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1979 Revision: The Law and Michigan Agricultural Labor
Michigan State University
Cooperative Extension Service
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1979 Revision: The Law and Michigan Agricultural Labor

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Revised January 1979

BY ALLEN E. SHAPLEY¹

Any agricultural producer who employs any labor should be aware of, and understand, the various laws pertaining to labor. This publication is an attempt to create awareness, and then lists references where one can go for fuller understanding. There is a special section on page 4 on the laws as they apply to youth.

Federal Minimum Wage Law

Who Must Comply?

Any farmer employing enough workers to have 500 man-days of hired work performed on his farm during any quarter of the preceding year must comply.

—The 500 man-day test includes any employee who performs work for one hour or more during any day.

—Workers included in determining the 500 man-day test but excluded from the minimum wage requirement:

- a) Workers who care for range livestock and who must be available at all hours.
- b) Youths 16 or under who are employed with their parents in harvesting crops and traditionally paid on a piece rate basis (such youths must be paid the same piece rate as the adults with whom they are working).
- c) Local workers under 18 who commute daily from their permanent residence, 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 man-day test and the minimum wage requirement.

What Must You Do?

—Pay at least \$2.90 per hour to all covered employees. On January 1, 1980, the minimum increases to \$3.10.

—Keep records on hours worked and wages paid for each employee and provide a statement to each employee each pay period.

—Not employ children under 12 except on the family farm or on farms too small to meet the "500 man-day" test.

—Not employ 12- or 13-year-olds unless you have written parental consent or unless their parents are employed on the same farm.

What May You Do?

—Deduct for goods and services traditionally supplied by the employer. The U.S. Secretary of Labor must determine the size of the deduction.

—Employ full-time students at 85% of minimum wage if approved by U.S. Department of Labor.

—Employ 10- and 11-year-old local residents for hand harvesting if approved by the U.S. Dept. of Labor. Conditions for approval are very restrictive.

For Additional Information

U.S. Department of Labor
Employment Standards Adm.
Wage and Hour Division
134 Federal Building and
U.S. Courthouse
110 Michigan Street, N.W.
Grand Rapids, Michigan 49502
Phone: (616) 456-2338

Or

U.S. Department of Labor
Employment Standards Adm.
Wage and Hour Division
U.S. Courthouse and Federal Bldg.
Room 647
231 W. Lafayette Street
Detroit, Michigan 48226
Phone: (313) 226-7447

¹Farm Labor Specialist, Dept. of Agricultural Economics.

State Minimum Wage Law

Who Must Comply?

—Any farmer employing 2 or more employees 18 years of age and older at any one time during the calendar year (effective April 1, 1979).

What Must You Do?

—Pay at least \$2.90 per hour to all employees 18 and over. On January 1, 1980, the minimum will be increased to \$3.10.

—Pay at least the minimum stated piece rate to all piece rate workers 18 years of age and over for those harvest operations for which piece rates have been established.

—Any farmer employing any labor must comply with the new state "time and manner of payment" law. It requires that:

- a) Hand harvesters be paid all wages earned on or before the second day following the work week unless another method is agreed upon by written contract.
- b) All wage workers be paid at least once per month and never paid more than 15 days after the close of a pay period.
- c) Any employee who leaves voluntarily be paid all wages earned and due as soon as the amount can be determined and for hand harvesters, this time cannot exceed three days after voluntary termination.
- d) An employer keep hourly records for all salaried workers unless they are bona fide executives, administrators or professionals.
- e) An employer maintain a complete payroll record on each employee (for at least three years) and provide each employee at time of payment a statement including hours, wages, pay period, deductions, and for hand harvesters—units picked.

—Post a copy of the law, rules and piece rate scales.

—Not discriminate between wages paid on the basis of the sex of employees.

What May You Do?

—Deduct for meals, lodging or agricultural housing in accordance with the general rules.

—Pay a lower wage to physically or mentally handicapped people or to learners upon the approval of the Wage Deviation Board.

For Additional Information

Wage and Hour Division
Bureau of Safety and Regulation
Michigan Department of Labor
7150 Harris Drive
Lansing, Michigan 48926
Phone: (517) 322-1825

State Unemployment Insurance Law²

Who Must Comply?

Any farmer employing 10 or more workers in 20 weeks or has a \$20,000 or more cash payroll in a calendar quarter.

What Must You Do?

—Provide Unemployment Insurance coverage for your employees. The State of Michigan is the insurance carrier.

For Additional Information

Your nearest Michigan Employment Security Commission (MESIC) office, Employer Audit Section.

State Worker's Compensation Law³

Who Must Comply?

—All employers who regularly employ 3 or more employees at one time.

—All employers who regularly employ less than 3 employees if at least one of them has been regularly employed by that same employer for 35 or more hours per week for 13 weeks or longer during the preceding 52 weeks.

What Must You Do?

—Provide Worker's Compensation insurance for all employees who come under the Act.

For Additional Information

Bureau of Worker's Compensation
Michigan Department of Labor
7150 Harris Drive
Lansing, Michigan 48926
Phone: (517) 373-3490

²The U.I. law is covered in detail in "Unemployment Insurance on Michigan Farms," Ag Facts #144, E-1198 revised, available at your County Cooperative Extension office.

³Details concerning the application of this law to agriculture are discussed in a bulletin "Clarification of Worker's Compensation Insurance," Allen E. Shapley, CRMPA Special Paper No. 16 available at your county Extension office or from the author.

Federal Farm Labor Contractor Registration Law (FLCRA)

Who Must Comply?

—All farm labor contractors

A farm labor contractor (also called "crew leader") is any person who, for a fee for oneself or on behalf of another person, recruits, hires, furnishes or transports migrant workers (regardless of numbers) for agricultural employment, whether within a state or across state lines. The term applies to individuals, partnerships, association, joint stock companies, trusts and corporations.

—Any person engaging the services of any farm labor contractor to obtain farm laborers must determine that the contractor possesses a valid certificate from the U.S. Department of Labor.

What Must You Do? (the farmer)

—Keep labor records required under Federal Minimum Wage Law.

—Keep duplicates of individual worker records which the contractor is required under the law to provide.

What Must You Do (the labor contractor)

—Register with the U.S. Department of Labor and comply with the regulations under that registration.

For Additional Information: See addresses under the "Federal Minimum Wage Law."

State Occupational Safety and Health Law (MIOSHA)⁴

Who Must Comply?

—Any farmer employing 11 or more workers at one time.

What Must You Do?

—Maintain a safe and healthy work environment for your employees.

—Display the relevant poster.

—Report to the Department of Labor Office (see address below) within 48 hours—any fatalities or hospitalization of 5 or more employees resulting from the same accident or health hazard (applies to all employees).

⁴OSHA issues are covered in detail in "OSHA for Agriculture: 32 Questions and Answers," MSU Ag Facts #79 and "Guarding Farmstead and Farm Field Equipment," MSU Ag Facts #79 Supplement.

—Keep the required records, and display the annual summary.

—Comply with standards relative to:

- a. SMV signs
- b. Anhydrous Ammonia equipment
- c. Pulpwood logging
- d. Labor camps
- e. Roll over protection
- f. Machinery guarding

—Be open to inspection if you have 11 or more workers, if there is a fatality on the farm or if a complaint has been filed.

For Additional Information

MIOSHA
Michigan Department of Labor
7150 Harris Drive
Lansing, Michigan 48926
Phone: (517) 322-1831

State Agricultural Labor Camps Law

Who Must Comply?

—Anyone providing housing for 5 or more seasonal agricultural workers or workers on mushroom farms.

What Must You Do?

—Have the camp licensed by the Michigan Department of Public Health. Before the license can be issued, the camp must meet the standards set up by the Department of Public Health.

—Clearly explain to camp occupants their responsibilities as to camp occupancy and care.

—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.

For Additional Information

Michigan Department of Public Health
3500 North Logan
Lansing, Michigan 48906
Phone: (517) 373-1373

Federal Social Security Law

Who Must Comply?

—The Social Security tax applies if an employer pays an employee \$150 or more cash wages in the year for agricultural work.

Or

If the employee performs agricultural labor for an employer on 20 or more days during the year.

What Must You Do?

—Withhold 6.13% of the employee's cash wages plus pay an equal amount from your own income. (The taxes apply to the first \$22,900 of each employee's wages.)

—Deposit employer and employee tax within 15 days after the close of each month, except December, in which more than \$200 but less than \$2,000 of such taxes accumulate. Use Federal Tax Deposit Form 511.

—Prepare for each employee by January 31 a W-2 form showing wages paid and tax withheld.

—By January 31, file Form 943, service copy of W-2's and Form W-3.

For Additional Information

U.S. Department of Treasury
Bureau of Internal Revenue
Federal Building
Lansing, Michigan 48933
Phone: (517) 394-1550

Or

Your local Internal Revenue Service office.

Employing Youths on Farms

Local youths are an excellent source of seasonal or part-time labor on many Michigan farms. They are usually available, energetic, willing to learn, and responsive. Also, they are usually less expensive than adults. For example, on all farms with less than 500 man-days of labor per quarter, all workers under 18 are exempt from any minimum wage.

Certain laws pertain specifically to the protection of youth. Most farmers who regularly employ youths do not find these laws restrictive or difficult to comply with, once they understand them. These laws are highlighted below, but a fuller coverage can be found in the publication *"Employing Youth in Farm Occupations,"* CRMPA Special Paper 26, available from the author.

Laws Pertaining to AGE

Youths of any age can be employed on farms with less than 500 man-days of hired labor in a calendar quarter.

On farms with 500 or more man-days of hired labor in a calendar quarter, 10- and 11-year-olds who are local residents can harvest certain fruit and vegetables with approval of U.S. Dept. of Labor, and 12- 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 any time.

Youths under 16 can work any hours that the local school is not in session.

Laws Pertaining to WAGE

On farms with less than 500 man-days of labor in a quarter, youths under 18 are exempt from state and federal minimum wage.

On farms with 500 or more man-days of labor in a quarter, full-time high school students may be paid 85% of the minimum wage with the approval of the U.S. Department of Labor, and 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, a federal (FUTA) tax of 3.4% is charged on such youths.

Laws Pertaining to SAFETY

Michigan passed a new "Youth Employment Standards Act" (P.A. 90) in 1978. The act states that it . . . "shall not apply or prohibit a minor from engaging in . . . farm work if the employment is not in violation of a standard established by the department of labor." To date (January 1979), no standards have been established, but some are being proposed. Therefore, until standards are established, farm work is exempt from state regulation.

A federal law does include standards for youths employed on farms. Youths under 16 can perform all tasks except those labeled as "hazardous" by the U.S. Department of Labor. The hazardous occupations include such things as operating large equipment, using dynamite, working on ladders over 20 ft. in the air or handling chemicals. Many of the hazardous occupations can be performed by youths 14 and over through a certification process by the County Cooperative Extension Service or Vocational Agriculture department in the local school (a complete list of the hazardous occupations and certification procedures are outlined in the publication mentioned above).

Worker's compensation insurance rates are the same for youths as adults. However, if youths are injured while illegally employed, they receive double compensation, half of which is paid by the employer.