

# LABOR LAWS AND MICHIGAN AGRICULTURE

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**A**ll farm employers and employees should be aware of and understand the various laws pertaining to labor. This publication attempts to create such awareness and then lists references for fuller understanding. A special section on page 7 covers the laws as they apply to young people.

### *Supplemental Publications:*

Certain labor laws will likely change soon after this publication is printed (ex: Michigan minimum wage). A single-page supplement to this bulletin (E-1597-S1) will be published soon after significant changes have been enacted or about April 1, 1991, whichever date is later. A second supplement (E-1597-S2) will be published in January 1992 if further changes in legislation warrant. To receive a copy of the supplements, contact your county Cooperative Extension office or the MSU Bulletin Office, 10B Agriculture Hall, Michigan State University, East Lansing, MI 48824-1039.

## **FEDERAL MINIMUM WAGE LAW**

### *Who Must Comply*

- Any farmer employing enough workers to have 500 worker-days of hired work performed on the farm during any calendar 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. (However, workers 18 and over in this category must be paid at least the state minimum piece rate.)

- 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 \$3.80 per hour to all covered employees. This rate increases to \$4.25 per hour on April 1, 1991. Agricultural workers are exempt from the overtime pay provisions unless they are involved in handling produce taken in from other farmers.
- You must keep records of hours worked and wages paid to each employee and retain the records for 3 years.
- You must provide each employee with a statement showing pay period, 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 for the family.
- You must not employ children under 12 unless they are your own children or your farm is too small to meet the 500 worker-day test.
- You must not employ 12- or 13-year-olds unless: you obtain their parents' written consent, their parents are also employed on your farm, or the farm is too small to meet the 500 worker-day test.
- 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***

- You may deduct from wages a reasonable cost for goods and services traditionally supplied by the employer if the worker consents in writing.
- You may employ full-time students at 85 percent of minimum wage if the U.S. Department of Labor approves. (However, students 18 and over must be paid at least the state minimum wage.)

#### ***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 or call Allen E. Shapley, (517) 353-4380.

#### ***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  
 Room 647  
 231 W. Lafayette Street  
 Detroit, MI 48226  
 Phone: (313) 226-7447

## **STATE MINIMUM WAGE LAW**

### ***Who Must Comply***

- Any farmer employing two or more employees 18 years of age and older at any one time during the calendar year.

### ***What the Employer Must Do***

- You must pay at least \$3.35 per hour to all hourly employees 18 and over. (This may change soon. See "Supplemental Publications" on page 1.) Agricultural workers are exempt from the overtime pay provisions, unless over 50% of the farm sales are made to the general public.
- You must pay at least the minimum piece rate to all piece-rate workers 18 years of age and over for those harvest operations for which piece rates have been established by the state. Such workers need not be guaranteed the minimum wage.
- You must post a copy of the law, rules and piece-rate scales.

### ***What the Employer May Do***

- 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.

### ***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:***

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

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## STATE 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 will 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 "State 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.
- You must keep hourly records for all salaried workers.
- You must maintain and retain for at least three years a complete payroll record on each employee and provide each employee at time of payment a statement including 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 under "State Minimum Wage Law."

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## 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.

### *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.

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## STATE 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 potential consequences of not withholding and expected action in the legislature, it is strongly recommended that farmers withhold this tax. (See statement concerning supplemental publications on page 1.)

### *For Additional Information:*

Michigan Department of Treasury  
Sales, Use & Withholding Tax Division  
P.O. Box 30199  
Lansing, Michigan 48909  
(517) 373-0884

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## 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,

temporary resident alien workers, an employed spouse, or the employer's children 18 or over.

- For 1991, you must withhold 7.65 percent of the employee's cash wages and pay an equal amount from the farm income. The taxes apply to the first \$53,400 of each employee's wages.
- You must withhold a Medicare tax of 1.45 percent of the employee's cash wages between \$53,400 and \$125,000 and 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.
- You must deposit the employer and employee tax within 15 days after the close of each month (except December) in which more than \$500 but less than \$3,000 of such taxes accumulate. Use Federal Tax Deposit Form 511. You must prepare a W-2 form showing wages paid and tax withheld for each employee by January 31.
- By January 31, you must file Form 943 with IRS, Box 9903, Bloomington, IL 61799, and by February 28, file copy A of all W-2's issued for the previous year 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 U.S. citizen, permanent resident or temporary resident alien needs a Social Security number/card.
- To obtain a Social Security card, use form SS-5. 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.

*The worker:*  
A local Social Security office (found under United States Government in the phone book).

## **STATE 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.

### ***What the Employer Must Do***

- You must provide unemployment insurance coverage for your employees. The state of Michigan (MESC) is the insurance carrier. It is your responsibility to report eligibility.
- You must submit to the state quarterly a Quarterly Contribution Report (MESC-1020) and a List of Employees Report (MESC-1017).

### ***What the Worker Must Do***

- To obtain unemployment benefits after being laid off, you must apply at a local MESC 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 Commission (MESC) office: Employer Audit Section for employers, Benefit Section for workers.

## **STATE WORKERS' DISABILITY COMPENSATION LAW**

### ***Who Must Comply***

- All employers who regularly employ three or more employees at one time.
- All employers who regularly employ fewer than three employees if at least one of them has been regularly employed by that same employer for 35 hours or more per week for 13 weeks or longer during the preceding 52 weeks. 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 (which has not 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 employees who come under the law.

### ***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 workers' disability compensation insurance coverage, you may report the injury or illness to the Michigan Workers' Disability Compensation Bureau to determine eligibility. An eligible worker who suffers a work-related injury or illness will have all medical costs covered and receive a wage while disabled.
- If your employer must comply with the MSPA law (see below) you may have the right to sue for damages above and beyond those paid under this law.

### ***For Additional Information:***

Bureau of Workers' Disability Compensation  
Michigan Department of Labor  
7150 Harris Drive  
P.O. Box 30016  
Lansing, MI 48909  
Phone: (517) 322-1195 (the farmer)  
(517) 373-3490 (the worker)  
Or  
A local insurance agent (the farmer)

## **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 "co-employers."
- You must disclose in writing to each migrant or seasonal worker details of the job, such as wage rate, crops, employment period, etc. (may use form WH-516).
- If housing is provided, you must present housing information in writing to workers at the time of recruitment (may use form WH-521).
- 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. Dept. of Labor and comply with relevant regulations.

### ***For Additional Information:***

See addresses under the "Federal Minimum Wage Law."

## **STATE 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 or on farms that employ seasonal labor. However, any farm must be open for inspection where a worker fatality occurs 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 five or more employees resulting from the same accident or health hazard to the Department of Labor office (see address below) within 48 hours.
- You must keep a log of occupational injuries and illnesses and post a summary of same annually (MIOSHA form #200).
- 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 detail.)
  - e) Roll-over protection.
  - f) Machinery guarding.
  - g) Field sanitation. (See "State Field Sanitation Rules" below for detail.)
  - h) Employees' right to know about toxic chemicals and hazardous substances. (This rule/law is explained in detail in CES bulletin E-2106. That bulletin also contains the necessary forms and posters.)

#### ***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. All complaints are kept confidential.

#### ***For Additional Information:***

MIOSHA  
 Michigan Department of Labor  
 7150 Harris Drive  
 P.O. Box 30015  
 Lansing, MI 48909  
 Phone: (517) 322-1831

## STATE AGRICULTURAL LABOR CAMP'S 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 Public Health. Before the license can be issued, the camp must meet the standards set up by the Department of Public Health. New standards that bring Michigan rules into closer compliance with federal law went into effect in December 1989.
- You must post a copy of the license.
- You must provide camp occupants with a clear explanation of their responsibilities concerning 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 "State 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 Public Health  
 Shelter Environment Section  
 3500 North Logan  
 Lansing, MI 48906  
 Phone: (517) 355-8293

## STATE 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.

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### ***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' driving 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 the following good hygiene practices:

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, 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 under "State Occupational Safety and Health Law (MIOSHA)".

## **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 verifi-

cation form (INS I-9), sign the form and have all new employees complete and sign it. 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.

- You must fill out and submit form MESA-92 quarterly if you employ any aliens with a number in the 9 millions on their cards (SAW's).

### ***What the Worker Must Do***

- You must present documentation at time of employment that verifies identity (such as a driver's license) and eligibility to work (such as a Social Security card or birth certificate). For aliens, an alien registration card with photograph will verify both identity and eligibility to work.

### ***For Additional Information:***

U.S. Border Patrol  
P.O. Box 32639  
Detroit, MI 48232  
Phone: 1-800-537-3220  
(313) 226-3260

## **STATE 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.

### ***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.

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### ***For Additional Information:***

Michigan Department of Civil Rights  
303 W. Kalamazoo  
Fourth Floor  
Lansing, MI 48913  
Phone: (517) 334-6079  
1-800-482-3604

## **FEDERAL AND STATE 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***

- Youths of any age can be employed on farms with fewer than 500 worker-days of hired labor in a calendar quarter.
- On farms with 500 or more worker-days of hired labor, 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 18 are exempt from state and federal minimum wage law.
- On farms with 500 or more worker-days of hired labor in a calendar quarter, full-time high school students may be paid 85 percent 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, 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 as "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 or handling chemicals. Many of the hazardous occupations can be performed by youths 14 and over if they undergo 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 available from the U.S. Department of Labor (see address on page 2).
- No state law covers hazardous occupations for youths in agriculture.

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