administration, Wilkes-Barre Data Operations Center, Wilkes-Barre, PA 18769.

What the worker must do

- To qualify for regular employment, every worker needs a Social Security number/card.
- To obtain a Social Security card or to collect retirement, disability or death benefits, you must contact a local Social Security office.

For additional information:

The farmer:
A local Internal Revenue Service office.
(See IRS publication 51, "Agricultural Employer's Tax Guide".)

The worker:

A local Social Security office, found under "U.S. Government" in the phone book. (See SSA publication 05-10074 or phone 800-772-1213.)

MICHIGAN UNEMPLOYMENT INSURANCE LAW

Who must comply

- Any farmer employing 10 or more workers in each of 20 weeks during the current or preceding calendar year, or having a cash payroll of \$20,000 or more in any calendar quarter of the current or preceding calendar year. For non-farm enterprises (such as packing other farmers' produce), you must comply when the total annual payroll for that enterprise reaches \$1,000.

What the employer must do

- You must provide unemployment insurance coverage for your employees. The state of Michigan (MESA) is the insurance carrier. It is your responsibility to report eligibility.
- You must submit to the state quarterly a Quarterly Contribution Report (MESA-1020) and a List of Employees Report (MESA-1017).
- Seasonal employers may apply to MESA for a "seasonal employer" designation, which may limit off-season claims.

What the worker must do

- To obtain unemployment benefits after being laid off, you must apply at a local MESA office. To qualify, you must have worked at least 20 weeks for covered employers during the past 52 weeks and made at least \$100.50 in each of those weeks. You must provide the names and addresses of covered employers for which you worked for the past 52 weeks, plus the periods worked and wages earned.

For additional information:

Contact the nearest Michigan Employment Security Agency (MESA) office—Employer Audit Section for employers, Benefit Section for workers.

MICHIGAN WORKERS' DISABILITY COMPENSATION LAW

Who must comply

- All agricultural employers who regularly employ three or more regular employees paid hourly wages or salaries, not on a piecework basis, who were employed 35 hours or more per week for 13 or more consecutive weeks during the preceding 52 weeks. Coverage shall apply only to such regularly employed employees.

- All agricultural employers of one but fewer than three employees who are employed 35 or more hours per week for five or more consecutive weeks shall provide such employees medical and hospital coverage (no wage benefits). NOTE: Such employees have the right to sue for recovery of lost wages.
- A Workers' Compensation Insurance policy, by endorsement, may exclude coverage for any one or more named partners or the spouse, a child or a parent in the employer's family.
- A member of a corporation that has no more than 10 stockholders who is also an officer and stockholder who owns at least 10 percent of the stock may, with the consent of the corporation, elect to be excluded from the law.

What the employer must do

- You must provide workers' disability compensation insurance for all regular employees who come under the law.

What the employer may do

- You may buy a policy that provides full coverage to both categories of workers.

What the worker must do

- You must report any work-related injury or illness to the employer or your supervisor at the time it happens, if possible.
- If the employer does not have disability worker's compensation insurance coverage, you must report the injury or illness to the Michigan Workers' Disability Compensation Bureau to determine eligibility for benefits.

For additional information:

Michigan Department of Consumer and Industry Services
Bureau of Workers' Disability Compensation
7150 Harris Drive
P.O. Box 30016-4809
Lansing, MI 48909
Phone: (517) 322-1195 (the farmer) or a local insurance agent
(517) 373-3490 (the worker)

FEDERAL MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (MSPA)

Who must comply

- All farm labor contractors (crew leaders). Growers, processors and associations are not farm labor contractors.

- Farmers who use the services of a labor contractor.
- Farmers who have 500 or more worker-days of hired labor in a calendar quarter and who have an employee who recruits, solicits, hires, transports or houses migrant or seasonal labor. Farmers with fewer than 500 worker-days of hired labor and persons who recruit, hire or transport migrants or seasonal workers for their own or their immediate family's farm are exempt.

What the employer must do

- You must keep records required under federal minimum wage law and duplicates of individual work records kept by the labor contractor. Under this law, you and the labor contractor are regarded as "joint employers."
- You must disclose in writing to each migrant worker at time of recruitment or seasonal worker upon request details of the job, such as wage rate, crops, employment period, etc. (may use form WH-516).
- If housing is provided, you must disclose housing information in writing to migrant workers at the time of recruitment (may use form WH-521).
- You must carry insurance on vehicles that transport workers at or above the levels set in the rules.
- You must display the Migrant and Seasonal Agricultural Worker Protection Act poster.

What the labor contractor must do

- You must register with the U.S. Department of Labor and comply with relevant regulations.

For additional information:

See addresses under "Federal Minimum Wage Law."

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH LAW (MIOSHA)

Who must comply

- All employers. Regular inspections will be made only on farms with 11 or more workers at one time. However, any farm must be open for inspection where a worker fatality has occurred or a complaint has been filed.

What the employer must do

- You must maintain a safe and healthy work environment for the employees.

- You must display the MIOSHA poster.
- You must report any fatalities or hospitalization of three or more employees resulting from the same accident or health hazard to the Department of Consumer and Industry Services office (see address below) within 8 hours.
- If you have 10 or more employees, you must keep a log of occupational injuries and illnesses and post a summary (MIOSHA form #200) annually, during February.
- You must comply with standards relative to the following:
 - a) SMV (slow-moving vehicle) signs.
 - b) Anhydrous ammonia equipment.
 - c) Pulpwood logging.
 - d) Labor camps. (See "State Agricultural Labor Camps Law" below for details.)
 - e) Roll-over protection and tractor safety.
 - f) Machinery guarding.
 - g) Field sanitation. (See "State Field Sanitation Rules" below for details.)
 - h) Employees' right to know about toxic chemicals and hazardous substances. (See "Worker Protection Standards" below.)
 - i) Occupational air contaminants and physical agents.

What the worker must do

- You must follow all safety and health instructions provided by the employer and use all safety and health equipment provided.
- If you observe a safety or health hazard, you should report it to the employer. If you anticipate that reporting hazards to the employer will antagonize him or her, or if nothing is done to correct a reported hazard, you may submit a written complaint to MIOSHA. You can indicate on the complaint form that your name be withheld from the employer, but you must sign the form.

For additional information:

Michigan Department of Consumer
and Industry Services
Bureau of Safety and Regulation
Division of Occupational Health
3423 N. Martin Luther King Jr. Blvd.
P.O. Box 30649
Lansing, MI 48909
Phone: (517)335-8250

MICHIGAN AGRICULTURAL LABOR CAMPS LAW

Who must comply

- Anyone providing housing for five or more seasonal agricultural workers or workers on mushroom farms.

What the employer must do

- Your camp must be licensed by the Michigan Department of Agriculture. Before the license can be issued, the camp must meet the standards set up by the Department of Agriculture.
- You must post a copy of the license.
- You must provide camp occupants with a clear explanation of their responsibilities for camp occupancy and care.
- You or your representative must inspect the camp at least once a week to see that it is maintained in a clean and orderly condition and that broken or damaged property is promptly repaired.
- If you charge rent and deduct it from wages, see relevant rules under "Michigan Minimum Wage Law."

What the worker must do

- You must maintain the housing in a clean and orderly condition and report needed repairs to the employer.

For additional information:

Michigan Department of Agriculture
Environmental Stewardship Division
Box 30017
Lansing, MI 48909
Phone: (517) 241-1171

MICHIGAN FIELD SANITATION RULES

Who must comply

- Farmers who have one or more employees doing hand labor in the field for more than 3 hours per day.

What the employer must do

- Where 11 or more workers are employed (including your family members), you must provide toilets, hand washing facilities and drinking water within one quarter mile of where the workers are working.
- Where fewer than 11 workers are employed, you need not provide toilet and hand washing

facilities within one quarter mile, but you must provide transportation to such facilities, which must be within 5 minutes' distance.

- You must notify each worker of the location of the toilet and hand washing facilities and drinking water and allow each worker reasonable opportunities during the workday to use them.
- When 11 or more workers are employed, you must inform each worker of the importance of following the good hygiene practices listed below:
 - Using water and facilities provided for drinking, hand washing and elimination.
 - Drinking water frequently, especially during hot weather.
 - Urinating as frequently as necessary.
 - Washing hands both before and after using toilet facilities.
 - Washing hands before eating or smoking.

What the worker may do

- If toilets, hand washing facilities and drinking water are not provided as per the rules above, you may submit a formal complaint to MIOSHA.

For additional information:

See address and phone number under "Michigan Occupational Safety and Health Act (MIOSHA)."

FEDERAL IMMIGRATION REFORM AND CONTROL ACT (IRCA)

Who must comply

- Any farmer employing any labor.

What the employer must do

- You must employ only U.S. citizens and aliens authorized to work in the United States.
- You must examine documentation presented by new employees, record information on the verification form (INS I-9), sign the form, and have all new employees complete and sign it. Do not have the I-9 form filled out before the decision to hire. You must retain the I-9 forms for three years or for one year past the end of employment of the individual, whichever is longer.

What the worker must do

- You must present documentation after employment is offered that verifies identity and eligibility to work.

For additional information:

U.S. Border Patrol
P.O. Box 450040
Selfridge ANGB, MI 48045-4932
Phone: (313) 568-6042

**FEDERAL AMERICANS WITH
DISABILITIES ACT (ADA)**

Who must comply

- Employers with 15 or more employees.

What the employer must do

- You must not discriminate against qualified individuals with disabilities when selecting, hiring, promoting or providing benefits.
- Upon request, you must make "reasonable accommodations" to enable disabled employees to perform their job tasks unless that accommodation poses an "undue hardship" on the company.
- Post the EEOC poster.

What the employer may do

- You are allowed to hire the most qualified applicant for a specific job.
- You may require that all applicants be able to perform the essential functions of the job, with or without "reasonable accommodations".
- You may require an applicant to take a medical examination after a job offer is made and before the applicant begins work, so long as all employees in the job category are required to take the same examination and the medical information obtained remains confidential.

What the worker may do

- If you feel you have been discriminated against, contact the source below.

For additional information

Equal Employment Opportunity Commission (EEOC)
Rm 865
477 Michigan Ave.
Detroit, MI 48226-9704
Phone: (800)669-4000

MICHIGAN CIVIL RIGHTS LAW

Who must comply

- Any farmer employing any labor anytime.

What the employer must do

- You must not discriminate against any individual because of religion, race, color, national origin, age, sex, height, weight or marital status when advertising, recruiting, hiring, compensating, training or discharging an individual.
- You must not discriminate against handicapped persons unless their handicap makes it impossible for the person to perform the job. See ADA discussion above for federal law covering employees with disabilities.

What the employer may do

- You may advertise, recruit, hire, compensate, etc., on the basis of the requirements of the job and the ability of an individual to perform those requirements.

What the worker may do

- If you feel you have been unlawfully discriminated against, you may file a complaint at one of 11 district offices around the state or the executive office listed below.

For additional information:

Michigan Department of Civil Rights
201 N. Washington Sq.
7th Floor, Victor Bldg.
Lansing, MI 48013
Phone: (517) 334-6079
(800)482-3604 (Detroit)

**FEDERAL WORKER PROTECTION
STANDARDS (WPS)**

Who must comply

- Any farmer who uses pesticides to produce or maintain agricultural plants.

What the employer must do

- Follow all restricted-entry interval (REI) requirements listed on the pesticide container label and notify workers about treated areas.
- Post relevant pesticide application information in a central location and tell workers and handlers where the location is.
- Provide approved decontamination sites.
- Provide WPS training to all workers and handlers every five years. Training must be done

by a certified pesticide applicator or by someone who has completed an official WPS train-the-trainer program.

- Keep the required records and maintain them for two years (USDA standard).

What the worker/handler must do

- Stay out of treated areas as per REI requirements.
- Wear personal protective equipment when required.

For additional information:

Michigan Department of Agriculture
Pesticide and Plant Pest Mgt. Division
611 West Ottawa, 4th Floor
P.O. Box 30017
Lansing, MI 48909

Phone: (517) 373-1087

OR

A regional office of the MDA

OR

Your county MSU Extension agent

FEDERAL AND MICHIGAN LAWS ON YOUTH EMPLOYMENT

Many laws protect children in employment. These are discussed below within the categories of age, school, wage, unemployment and safety.

Laws pertaining to age

- Children under 12 cannot be hired. Twelve- and 13-year-olds can be employed with parents' written permission or on the same farm with parents.

Laws pertaining to school

- Youths 16 or over or on a school co-op assignment can work anytime.
- Youths under 16 can work any hours that the local school is not in session.

Laws pertaining to wage

- On farms with fewer than 500 worker-days of hired labor in a calendar quarter, youths under 16 are exempt from the state wage law.
- On farms with 500 or more worker-days of hired labor in a calendar quarter, full-time school students may be paid 85 percent of the minimum wage with the approval of the U.S. Department of Labor. Youths 16 or under employed with their parents in harvesting crops and paid on a piece-rate basis must be paid the same piece rate as their parents but need not be guaranteed the minimum wage.

Laws pertaining to unemployment

- Youths under 18 attending school can be employed part-time during the school year or full-time during the summer and still be exempt from the state unemployment insurance law. However, federal FUTA tax must be paid on such workers.

Laws pertaining to safety

- A federal law includes standards for youths employed on farms. Youths under 16 can perform all tasks except those labeled "hazardous" by the U.S. Department of Labor.

The hazardous occupations include such things as operating tractors over 20 PTO horsepower, using dynamite, working on ladders over 20 feet in the air and handling chemicals. Many of the hazardous occupations can be performed by youths 14 and over if they undergo a certification process by the county Extension Service or the agriculture science department in the local school. A complete list of the hazardous occupations and certification procedures is available from the U.S. Department of Labor (see address under "Federal Minimum Wage Law").

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