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Labor Laws and Michigan Agriculture:1988

Michigan State University Extension Service

MSU Ag Facts

Allen E. Shapley, Farm Labor Specialist, Department of Agricultural Economics  
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# LABOR LAWS AND MICHIGAN AGRICULTURE: 1988

by

**Allen E. Shapley**

*Farm Labor Specialist*

*Department of Agricultural Economics*

January 1988

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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.

## 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 \$3.35 per hour to all covered employees. 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 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 display the federal minimum wage poster for agricultural employees.

### *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.

### *For Additional Information:*

U.S. Department of Labor  
Employment Standards Administration  
Wage and Hour Division  
2920 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. 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.
- You must not discriminate in wages paid on the basis of sex.

### 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.

### 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

## 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.

### For Additional Information:

See address under "State Minimum Wage Law."

## STATE UNEMPLOYMENT INSURANCE LAW

### Who Must Comply

- Any farmer employing ten 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 (that 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.

## ***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.
- 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 time of recruitment.
- 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 with labor camps. 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.
  - e) Roll over protection.
  - f) Machinery guarding.
  - g) Field sanitation (toilets, hand washing facilities and drinking water in the field).
  - h) Employees' right to know about toxic chemicals and hazardous substances.

### ***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 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 Public Health. Before the license can be issued, the camp must meet the standards set up by the Department of Public Health.
- 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) 373-1373

## **FEDERAL SOCIAL SECURITY LAW**

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

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

### ***What The Employer Must Do***

- For 1988 and 1989, you must withhold 7.51 percent of the employee's cash wages and pay an equal amount from the farm income. The taxes apply to the first \$45,000 of each employee's wages.
- 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 29, file copy A of all W-2's issued for 1987 plus Form W-3 with the Social Security Administration, Wilks-Barre Data Operations Center, Wilks-Barre, PA 18769.

## ***What The Worker Must Do***

- To qualify for regular employment, every U.S. citizen 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:*

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

### *Or*

A local Internal Revenue Service office.

### *The worker:*

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

## **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 require all new employees to complete and sign the verification form (INS I-9) to certify that they are eligible for employment.
- You must examine documentation presented by new employees, record information on the verification form (INS I-9) and sign the form.
- 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 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  
 1/313/226-3260

## **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.

### ***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  
 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, a federal FUTA tax of 6.2 percent 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 "hazard-

ous" by the U.S. Department of Labor. The hazardous occupations include such things as operating tractors over 20 p.t.o. horsepower, 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 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—Agricultural Engineering Series bulletin 315—is available from the county Cooperative Extension office.

- No state law covers hazardous occupations for youths in agriculture.

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