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Labor Laws and Michigan Agriculture:1984

Michigan State University Extension Service

MSU Ag Facts

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Labor Laws and Michigan Agriculture: 1984

By Allen E. Shapley

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All farm employers and employees should be aware of, and understand, the various laws pertaining to labor. This publication is an attempt to create such 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 the farm during any quarter (calendar) of the preceding calendar 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 who need not be paid the minimum wage include:

- a) Workers who care for range livestock and who must be available at all hours.
- b) Youths 16 or under 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 who commute daily from their permanent residence, 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 man-day test and the minimum wage requirement.

What Must Be Done?

—At least \$3.35 per hour must be paid to all covered employees. Agricultural workers are exempt from the overtime pay provisions unless the worker is involved in handling produce taken in from other farmers.

—Records of hours worked and wages paid must be kept for each employee and a statement provided to each employee each pay period.

—Children under 12 must not be employed except when the employer is the parent or on farms too small to meet the "500 man-day" test.

—Twelve or 13-year-olds must not be employed unless: (a) the employer obtains written parental consent, (b) their parents are employed on the same farm, or (c) the farm is too small to meet the "500 man-day" test.

What May Be Done?

—A reasonable cost for goods and services traditionally supplied by the employer may be deducted from wages with written consent of the worker.

—Full-time students may be employed at 85% of minimum wage if approved by U.S. Department of Labor.

For Additional Information:

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
82 Ionia N.W.
Suite 320
Grand Rapids, Michigan 49503
Phone: (616) 456-2338

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, Michigan 48226
Phone: (313) 226-7447

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.

What Must Be Done?

—At least \$3.35 per hour must be paid to all hourly employees 18 and over. Agricultural workers are exempt from the overtime pay provisions.

—At least the minimum stated piece rate must be paid 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.

—A copy of the law, rules and piece-rate scales must be posted.

—Discrimination between wages paid on the basis of sex is prohibited.

What May Be Done?

—An amount not to exceed 25% of the state minimum wage rate may be credited as minimum wages paid for lodging and/or meals provided to an employee if the

employee is informed of the cost of the items which will be deducted from wages paid and if the employee signs a statement each time the deduction is made which acknowledges the items were received.

For Additional Information:

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

State Payment of Wages Law

Who Must Comply?

—Any farmer employing any labor.

What Must Be Done?

—All wage workers must be paid at least once per month and never paid more than 15 days after the close of the pay period.

—Hand harvesters must be paid all wages earned, on or before the second day following the work week unless another method is agreed upon by written contract.

—Employees, other than hand harvesters, upon leaving voluntarily, must be paid all wages due on the regularly scheduled payday. Hand harvesters will be paid within 3 days after voluntary termination.

—Employees, other than hand harvesters, upon being discharged, will be paid all wages due within 4 working days of the termination date. For hand harvesters, this period is 1 working day.

—Deductions for meals or lodging must follow rules outlined in State Minimum Wage Law above.

—Deductions for an employee purchase or loan are allowed if signed authorization is obtained from the employee and a suitable receipt is provided to the employee.

—An employer must keep hourly records for all salaried workers.

—An employer must maintain a complete payroll record on each employee (and retain for at least 3 yrs.) and provide each employee at time of payment a statement including hours, wages, pay period, deductions, and for hand harvesters — units picked.

For Additional Information:

See address under "State Minimum Wage Law."

State Unemployment Insurance Law

Who Must Comply?

—Any farmer employing 10 or more workers in 20 weeks during the current or preceding calendar year, or having a \$20,000 or more cash payroll in any calendar quarter of the current or preceding calendar year.

What Must Be Done? (the farmer)

—Unemployment Insurance coverage must be provided

for the employees. The State of Michigan (MESC) is the insurance carrier. It is the employer's responsibility to report eligibility.

What Must Be Done? (the worker)

—To obtain unemployment benefits after being laid off, a worker must apply at a local MESC office. To qualify, a worker 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.

For Additional Information:

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 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.

—A Workers' Compensation Insurance policy, by endorsement, may exclude coverage as to any one or more named partners, or the spouse, child, or parent in the employer's family.

—A member of a corporation (which has not more than 10 stockholders) and who is also an officer and stockholder who owns at least 10% of the stock, may, with the consent of the corporation, elect to be excluded from the Act.

What Must Be Done? (the farmer)

—Workers' Disability Compensation Insurance must be provided for all employees who come under the Act.

What Must Be Done? (the worker)

—Any work-related injury or illness should be reported to the employer or the worker's supervisor at the time it happens, if possible. If the employer does not have Workers' Compensation Insurance coverage, the worker may report the injury or illness to the Michigan Workers' Disability Compensation Bureau to determine eligibility.

For Additional Information:

Bureau of Workers' Disability Compensation
Michigan Department of Labor
7150 Harris Drive
P.O. Box 30016
Lansing, Michigan 48909
Phone (517) 373-3490

Or

A local insurance agent.

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 with 500 or more man-days of hired labor in a calendar quarter and who have an employee that recruits, solicits, hires, transports or houses migrant or seasonal labor.

—Farmers with less than 500 man-days of hired labor or persons who recruit, hire, or transport migrants or seasonal workers for their own or immediate family's farm are exempt.

What Must Be Done? (the farmer)

—Keep records required under federal minimum wage law and duplicates of individual work records kept by the labor contractor.

—Disclose in writing to each migrant or seasonal worker details of the job such as wage rate, crops, employment period, etc.

—Display the relevant poster.

What Must Be Done? (the labor contractor)

—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?

—Any farmer employing 11 or more workers at one time or who operates a labor camp.

What Must Be Done? (the farmer)

—A safe and healthy work environment must be maintained for the employees.

—The relevant poster must be displayed.

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

—The required records must be kept and the annual summary must be displayed.

—Standards relative to the following must be complied with:

- a) SMV (slow-moving vehicles) signs
- b) Anyhydrous ammonia equipment
- c) Pulpwood logging
- d) Labor camps
- e) Roll over protection
- f) Machinery guarding

—On any farm that must comply, if there is a fatality or if a complaint has been filed, the farm must be open to inspection.

What Must Be Done? (the worker)

—All safety and health instructions provided by the employer must be followed, and all safety and health equipment provided must be used.

—If a worker observes a safety or health hazard, it should be reported to the employer. If a worker anticipates employer antagonism by reporting hazards to him or her, or if nothing is done to correct a reported hazard, the worker may submit a written complaint to MIOSHA.

For Additional Information:

MIOSHA
Michigan Department of Labor
7150 Harris Drive
P.O. Box 30015
Lansing, Michigan 48909
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 Be Done?

—The 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.

—Camp occupants must receive a clear explanation as to their responsibilities concerning camp occupancy and care.

—The camp must be inspected 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 rent is charged and deducted from wages, see relevant rules under "State Minimum Wage Law."

For Additional Information:

Michigan Department of Public Health
Shelter Environment Section
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 Be Done?

—For 1984, 6.7% of the employee's cash wages must be withheld plus 7.0% must be paid from the farm income. (The taxes apply to the first \$37,800 of each employee's wages.)

—The employer and employee tax must be deposited 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. A W-2 form showing wages paid and tax withheld must be prepared for each employee by January 31.

—By January 31, Form 943, service copy of W-2s and Form W-3 must be filed with IRS.

For Additional Information:

U.S. Department of Treasury
Bureau of Internal Revenue
Federal Building
Lansing, Michigan 48933
Phone: 1/800/424-1040

Or:

A local Internal Revenue Service Office.

Federal and State Laws on Youth Employment

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

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, 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 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 hired labor in a calendar quarter, youths under 18 are exempt from state and federal minimum wage.

—On farms with 500 or more man-days of hired labor in a calendar 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

—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 H.P., 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 available from the County Cooperative Extension office, Agricultural Engineering Series Bulletin #315).

—There is no state law covering hazardous occupations for youth in agriculture.

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