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1992 Supplement Labor Laws and Michigan Agriculture  
Michigan State University Extension Service  
Allen E. Shapley, Farm Labor Specialist, Department of Agricultural Economics  
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# 1992 SUPPLEMENT LABOR LAWS and MICHIGAN AGRICULTURE

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**E**xtension Bulletin E-1597, *Labor Laws and Michigan Agriculture*, published in January 1991 is still relevant. The content of this supplement covers changes that have been made and attempts to clarify some confusing issues.

## MINIMUM WAGE

- Continues to be \$4.25 per hour for all workers on farms with 500 or more worker days in a calendar quarter.
- Continues to be \$3.35 per hour for adult workers on farms with less than 500 worker days in a calendar quarter.

## INCOME TAX

- Farmers are required to withhold for federal income tax and it is strongly recommended that they also withhold for state income tax.

## SOCIAL SECURITY TAX

- The 7.65% rate for both the employee and employer still applies for 1992, but it applies on the first \$55,500 of each employee's wages.
- The rate on wages over \$55,500 is still 1.45%, but it applies on wages to \$130,000.

## UNEMPLOYMENT INSURANCE

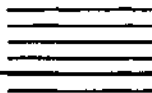
- No changes in the law but an 0.8% penalty has been added to the FUTA (federal) tax due to Michigan's failure to meet payments on its federal U.I. debt. The FUTA tax applies to the first \$7,000 of each employee's wages. Before the penalty, the FUTA tax was 6.2% less 5.4% credit on tax paid to the state, giving an 0.8% net FUTA tax. The new 0.8% penalty tax, therefore, doubles the net FUTA tax.

## WORKERS DISABILITY COMPENSATION

- No changes. Each farmer should make sure all employees are covered, for everyone's benefit.

## MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION (MSPA)

- Farmers and workers should be aware of this law and comply when it's required. Legal action has been taken against numerous farmers for violation of MSPA.
- A Circuit Court in Ottawa County has ruled that when employees are protected under the housing provisions of MSPA they do not come under the protection of the Michigan Landlord/Tenant Act. The case is being appealed.



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## OCCUPATIONAL SAFETY AND HEALTH (MIOSHA)

- Penalties for violations have been increased substantially (a federal requirement).
- The field sanitation rule has been modified. The statement below is taken directly from MDPH publication OH-43 (11/91).

### REQUIREMENTS

The OSHA rules apply to farms where 11 or more hand-labor employees are present on any given day. OSHA, and therefore MIOSHA, says that this means 11 or more on any day **within the last 12 months**. The additional requirements of Section 14n (2) and (3) expand the coverage to all hand-labor workers, even if there is only one. The employer is required to provide, at no cost to employees, all of the following:

**Drinking Water** - in locations readily accessible to all employees, and shall be potable. Where 11 or more employees applies, the water must be suitably cool for the temperature conditions and dispensed by single-use cups or by fountains.

**Toilet and Handwashing Facilities** - Shall be provided whenever work time plus transportation time to and from the field exceeds three hours. One toilet and handwashing facility shall be provided for each 20 employees or fraction thereof. These facilities shall be located together and as close as practical (no more than 1/4 mile) to work locations where possible, and in no case farther than one mile. Where 10 or fewer employees applies, these facilities must either be provided by the employer as above or available to the employees by using employer-furnished transportation.

## IMMIGRATION (IRCA)

- A new I-9 form has been published (one is needed for each new hire). The old form is adequate for those workers presently employed or who worked last year and are returning within 12 months.
- A new ESA-92 form has been published (the form for quarterly reporting the number of SAWs employed).

## INDEPENDENT CONTRACTING

- IRS is investigating independent contracting arrangements more closely than in the past.
- USDOL is strongly questioning independent contracts between farmers and migrant workers.
- MMLAP has charged farmers who have independent contracts with migrants with violation of the Fair Labor Standards Act.
- The Workers Compensation Bureau and the Unemployment Insurance Administration both have and use criteria to determine whether or not an independent contract arrangement is valid.
- Therefore, a farmer is taking a great risk when he/she has work performed on the farm by migrant workers under an independent contract arrangement.

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